

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

08/06/2020

Clerk of the  
Appellate Courts

IN RE: AMENDMENT OF RULE 7, RULES OF THE TENNESSEE  
SUPREME COURT

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No. ADM2020-00479

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**ORDER**

On March 26, 2020, this Court solicited comments on the Tennessee Board of Law Examiners' petition to amend Tennessee Supreme Court Rule 7. The Board's proposed amendments clarify the applicable standard for character and fitness in section 6.01, clarify the conditions that may be imposed for conditional admission in section 10.05, and make various corrections to the rule for uniformity and consistency. The Court has received comments from the Tennessee Bar Association, Garrett Haynes, and William Burgin Hawkins, III. In addition, the Board filed a response on July 6, 2020, which addresses the comments received and further clarifies the proposed amendments.

After due consideration, the Court hereby amends Rule 7 of the Rules of the Tennessee Supreme Court in the form set out in the Appendix to this Order. The Rule shall be effective on the filing date of this Order.

The Clerk shall provide a copy of this order, including the appendix, to LexisNexis and to Thomson Reuters. In addition, this order, including the appendix, shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

AMENDMENTS TO

TENNESSEE SUPREME COURT RULE 7

DOCUMENT WITH FINAL RULE SHOWING NEW TEXT UNDERLINED AND  
DELETED TEXT STRICKEN

DOCUMENT WITH FINAL RULE

## Rule Changes – Technical Changes and Conditional Admission recommendations

### Section 1.03. Criteria for Issuance of the Certificate of Eligibility.

The Board shall issue a Certificate of Eligibility under section 9.01 of this Rule only after determining that the applicant:

- (a) is at least eighteen years old;
- (b) has satisfied the educational requirements for admission specified by this Rule;
- (c) has ~~passed the examination or examinations required by this Rule~~ achieved the minimum score on the Uniform Bar Examination required in Tennessee for admission under section 3.01 or section 3.05, or is eligible for admission without examination in Tennessee as hereinafter provided in ~~section 3.05~~, section 5.01, or section 10.06;
- (d) has achieved a passing score on the Multistate Professional Responsibility Examination as provided in section 4.07(d);
- (e) has demonstrated the reputation ~~and~~ character, honesty, respect for the rights of others, due respect for the law, and the fitness to practice law, that in the opinion of the Board indicates no reasonable basis for substantial doubts that the applicant will adhere to the standards of conduct required of attorneys in this State;
- (f) has certified that he or she has read and is familiar with the Tennessee Rules of Professional Conduct;
- (g) has completed the Tennessee Law Course as provided in section 1.07;
- (h) has paid all fees for licensing and admission to this Board, the Clerk of the Supreme Court, and the Board of Professional Responsibility; and
- (i) has evidenced a commitment to serve the administration of justice in this State.

### Sec. 3.01. Application for Admission by Examination.

(a) Any applicant submitting an application for admission by examination shall provide evidence in the form and following the process established by the Board that the applicant:

- (1) meets the educational requirements imposed under sections 2.01 and 2.02 of this Rule;
- (2) ~~possesses-meets~~ the ~~character-Character~~ and ~~fitness-Fitness Standard under section 6.01 required of all applicants for admission~~ to practice law in this jurisdiction ...

### Sec. 3.04. Expiration of Application for Admission on Exam Score.

(a) An application for admission by examination, re-examination, or transferred UBE score expires and closes upon the earlier of:

- (1) admission and issuance of a license;
- (2) withdrawal of the application by the applicant;
- (3) denial of a license under Section 9.05;
- (4) thirty days after the entry of the final order denying the application in whole or in part on the failure of the applicant to ~~demonstrate good moral character, due respect for the law, or meet the Character and fitness-Fitness Standard required of attorneys admitted~~ to practice law, absent a petition under section 14.01 and then upon resolution of the petition by the Supreme Court ...

### Sec. 3.05. Admission by Transferred Uniform Bar Examination Score.

(a) Any applicant for admission who has taken the UBE in another jurisdiction may be admitted to the practice of law in this state by transferred UBE score, upon showing that the applicant:

- (1) has taken the entire UBE in a single administration in another jurisdiction and earned a total UBE scaled score equal to or greater than the score required to be achieved by Tennessee examination applicants and that such score has not expired as provided in section 4.07(c);
- (2) has requested transfer of the score from the jurisdiction where the score was achieved or from the National Conference of Bar Examiners directly to the Tennessee Board of Law Examiners;
- (3) meets the educational requirements pursuant to sections 2.01 and 2.02;
- (4) is a member in good standing in all jurisdictions in which applicant is currently admitted;
- (5) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- (6) meets the Character and Fitness Standard under section 6.01 required of all applicants for admission possesses the character and fitness to practice law in this jurisdiction ...

**Section 3.07. ~~Additional Information.~~[Reserved.]**

~~The Board or any individual member may request any applicant to furnish additional information:~~

~~To supplement or explain answers to any question on the application;~~

~~As to the applicant's character;~~

~~As to the educational qualifications of the applicant, including information with respect to schools attended by the applicant;~~

~~As to the experience of the applicant; and~~

~~As to such other matters as may be considered germane to the provisions of this Rule.~~

~~The Board or any individual member, as part of the character investigation of an applicant, may request an applicant to submit to a drug test. Failure or refusal to submit to the drug test shall be sufficient cause for the Board to refuse such applicant a license.~~

**Sec. 5.01. Minimum Requirements for Admission Without Examination of Persons Admitted in Other Jurisdictions.**

(a) **Requirements.** An applicant who meets the requirements of (1) through (7) of this paragraph may be admitted to the practice of law in this jurisdiction without examination (comity). The applicant shall:

- (1) meet the educational requirements imposed under sections 2.01 and 2.02 of this Rule;
- (2) have been admitted by bar examination to practice law in one or more states or territories of the United States, or the District of Columbia;
- (3) have been primarily engaged in the active practice of law, as defined below, in one or more states or territories of the United States, or the District of Columbia, for five of the seven years immediately preceding the date upon which the application is filed;
- (4) establish that the applicant is currently a member in good standing in all jurisdictions where admitted;
- (5) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- (6) establish that the applicant meets the Character and Fitness Standard under section 6.01 required of all applicants for admission possesses the character and fitness to practice law in this jurisdiction ...

...

**Sec. 5.03. Expiration of Application for Admission Without Examination.**

(a) An application for admission without examination (comity) expires and closes upon the earlier of:

- (1) admission and issuance of a license;
- (2) withdrawal of the application by the applicant;
- (3) denial of a license under Section 9.05;
- (4) thirty days after the entry of an order denying the application in whole or in part for failure of the applicant to demonstrate good moral character, due respect for the law, or meet the Character and fitness-Fitness Standard required of attorneys admitted to practice law, absent a petition under Section 14.01 and then upon resolution of the petition by the Supreme Court;
- (5) thirty days after the entry of the final order denying the application for admission without examination (comity) for failure to meet eligibility requirements absent a petition under Section 14.01 and then upon resolution of the petition by the Supreme Court; or
- (6) six months after the last communication from the Board, whether sent by mail or electronically, after completion of the background investigation, which remains unanswered by the applicant.

...

#### **Sec. 5.04. Obligation to Amend.**

Until an applicant is admitted to the Tennessee bar, or the application is denied by the Board or voluntarily withdrawn, the applicant is under a continuing obligation to update responses to any of the information requested in the application process. Whenever there is an addition or a change to the information previously provided to the Board, the applicant must amend his or her application by filing an amendment or supplemental application as prescribed by the Board. An applicant whose application has been on file for two years or more and that has not expired as provided in section 5.03, must submit an application for supplemental investigation to the NCBE every two years until such time as the Applicant is admitted, has been denied admission, or has withdrawn the application for admission.

#### **Section 6.01. Applicable Character and Fitness Standard.**

(a) An applicant shall not be admitted if the Board finds reasonable doubt as to that applicant's reputation, character, honesty, respect for the rights of others, fitness to practice law, and adherence to and obedience to the Constitution and laws of Tennessee and the United States, and concludes that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline if engaged in by an attorney in this State shall be considered by the Board in making its evaluation of the character of an applicant.

(b) The Board may adopt statements of policy to implement the application of the foregoing standard.

#### **Sec. 6.02. Investigatory Committees.**

(a) In order to assist the Board in conducting character investigations of applicants, the Supreme Court shall appoint one or more investigating committees within each disciplinary district established under Rule 9. Each committee shall consist of a sufficient number of members so that each member has a reasonable number of interviews each year. The Board will adopt a policy establishing the reasonable number of interviews per member as well as the number of members for each committee. Attorneys who teach in any capacity in any of the State's ABA accredited or state-approved law schools are ineligible to serve as members of the Investigatory Committees. The Board may recommend to the Court the creation of additional committees or the increase in membership of any committee.

(b) The members of each investigating committee shall be appointed from time to time by the Supreme Court and shall serve at the pleasure of the Court for terms of up to five years, except as provided in paragraph (c), below. Members may be reappointed to serve a second five-year term. Members of an investigating committee may be recommended by the President or Board of Directors of the local bar association or associations in the district, the President or Board of

Governors of the Tennessee Bar Association, members of the Board, or members of the investigatory committee in the district in which the vacancy exists.

(c) The Supreme Court shall select each committee chair. The chair shall be responsible for the administration of the work of the committee. Committee chairs may serve up to three consecutive five-year terms.

#### **Section 6.04. Duty of Candor and Failure or Refusal to Furnish Information.**

(a) Each applicant for admission to the bar has a duty to be candid and to make full, careful and accurate responses and disclosures in all phases of the application and admission process. Each applicant must respond fully to all inquiries. It is not ~~proper-acceptable~~ for an applicant to give either an incomplete or misleading description of past events reflecting on the applicant's qualifications for admission to the bar.

(b) The Board or any individual member may request any applicant to furnish additional information:

(1) To supplement or explain answers to any question on the application;

(2) As to the applicant's character or fitness to practice law;

(3) As to the educational qualifications of the applicant, including information with respect to schools attended by the applicant;

(4) As to the experience of the applicant; and

(5) As to such other matters as may be considered germane to the provisions of this Rule.

(c) The failure or refusal by any applicant to answer fully any question on the application or to furnish information or submit to examination as required by the application or pursuant to the provisions of this Rule shall be sufficient cause for the Board to refuse to allow such applicant to take the examination or to be admitted.

(+)(d) The Board or any individual member, as part of the character investigation of an applicant, may request an applicant to submit to a drug or alcohol screening test or be referred to the Tennessee Lawyers Assistance Program (TLAP) for evaluation under Tennessee Supreme Court Rule 33.05(E)(5)(3). Failure or refusal to submit to the drug or alcohol screening test or comply with TLAP recommendations for evaluation under Rule 33.05 shall be sufficient cause for the Board to deny such applicant a license.

#### **Sec. 6.06. Certificate of ~~Good Moral~~ Character and Fitness.**

(a) Recommendation of Character from Law School. ~~Before permission is granted to take the bar examination or an applicant by transferred UBE score is approved for admission, an~~ An applicant seeking admission to practice law in Tennessee under sections 3.01 or 3.05 must:

(1) execute an appropriate release form permitting school officials from each law school applicant attended to furnish information to the Board relevant to the character and fitness of the applicant; and

(2) cause to be submitted to the Board a certificate from the dean or supervising authority of the law school from which the applicant graduated and from each law school applicant attended indicating that to the best of its knowledge and belief the ~~candidate applicant~~ has demonstrated such reputation, character, honesty, respect for the rights of others, due respect for the law, and fitness to practice law ~~reputation and character in the opinion of the law school sufficient to that~~ indicates no reasonable basis for substantial doubt that the applicant would adhere to the standards of conduct required of attorneys in this State and that the law school has provided full and complete information requested by the Board regarding the character and fitness of the applicant.

(b) Applicants Licensed in Another Jurisdiction.

(1) If an applicant seeking admission to the bar has been previously admitted to another jurisdiction, a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted must accompany the

application to the Board.

(2) Without waiving the requirement of proof of good ~~moral~~-character and fitness to practice law as provided in paragraph (a), above, the Board, in its discretion and for exceptional circumstances shown by the applicant, may waive the requirement of a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted. The Board shall not waive the requirement for a certificate of good standing for the highest court of each jurisdiction to which an applicant has been admitted for an applicant under section 10.01.

### **Sec. 9.07. Denial of License.**

If the decision of the Board to deny an application is based, in whole or in part, on the failure of the applicant to demonstrate ~~compliance with the good moral character, due respect for the law, or fitness to practice law~~Character and Fitness Standard in section 6.01, the applicant may not reapply for admission within a period of three years after the issuance of the order denying the application.

### **Sec. 10.03. Law Student Practice.**

(a) **Purpose.** The purpose of this section is educational; consequently, its focus is on providing opportunities, whether credit-bearing or not, for students to further their legal training through properly supervised legal practice. Interpretation of this section should be in accordance with its educational goals.

(b) **Definitions.** Throughout this section:

(1) the term “approved law school” refers to any law school ~~in the state of Tennessee~~ that has been accredited by the ABA or any law school in the state of Tennessee approved under section 17.01 of this Rule;

### **Section 10.05. Conditional Admission.**

(a) Definition. An applicant whose previous conduct or behavior would or might result in a denial of admission may be ~~conditionally~~-admitted to the practice of law ~~upon a showing of sufficient rehabilitation and/or mitigating circumstances~~on a conditional basis (“Conditional Admission”) in accordance with this Rule. The Board shall recommend relevant conditions in a confidential order (the “Conditional Admission Order”) relative to the conduct or the cause of such conduct with which the applicant must comply during the period of conditional admission. The Board may order Conditional Admission to permit an applicant to practice law while the applicant’s continued participation in an ongoing course of treatment, remediation, or other monitoring for previous misconduct or evidence of unfitness is monitored to protect the public.

(b) Requirements for Issuance of Conditional Admission Order.

(1) The Board may issue a Show Cause Order pursuant to section 13.01 in order to establish whether Conditional Admission is appropriate for an applicant who has engaged in conduct or otherwise demonstrated to the Board that the applicant may not presently meet the applicable Character and Fitness Standard under section 6.01.

(2) The Board may consent to entry of an Agreed Conditional Admission Order for an applicant based on the applicant’s record and the recommendation of qualified professionals, when appropriate, and the determination that the applicant currently satisfies all requirements for admission and the applicable Character and Fitness Standard under section 6.01 while engaged in a sustained and effective course of treatment, remediation, or monitoring. The Agreed Conditional Admission Order shall include the terms and conditions with which the applicant must comply and must be signed by the applicant and the Executive Director on behalf of the Board.

(3) A Show Cause Order issued under paragraph (c)(1) may be resolved without hearing under paragraph (c)(2), above, upon the filing of a response that demonstrates the applicant satisfies the applicable character and fitness standards and meets the requirements of a sustained and effective course of treatment, remediation or monitoring.

(c) Conditions. The Board ~~may recommend that an applicant’s admission be in its discretion may~~ conditioned on the applicant’s admission by requiring compliance with conditions that are designed to detect behavior that could render the applicant unfit to practice law and to protect the clients and the public, ~~such as submitting to alcohol,~~

~~drug, or mental health treatment; medical, psychological, or psychiatric care; participation in group therapy or support; random chemical screening; office practice or debt management counseling; and monitoring, supervision, mentoring or other conditions deemed appropriate by the Board.~~ The conditions shall be tailored to detect and deter recurrence of the conduct, conditions or behavior which could render an applicant unfit to practice law or pose a risk to clients or the public, and to encourage continued abstinence, treatment, remediation, counseling, or other support. The conditions should be established on the basis of clinical or other appropriate evaluations, take into consideration the recommendations of qualified professionals, when appropriate, and protect the privacy interests of the conditionally admitted lawyer to professional treatment records to the extent possible. The terms shall be set forth in a ~~confidential order (the “Conditional Admission Order”).~~ The Conditional Admission Order shall be made a part of the conditionally admitted lawyer’s application file and shall remain confidential, except as provided in this and any other applicable rules. Upon entry of the Conditional Admission Order and completion of all eligibility requirements, ~~The the~~ Board shall issue the Temporary Certificate of Eligibility for Admission pursuant to section 9.01 of this Rule, ~~upon completion of the registration process after issuance of the Conditional Admission Order.~~ The Board shall have no further authority once a conditionally admitted lawyer is admitted to practice law in Tennessee.

~~(b)~~(d) **Notification to the Board of Professional Responsibility.** Immediately upon issuance of a Conditional Admission Order, the Board shall transmit a copy of the order to the Board of Professional Responsibility. If the Board of Professional Responsibility or any other jurisdiction’s disciplinary authority receives a complaint alleging unprofessional conduct by the conditionally admitted lawyer, or if the Monitoring Authority designated pursuant to paragraph ~~(d)~~ notifies the Board of Professional Responsibility of substantial noncompliance with the Conditional Admission Order, the Board of Professional Responsibility shall request a copy of relevant portions of the lawyer’s bar application file, and the Board shall promptly provide the requested materials to the Board of Professional Responsibility.

~~(e)~~(e) **Length of Conditional Admission.** The conditional admission period shall be set in the Conditional Admission Order, but shall not exceed sixty months, unless notification of substantial noncompliance with the Conditional Admission Order has been received by the Board of Professional Responsibility or a complaint of unprofessional conduct has been made against the conditionally admitted lawyer with the Board of Professional Responsibility or any other lawyer disciplinary authority.

~~(d)~~(f) **Compliance with Conditional Admission Order.** During the conditional admission period, the Monitoring Authority shall be the Tennessee Lawyer Assistance Program, unless a different monitoring authority, such as a practice monitor, is assigned in the Conditional Admission Order, with the consent of the Board of Professional Responsibility. The Monitoring Authority shall take such action as is necessary to monitor compliance with the terms of the Conditional Admission Order, including, but not limited to, requiring that the conditionally admitted lawyer submit written verification of compliance with the conditions, appear before the Monitoring Authority, and provide information requested by the Monitoring Authority.

~~(e)~~(g) **Costs of Conditional Admission.** The applicant shall be responsible for any direct costs of investigation, evaluation, testing and monitoring. Other costs shall be borne in accord with this Rule or any other applicable Tennessee Supreme Court Rule.

~~(f)~~(h) **Failure to Fulfill the Terms of Conditional Admission.** Failure of a conditionally admitted lawyer to fulfill the terms of a Conditional Admission Order may result in a modification of the Conditional Admission Order, which may include extension of the period of conditional admission, suspension or revocation of the Conditional Admission Order, or such other action as may be appropriate under Tenn. Sup. Ct. R. 9, including temporary suspension pursuant to Tenn. Sup. Ct. R. 9, § 12.3. The Monitoring Authority shall promptly notify the Board of Professional Responsibility whenever it determines that the conditionally admitted lawyer is in substantial noncompliance with the terms of the Conditional Admission Order. Notification of such noncompliance by the Monitoring Authority shall automatically extend the conditional admission until disposition of the matter by the Board of Professional Responsibility and any resulting appeals.



**(g)(i) Violation of Conditional Admission Order.** The Board of Professional Responsibility shall initiate proceedings to determine whether the conditional admission should be revoked, extended or modified by filing a petition to review conditional admission. Consideration and disposition of any such petition shall follow the procedure for formal proceedings as set forth in Tenn. Sup. Ct. R. 9; however, the only issue to be determined is whether the conditional admission should be revoked, extended or modified. Any decision to extend or modify the Conditional Admission Order must be made in consultation with the Monitoring Authority. If the conditionally admitted attorney was temporarily suspended due to substantial noncompliance with a monitoring agreement, any disposition of the petition to review conditional admission may include dissolution of the temporary suspension.

**(h)(i) Expiration of Conditional Admission Order.** Unless the Conditional Admission Order is revoked or extended as provided herein, upon completion of the period of conditional admission, the conditions imposed by the Conditional Admission Order shall expire. The Monitoring Authority shall notify the Board of Professional Responsibility of such expiration.

**(i)(k) Confidentiality.** Except as otherwise provided herein, and unless the Supreme Court orders otherwise, the fact that an individual is conditionally admitted and the terms of the Conditional Admission Order shall be confidential provided that the applicant shall disclose the entry of any Conditional Admission Order to the admissions authority in any jurisdiction where the applicant applies for admission to practice law. In addition to ensuring that the relevant records of the Board, the Board of Professional Responsibility and the Tennessee Lawyer Assistance Program are confidential, the Board shall use reasonable efforts to structure the terms and conditions of the conditional admission so that the conditional admission does not pose a significant risk to confidentiality. These provisions for confidentiality shall not prohibit or restrict the ability of the applicant to disclose to third parties that the applicant has been conditionally admitted under this Rule, nor prohibit requiring third-party verification of compliance with the terms of the Conditional Admission Order by admission authorities in jurisdictions to which the conditionally admitted lawyer may subsequently apply.

**(i)(l) Education.** The Board shall make information about its conditional admission process publicly available and shall reasonably cooperate with the Tennessee Lawyer Assistance Program in its efforts to educate law students, law school administrators and applicants for bar admission regarding the nature and extent of chemical abuse, dependency, and mental health concerns that affect law students and lawyers.

**(m) Disciplinary Complaints.** The provisions of this section shall not affect the authority of the Board of Professional Responsibility, pursuant to Tenn. Sup. Ct. R. 9, to investigate a complaint filed against a conditionally admitted lawyer by a person or entity other than the Monitoring Authority, to recommend a disposition of such complaint or to initiate a formal disciplinary proceeding as to such complaint, pursuant to Tenn. Sup. Ct. R. 9, § 15.

### **Explanatory Comments.**

1) Some examples of when Conditional Admission may be used to show that applicant satisfies the Character and Fitness Standard under section 6.01, except that the applicant is engaged in a sustained and effective course of treatment, remediation, or other monitoring, include but are not limited to:

(A) Substance abuse, misuse or dependence;

(B) A diagnosed mental or physical impairment that, should it recur, would likely impair the applicant's ability to practice law or would pose a threat to the public; or

(C) Neglect of financial affairs, disregard or neglect of personal or professional obligations, or demonstration of unprofessional conduct such as failure to comply with deadlines and time constraints, or failure to conduct oneself diligently and reliably, that would otherwise render the applicant unfit for admission to the bar.

(2) Examples of types of conditions that may be required, in the discretion of the Board, for Conditional Admission include, but are not limited to:

- (A) alcohol, drug, or mental health treatment;
- (B) medical, psychological, or psychiatric care;
- (C) participation in group therapy or support;
- (D) random chemical screening;
- (E) office practice or debt management counseling;
- (F) monitoring, supervision, mentoring; and/or
- (G) other conditions deemed appropriate by the Board.

**Sec. 10.06. Temporary License of Spouse of a Military Servicemember.**

(a) **Qualifications.** An applicant who meets the requirements listed in (1) through (11), below may be temporarily licensed and admitted to the practice of law in Tennessee, upon approval of the Board. Applicant:

- (1) is the spouse of an active duty servicemember of the United States Uniformed Services as defined by the Department of Defense and that servicemember is on military orders stationed in the State of Tennessee or Fort Campbell, Kentucky;
- (2) has been licensed and admitted by examination to practice law before the court of last resort in at least one other jurisdiction of the United States;
- (3) meets the educational requirements of sections 2.01 and 2.02 of this Rule;
- (4) has achieved a passing score on the Multistate Professional Responsibility Examination (“MPRE”) as it is established in Tennessee at the time of application;
- (5) is currently an active member in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every such jurisdiction without any pending disciplinary actions;
- (6) is not currently subject to lawyer discipline in any other jurisdiction;
- (7) ~~possesses the moral-meets the character~~ Character and ~~fitness-Fitness Standard under section 6.01~~ required of all applicants for admission and licensing in Tennessee;

...

**Sec. 10.07. Practice Pending Admission by Applicant Licensed in Another Jurisdiction.**

(c) **Termination of Right of Practice Pending Admission.** The right to practice pending admission under this section terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law; if a formal complaint is filed with the Board of Professional Responsibility or with an indictment filed by the Attorney General’s Office in Tennessee against the lawyer, if the lawyer fails to register for admission *pro hac vice* when required, or if the lawyer fails to timely provide the written notice required by section 10.07(a)(4). Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within ten days ...

**Sec. 15.01. Surrender of Law License.**

- (a) An attorney licensed to practice in Tennessee may petition the Supreme Court to accept the surrender of his or her license to practice law.
- (b) The petition shall be filed in the office of the Clerk of the Supreme Court in Nashville. The petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary Counsel of the Board of Professional Responsibility, ~~the Executive Director,~~ and the Executive Director of the Commission on Continuing Legal Education and Specialization.

## **Rule Changes – Technical Changes and Conditional Admission recommendations**

### **Section 1.03. Criteria for Issuance of the Certificate of Eligibility.**

The Board shall issue a Certificate of Eligibility under section 9.01 of this Rule only after determining that the applicant:

- (a) is at least eighteen years old;
- (b) has satisfied the educational requirements for admission specified by this Rule;
- (c) has achieved the minimum score on the Uniform Bar Examination required in Tennessee for admission under section 3.01 or section 3.05, or is eligible for admission without examination in Tennessee as hereinafter provided in section 5.01, or section 10.06;
- (d) has achieved a passing score on the Multistate Professional Responsibility Examination as provided in section 4.07(d);
- (e) has demonstrated the reputation, character, honesty, respect for the rights of others, due respect for the law, and the fitness to practice law, that in the opinion of the Board indicates no reasonable basis for substantial doubts that the applicant will adhere to the standards of conduct required of attorneys in this State;
- (f) has certified that he or she has read and is familiar with the Tennessee Rules of Professional Conduct;
- (g) has completed the Tennessee Law Course as provided in section 1.07;
- (h) has paid all fees for licensing and admission to this Board, the Clerk of the Supreme Court, and the Board of Professional Responsibility; and
- (i) has evidenced a commitment to serve the administration of justice in this State.

### **Sec. 3.01. Application for Admission by Examination.**

(a) Any applicant submitting an application for admission by examination shall provide evidence in the form and following the process established by the Board that the applicant:

- (1) meets the educational requirements imposed under sections 2.01 and 2.02 of this Rule;
- (2) meets the Character and Fitness Standard under section 6.01 required of all applicants for admission to practice law in this jurisdiction ...

### **Sec. 3.04. Expiration of Application for Admission on Exam Score.**

(a) An application for admission by examination, re-examination, or transferred UBE score expires and closes upon the earlier of:

- (1) admission and issuance of a license;
- (2) withdrawal of the application by the applicant;
- (3) denial of a license under Section 9.05;
- (4) thirty days after the entry of the final order denying the application in whole or in part on the failure of the applicant to meet the Character and Fitness Standard required of attorneys admitted to practice law, absent a petition under section 14.01 and then upon resolution of the petition by the Supreme Court ...

### **Sec. 3.05. Admission by Transferred Uniform Bar Examination Score.**

(a) Any applicant for admission who has taken the UBE in another jurisdiction may be admitted to the practice of law in this state by transferred UBE score, upon showing that the applicant:

- (1) has taken the entire UBE in a single administration in another jurisdiction and earned a total UBE scaled score equal to or greater than the score required to be achieved by Tennessee examination applicants and that such score has not expired as provided in section 4.07(c);

- (2) has requested transfer of the score from the jurisdiction where the score was achieved or from the National Conference of Bar Examiners directly to the Tennessee Board of Law Examiners;
- (3) meets the educational requirements pursuant to sections 2.01 and 2.02;
- (4) is a member in good standing in all jurisdictions in which applicant is currently admitted;
- (5) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- (6) meets the Character and Fitness Standard under section 6.01 required of all applicants for admission to practice law in this jurisdiction ...

**Section 3.07. [Reserved.]**

**Sec. 5.01. Minimum Requirements for Admission Without Examination of Persons Admitted in Other Jurisdictions.**

(a) **Requirements.** An applicant who meets the requirements of (1) through (7) of this paragraph may be admitted to the practice of law in this jurisdiction without examination (comity). The applicant shall:

- (1) meet the educational requirements imposed under sections 2.01 and 2.02 of this Rule;
- (2) have been admitted by bar examination to practice law in one or more states or territories of the United States, or the District of Columbia;
- (3) have been primarily engaged in the active practice of law, as defined below, in one or more states or territories of the United States, or the District of Columbia, for five of the seven years immediately preceding the date upon which the application is filed;
- (4) establish that the applicant is currently a member in good standing in all jurisdictions where admitted;
- (5) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- (6) establish that the applicant meets the Character and Fitness Standard under section 6.01 required of all applicants for admission to practice law in this jurisdiction...

**Sec. 5.03. Expiration of Application for Admission Without Examination.**

- (a) An application for admission without examination (comity) expires and closes upon the earlier of:
- (1) admission and issuance of a license;
  - (2) withdrawal of the application by the applicant;
  - (3) denial of a license under Section 9.05;
  - (4) thirty days after the entry of an order denying the application in whole or in part for failure of the applicant to meet the Character and Fitness Standard required of attorneys admitted to practice law, absent a petition under Section 14.01 and then upon resolution of the petition by the Supreme Court;
  - (5) thirty days after the entry of the final order denying the application for admission without examination (comity) for failure to meet eligibility requirements absent a petition under Section 14.01 and then upon resolution of the petition by the Supreme Court; or
  - (6) six months after the last communication from the Board, whether sent by mail or electronically, which remains unanswered by the applicant.

...

#### **Sec. 5.04. Obligation to Amend.**

Until an applicant is admitted to the Tennessee bar, or the application is denied by the Board or voluntarily withdrawn, the applicant is under a continuing obligation to update responses to any of the information requested in the application process. Whenever there is an addition or a change to the information previously provided to the Board, the applicant must amend his or her application by filing an amendment or supplemental application as prescribed by the Board. An applicant whose application has been on file for two years or more and that has not expired as provided in section 5.03 must submit an application for supplemental investigation to the NCBE every two years until such time as the Applicant is admitted, has been denied admission, or has withdrawn the application for admission.

#### **Section 6.01. Character and Fitness Standard.**

(a) An applicant shall not be admitted if the Board finds reasonable doubt as to that applicant's reputation, character, honesty, respect for the rights of others, fitness to practice law, and adherence to and obedience to the Constitution and laws of Tennessee and the United States, and concludes that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline if engaged in by an attorney in this State shall be considered by the Board in making its evaluation of the character of an applicant.

(b) The Board may adopt statements of policy to implement the application of the foregoing standard.

#### **Sec. 6.02. Investigatory Committees.**

(a) In order to assist the Board in conducting character investigations of applicants, the Supreme Court shall appoint one or more investigating committees within each disciplinary district established under Rule 9. Each committee shall consist of a sufficient number of members so that each member has a reasonable number of interviews each year. The Board will adopt a policy establishing the reasonable number of interviews per member as well as the number of members for each committee. Attorneys who teach in any capacity in any of the State's ABA accredited or state-approved law schools are ineligible to serve as members of the Investigatory Committees. The Board may recommend to the Court the creation of additional committees or the increase in membership of any committee.

(b) The members of each investigating committee shall be appointed from time to time by the Supreme Court and shall serve at the pleasure of the Court for terms of up to five years, except as provided in paragraph (c), below. Members may be reappointed to serve a second five-year term. Members of an investigating committee may be recommended by the President or Board of Directors of the local bar association or associations in the district, the President or Board of Governors of the Tennessee Bar Association, members of the Board, or members of the investigatory committee in the district in which the vacancy exists.

(c) The Supreme Court shall select each committee chair. The chair shall be responsible for the administration of the work of the committee. Committee chairs may serve up to three consecutive five-year terms.

#### **Section 6.04. Duty of Candor and Failure or Refusal to Furnish Information.**

(a) Each applicant for admission to the bar has a duty to be candid and to make full, careful and accurate responses and disclosures in all phases of the application and admission process. Each applicant must respond fully to all inquiries. It is not acceptable for an applicant to give either an incomplete or misleading description of past events reflecting on the applicant's qualifications for admission to the bar.

(b) The Board or any individual member may request any applicant to furnish additional information:

- (1) To supplement or explain answers to any question on the application;
- (2) As to the applicant's character or fitness to practice law;

(3) As to the educational qualifications of the applicant, including information with respect to schools attended by the applicant;

(4) As to the experience of the applicant; and

(5) As to such other matters as may be considered germane to the provisions of this Rule.

(c) The failure or refusal by any applicant to answer fully any question on the application or to furnish information or submit to examination as required by the application or pursuant to the provisions of this Rule shall be sufficient cause for the Board to refuse to allow such applicant to take the examination or to be admitted.

(d) The Board or any individual member, as part of the character investigation of an applicant, may request an applicant to submit to a drug or alcohol screening test or be referred to the Tennessee Lawyers Assistance Program (TLAP) for evaluation under Tennessee Supreme Court Rule 33.05(E)(3). Failure or refusal to submit to the drug or alcohol screening test or comply with TLAP recommendations for evaluation under Rule 33.05 shall be sufficient cause for the Board to deny such applicant a license.

### **Sec. 6.06. Certificate of Character and Fitness.**

(a) Recommendation of Character from Law School. An applicant seeking admission to practice law in Tennessee under sections 3.01 or 3.05 must:

(1) execute an appropriate release form permitting school officials from each law school applicant attended to furnish information to the Board relevant to the character and fitness of the applicant; and

(2) cause to be submitted to the Board a certificate from the dean or supervising authority of the law school from which the applicant graduated and from each law school applicant attended indicating that to the best of its knowledge and belief the applicant has demonstrated such reputation, character, honesty, respect for the rights of others, due respect for the law, and fitness to practice law sufficient to indicate no reasonable basis for substantial doubt that the applicant would adhere to the standards of conduct required of attorneys in this State and that the law school has provided full and complete information requested by the Board regarding the character and fitness of the applicant.

(b) Applicants Licensed in Another Jurisdiction.

(1) If an applicant seeking admission to the bar has been previously admitted to another jurisdiction, a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted must accompany the application to the Board.

(2) Without waiving the requirement of proof of good character and fitness to practice law as provided in paragraph (a), above, the Board, in its discretion and for exceptional circumstances shown by the applicant, may waive the requirement of a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted. The Board shall not waive the requirement for a certificate of good standing for the highest court of each jurisdiction to which an applicant has been admitted for an applicant under section 10.01.

### **Sec. 9.07. Denial of License.**

If the decision of the Board to deny an application is based, in whole or in part, on the failure of the applicant to demonstrate compliance with the Character and Fitness Standard in section 6.01, the applicant may not reapply for admission within a period of three years after the issuance of the order denying the application.

### **Sec. 10.03. Law Student Practice.**

(a) **Purpose.** The purpose of this section is educational; consequently, its focus is on providing opportunities, whether credit-bearing or not, for students to further their legal training through properly supervised legal practice. Interpretation of this section should be in accordance with its educational goals.

(b) **Definitions.** Throughout this section:

(1) the term “approved law school” refers to any law school that has been accredited by the ABA or any law school in the state of Tennessee approved under section 17.01 of this Rule;

### **Section 10.05. Conditional Admission.**

(a) **Definition.** An applicant whose previous conduct or behavior would or might result in a denial of admission may be admitted to the practice of law on a conditional basis (“Conditional Admission”) in accordance with this Rule. The Board shall recommend relevant conditions in a confidential order (the “Conditional Admission Order”) relative to the conduct or the cause of such conduct with which the applicant must comply during the period of conditional admission. The Board may order Conditional Admission to permit an applicant to practice law while the applicant’s continued participation in an ongoing course of treatment, remediation, or other monitoring for previous misconduct or evidence of unfitness is monitored to protect the public.

(b) **Requirements for Issuance of Conditional Admission Order.**

(1) The Board may issue a Show Cause Order pursuant to section 13.01 in order to establish whether Conditional Admission is appropriate for an applicant who has engaged in conduct or otherwise demonstrated to the Board that the applicant may not presently meet the applicable Character and Fitness Standard under section 6.01.

(2) The Board may consent to entry of an Agreed Conditional Admission Order for an applicant based on the applicant’s record and the recommendation of qualified professionals, when appropriate, and the determination that the applicant currently satisfies all requirements for admission and the applicable Character and Fitness Standard under section 6.01 while engaged in a sustained and effective course of treatment, remediation, or monitoring. The Agreed Conditional Admission Order shall include the terms and conditions with which the applicant must comply and must be signed by the applicant and the Executive Director on behalf of the Board.

(3) A Show Cause Order issued under paragraph (c)(1) may be resolved without hearing under paragraph (c)(2), above, upon the filing of a response that demonstrates the applicant satisfies the applicable character and fitness standards and meets the requirements of a sustained and effective course of treatment, remediation or monitoring.

(c) **Conditions.** The Board in its discretion may condition an applicant’s admission by requiring compliance with conditions that are designed to detect behavior that could render the applicant unfit to practice law and to protect the clients and the public. The conditions shall be tailored to detect and deter conduct, conditions or behavior which could render an applicant unfit to practice law or pose a risk to clients or the public, and to encourage continued abstinence, treatment, remediation, counseling, or other support. The conditions should be established on the basis of clinical or other appropriate evaluations, take into consideration the recommendations of qualified professionals, when appropriate, and protect the privacy interests of the conditionally admitted lawyer to professional treatment records to the extent possible. The terms shall be set forth in a Conditional Admission Order. The Conditional Admission Order shall be made a part of the conditionally admitted lawyer’s application file and shall remain confidential, except as provided in this and any other applicable rules. Upon entry of the Conditional Admission Order and completion of all eligibility requirements, the Board shall issue the Temporary Certificate of Eligibility for Admission pursuant to section 9.01 of this Rule. The Board shall have no further authority once a conditionally admitted lawyer is admitted to practice law in Tennessee.

(d) **Notification to the Board of Professional Responsibility.** Immediately upon issuance of a Conditional Admission Order, the Board shall transmit a copy of the order to the Board of Professional Responsibility. If the Board of Professional Responsibility or any other jurisdiction’s disciplinary authority receives a complaint alleging unprofessional conduct by the conditionally admitted lawyer, or if the Monitoring Authority designated pursuant to paragraph (f) notifies the Board of Professional Responsibility of substantial noncompliance with the Conditional Admission Order, the Board of Professional Responsibility shall request a copy of relevant portions of the lawyer’s bar application file, and the Board shall promptly provide the requested materials to the Board of Professional Responsibility.

(e) **Length of Conditional Admission.** The conditional admission period shall be set in the Conditional Admission Order, but shall not exceed sixty months, unless notification of substantial noncompliance with the Conditional Admission Order has been received by the Board of Professional Responsibility or a complaint of unprofessional conduct has been made against the conditionally admitted lawyer with the Board of Professional Responsibility or any other lawyer disciplinary authority.

(f) **Compliance with Conditional Admission Order.** During the conditional admission period, the Monitoring Authority shall be the Tennessee Lawyer Assistance Program, unless a different monitoring authority, such as a practice monitor, is assigned in the Conditional Admission Order, with the consent of the Board of Professional Responsibility. The Monitoring Authority shall take such action as is necessary to monitor compliance with the terms of the Conditional Admission Order, including, but not limited to, requiring that the conditionally admitted lawyer submit written verification of compliance with the conditions, appear before the Monitoring Authority, and provide information requested by the Monitoring Authority.

(g) **Costs of Conditional Admission.** The applicant shall be responsible for any direct costs of investigation, evaluation, testing and monitoring. Other costs shall be borne in accord with this Rule or any other applicable Tennessee Supreme Court Rule.

(h) **Failure to Fulfill the Terms of Conditional Admission.** Failure of a conditionally admitted lawyer to fulfill the terms of a Conditional Admission Order may result in a modification of the Conditional Admission Order, which may include extension of the period of conditional admission, suspension or revocation of the Conditional Admission Order, or such other action as may be appropriate under Tenn. Sup. Ct. R. 9, including temporary suspension pursuant to Tenn. Sup. Ct. R. 9, § 12.3. The Monitoring Authority shall promptly notify the Board of Professional Responsibility whenever it determines that the conditionally admitted lawyer is in substantial noncompliance with the terms of the Conditional Admission Order. Notification of such noncompliance by the Monitoring Authority shall automatically extend the conditional admission until disposition of the matter by the Board of Professional Responsibility and any resulting appeals.

(i) **Violation of Conditional Admission Order.** The Board of Professional Responsibility shall initiate proceedings to determine whether the conditional admission should be revoked, extended or modified by filing a petition to review conditional admission. Consideration and disposition of any such petition shall follow the procedure for formal proceedings as set forth in Tenn. Sup. Ct. R. 9; however, the only issue to be determined is whether the conditional admission should be revoked, extended or modified. Any decision to extend or modify the Conditional Admission Order must be made in consultation with the Monitoring Authority. If the conditionally admitted attorney was temporarily suspended due to substantial noncompliance with a monitoring agreement, any disposition of the petition to review conditional admission may include dissolution of the temporary suspension.

(j) **Expiration of Conditional Admission Order.** Unless the Conditional Admission Order is revoked or extended as provided herein, upon completion of the period of conditional admission, the conditions imposed by the Conditional Admission Order shall expire. The Monitoring Authority shall notify the Board of Professional Responsibility of such expiration.

(k) **Confidentiality.** Except as otherwise provided herein, and unless the Supreme Court orders otherwise, the fact that an individual is conditionally admitted and the terms of the Conditional Admission Order shall be confidential provided that the applicant shall disclose the entry of any Conditional Admission Order to the admissions authority in any jurisdiction where the applicant applies for admission to practice law. In addition to ensuring that the relevant records of the Board, the Board of Professional Responsibility and the Tennessee Lawyer Assistance Program are confidential, the Board shall use reasonable efforts to structure the terms and conditions of the conditional admission so that the conditional admission does not pose a significant risk to confidentiality. These provisions for confidentiality shall not prohibit or restrict the ability of the applicant to disclose to third parties that the applicant has been conditionally admitted under this Rule, nor



prohibit requiring third-party verification of compliance with the terms of the Conditional Admission Order by admission authorities in jurisdictions to which the conditionally admitted lawyer may subsequently apply.

(l) **Education.** The Board shall make information about its conditional admission process publicly available and shall reasonably cooperate with the Tennessee Lawyer Assistance Program in its efforts to educate law students, law school administrators and applicants for bar admission regarding the nature and extent of chemical abuse, dependency, and mental health concerns that affect law students and lawyers.

(m) **Disciplinary Complaints.** The provisions of this section shall not affect the authority of the Board of Professional Responsibility, pursuant to Tenn. Sup. Ct. R. 9, to investigate a complaint filed against a conditionally admitted lawyer by a person or entity other than the Monitoring Authority, to recommend a disposition of such complaint or to initiate a formal disciplinary proceeding as to such complaint, pursuant to Tenn. Sup. Ct. R. 9, § 15.

### **Explanatory Comments.**

1) Some examples of when Conditional Admission may be used to show that applicant satisfies the Character and Fitness Standard under section 6.01, except that the applicant is engaged in a sustained and effective course of treatment, remediation, or other monitoring, include but are not limited to:

(A) Substance abuse, misuse or dependence;

(B) A diagnosed mental or physical impairment that, should it recur, would likely impair the applicant's ability to practice law or would pose a threat to the public; or

(C) Neglect of financial affairs, disregard or neglect of personal or professional obligations, or demonstration of unprofessional conduct such as failure to comply with deadlines and time constraints, or failure to conduct oneself diligently and reliably, that would otherwise render the applicant unfit for admission to the bar.

(2) Examples of types of conditions that may be required, in the discretion of the Board, for Conditional Admission include, but are not limited to:

(A) alcohol, drug, or mental health treatment;

(B) medical, psychological, or psychiatric care;

(C) participation in group therapy or support;

(D) random chemical screening;

(E) office practice or debt management counseling;

(F) monitoring, supervision, mentoring; and/or

(G) other conditions deemed appropriate by the Board.

### **Sec. 10.06. Temporary License of Spouse of a Military Servicemember.**

(a) **Qualifications.** An applicant who meets the requirements listed in (1) through (11), below may be temporarily licensed and admitted to the practice of law in Tennessee, upon approval of the Board. Applicant:

(1) is the spouse of an active duty servicemember of the United States Uniformed Services as defined by the Department of Defense and that servicemember is on military orders stationed in the State of Tennessee or Fort Campbell, Kentucky;

(2) has been licensed and admitted by examination to practice law before the court of last resort in at least one other jurisdiction of the United States;

(3) meets the educational requirements of sections 2.01 and 2.02 of this Rule;

- (4) has achieved a passing score on the Multistate Professional Responsibility Examination (“MPRE”) as it is established in Tennessee at the time of application;
- (5) is currently an active member in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every such jurisdiction without any pending disciplinary actions;
- (6) is not currently subject to lawyer discipline in any other jurisdiction;
- (7) meets the Character and Fitness Standard under section 6.01 required of all applicants for admission and licensing in Tennessee;

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**Sec. 10.07. Practice Pending Admission by Applicant Licensed in Another Jurisdiction.**

(c) **Termination of Right of Practice Pending Admission.** The right to practice pending admission under this section terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law; if a formal complaint is filed with the Board of Professional Responsibility or an indictment filed by the Attorney General’s Office in Tennessee against the lawyer, if the lawyer fails to register for admission *pro hac vice* when required, or if the lawyer fails to timely provide the written notice required by section 10.07(a)(4). Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within ten days ...

**Sec. 15.01. Surrender of Law License.**

- (a) An attorney licensed to practice in Tennessee may petition the Supreme Court to accept the surrender of his or her license to practice law.
- (b) The petition shall be filed in the office of the Clerk of the Supreme Court in Nashville. The petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary Counsel of the Board of Professional Responsibility, and the Executive Director of the Commission on Continuing Legal Education and Specialization.