

# Rules Governing Admission to the Bar

## ARTICLE 1 Applications

### 15-101. Definitions; title.

A. **Definitions.** For purposes of these rules:

(1) "notice" means notice sent to the person affected by such action which shall be effective upon placing the document or letter in the United States mail;

(2) "MBE" means the Multi-State Bar Examination;

(3) "MPRE" means the Multi-State Professional Responsibility Examination;

(4) "practice of law" means being actively and continuously engaged in full-time, gainful employment in the performance of legal services;

(5) "lawyer" means a person, admitted to a bar, who by education and training may legally perform legal services for others;

(6) "legal service" means advising, advocating or counseling to or for others as to a matter involving law which may not be lawfully performed by a nonlawyer;

(7) "grader" means one who is scholastically, professionally and psychologically qualified to review and grade the essay portions of the bar examination and who is appointed by the Board of Bar Examiners;

(8) "in good standing" means admitted to the bar of another state and:

(a) has not been disbarred;

(b) is not under disciplinary suspension or suspended for nonpayment of bar dues or failure to complete mandatory continuing legal education requirements;

(c) has not resigned from the bar of such other state while under disciplinary suspension or while under disciplinary proceedings;

(d) has not been the subject of current or pending disciplinary proceedings; or

(e) if the applicant has been disbarred or suspended, has been duly and fully reinstated;

(9) "serious crime" means:

(a) any felony; or

(b) any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime, involves:

- (i) conduct as an attorney;
- (ii) interference with the administration of justice;
- (iii) false swearing;
- (iv) misrepresentation;
- (v) fraud;
- (vi) willful failure to file tax returns;
- (vii) deceit;
- (viii) bribery;
- (ix) extortion;
- (x) misappropriation;
- (xi) theft; or

(xii) an attempt to commit, a conspiracy to commit or a solicitation of another to commit a "serious crime"; and

(10) "state" means any of the fifty (50) states, territories or protectorates of the United States and the District of Columbia.

**B. Title.** These rules shall be known as the Rules Governing Admission to the Bar.

[As amended, effective November 1, 1994; May 19, 2004; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013.]

### **ANNOTATIONS**

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-012, effective May 14, 2013, expanded the definition of "good standing" to include the criteria that an applicant has not been suspended for nonpayment of bar dues or failure to complete education requirements; and in Item (b) of Subparagraph (8) of Paragraph A, after "suspension", added the remainder of the sentence.

**The 2004 amendment**, effective May 19, 2004, added Subparagraph (10) in Paragraph A.

**The 1994 amendment**, effective November 1, 1994, substituted "Board of Bar Examiners" for "New Mexico Supreme Court" at the end of Paragraph A(7).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Attorneys: revocation of state court pro hac vice admission, 64 A.L.R.4th 1217.

## **15-102. Admission requirements.**

The Supreme Court shall determine and prescribe by rules the qualifications and requirements for admission to the practice of law, including the amount of fee to be charged applicants for admission. The rules governing requirements for admission to the bar will be furnished by the Board of Bar Examiners upon request of any applicant. Anyone desiring to be admitted to the practice of law in the State of New Mexico may apply for admission by examination as administered in New Mexico under Article 2 of these rules or by motion without examination under Rule 15-107 NMRA.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 14-8300-001, effective June 1, 2015.]

### **ANNOTATIONS**

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-001, effective June 1, 2015, permitted applicants to apply for admission by examination or by motion without examination; and added the last sentence.

**The 1994 amendment**, effective November 1, 1994, in the first sentence, substituted "The Supreme Court" for "This court" and, in the second sentence, substituted "the Board of Bar Examiners" for "the clerk of the supreme court" near the end of the rule.

**Cross references.** — For Parental Responsibility Act, see Chapter 40, Article 5A NMSA 1978.

For authority of Supreme Court pursuant to Parental Responsibility Act, see 40-5A-10 NMSA 1978.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law §§ 12 to 24.

Procedural due process requirements in proceedings involving applications for admission to bar, 2 A.L.R.3d 1266.

Criminal record as affecting applicant's moral character for purposes of admission to bar, 88 A.L.R.3d 192.

Violation of draft laws as affecting character for purposes of admission to the bar, 88 A.L.R.3d 1055.

Failure to pay creditors as affecting applicant's moral character for purposes of admission to the bar, 4 A.L.R.4th 436, 108 A.L.R.5th 289.

Layman's assistance to party in divorce proceeding as unauthorized practice of law, 12 A.L.R.4th 656.

Sexual conduct or orientation as ground for denial of admission to bar, 21 A.L.R.4th 1109, 105 A.L.R.5th 217.

Falsehoods, misrepresentations, impersonations, and other irresponsible conduct as bearing on requisite good moral character for admission to bar — conduct related to admission to the bar, 30 A.L.R.4th 1020, 107 A.L.R.5th 167.

7 C.J.S. Attorney and Client §§ 10 to 28.

## **15-103. Qualifications.**

A. **Requirements mandatory.** License to practice law shall be granted only to applicants who fulfill all of the requirements of these rules. License to practice law shall not be denied based solely on the applicant's citizenship or immigration status.

B. **Qualifications.** A person seeking admission to practice law in New Mexico shall file a formal application as prescribed by these rules and as required by the New Mexico Board of Bar Examiners. Submission of the application shall constitute submission by the applicant to the jurisdiction of the New Mexico Board of Bar Examiners until a final determination on admission of the applicant may be completed. An applicant shall have the burden of establishing to the satisfaction of the Board of Bar Examiners that the applicant possesses all of the following qualifications:

- (1) is at least eighteen (18) years of age;
- (2) is a graduate with a juris doctor or bachelor of laws and letters degree (at the time of the bar examination for which application is made or at the time of application for admission by transferred Uniform Bar Examination (UBE) score) of a law school formally accredited by the American Bar Association or is a graduate of any law school who has been engaged in the practice of law in another state or states for at least four (4) of the six (6) years immediately preceding the person's application for admission to practice in New Mexico;
- (3) is a person of good moral character, physically and mentally fit to practice law;

(4) is, if ever admitted to practice in any other state or states, in good standing in this state or states;

(5) is professionally qualified for admission to the bar of New Mexico; and

(6) is in compliance with all child support and spousal support obligations imposed under a “judgment and order for support” as defined in the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978, or imposed under a child support or spousal support order entered by any other court of competent jurisdiction. If an applicant is not in compliance with a child support or spousal support obligation, the applicant will not be recommended for admission to the bar until the applicant provides the Board of Bar Examiners with evidence that the applicant is in compliance with the judgment or order. If the applicant has appeared on the Human Services Department’s certified list of obligors, the applicant shall submit a certified statement from the Human Services Department that the applicant is in compliance with the judgment and order for support. In all other cases, the applicant shall provide evidence acceptable to the Board of Bar Examiners of compliance with all applicable child and spousal support orders.

### **C. Character and fitness standards and investigation.**

(1) The purpose of character and fitness investigation before admission to the Bar is to assure the protection of the public and to safeguard the justice system.

(2) The applicant bears the burden of proving good character in support of the application.

(3) The revelation of discovery of any of the following may be treated as cause for further inquiry before the Board of Bar Examiners determines whether the applicant possesses the character and fitness to practice law:

(a) unlawful conduct;

(b) academic misconduct;

(c) misconduct in employment;

(d) acts involving dishonesty, fraud, deceit, or misrepresentation;

(e) acts which demonstrate disregard for the rights or welfare of others;

(f) abuse of legal process, including the filing of vexatious or frivolous lawsuits;

(g) neglect of financial responsibilities or professional obligations;

- (h) violation of an order of a court, including child support orders;
- (i) conduct that evidences current mental or emotional instability that may impair the ability to practice law;
- (j) conduct that evidences current drug or alcohol dependence or abuse that may impair the ability to practice law;
- (k) denial of admission to the bar in another jurisdiction on character and fitness grounds;
- (l) disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction;
- (m) making of false statements, including omissions, on bar applications in this state or any other jurisdiction; or
- (n) as otherwise determined by the Board of Bar Examiners for just and good cause.

(4) The Board of Bar Examiners shall determine whether the present character and fitness of an applicant qualifies the applicant for admission. In making this determination, the following factors should be considered in assigning weight and significance to prior conduct:

- (a) the applicant's age at the time of the conduct;
- (b) the recency of the conduct;
- (c) the reliability of the information about the conduct;
- (d) the seriousness of the conduct;
- (e) the factors underlying the conduct;
- (f) the cumulative effect of the conduct or information;
- (g) the evidence of rehabilitation;
- (h) the applicant's positive social contributions since the conduct;
- (i) the applicant's candor in the admissions process; and
- (j) the materiality of any omissions or misrepresentations.

(5) The applicant has a continuing obligation to update the application with respect to all matters inquired of on the application. This obligation continues during the pendency of the application, including the period when the matter is on appeal to the Board of Bar Examiners or the Supreme Court.

**D. Conviction; rehabilitation.** A person who has been convicted of a serious crime as defined under these rules shall prove good moral character by demonstrating by clear and convincing evidence that the applicant is rehabilitated and satisfies all other requirements for good moral character.

**E. Examination.** Unless otherwise provided with respect to law faculty at the University of New Mexico and applicants for admission by motion under Rule 15-107 NMRA, all applicants shall be required to take and pass the bar examination in New Mexico or meet the requirements of these rules for admission by transferred Uniform Bar Examination score.

**F. Ethics exam.** Applicants must receive a minimum scaled score of eighty (80) on the Multistate Professional Responsibility Examination (MPRE) prepared and administered by the National Conference of Bar Examiners to be eligible for admission. Applicant must pass the MPRE within one (1) year after the date of notification that the applicant has passed the bar examination or within one (1) year after the date of administration of the Uniform Bar Examination in which a transferred score was earned. For purposes of this paragraph, the date of the notification shall be the date notification is mailed to the applicant by the secretary of the Board of Bar Examiners.

**G. Course on New Mexico law.** All applicants must submit evidence of in-person attendance at, and successful completion of, a course approved by the Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism, within three (3) years before being approved for admission.

**H. Certificate of understanding.** All applicants must submit a signed certificate stating that the applicant has read and is familiar with the New Mexico Rules of Professional Conduct, including the succession planning requirements set forth in Rule 16-119 NMRA; the New Mexico Rules Governing Discipline, including the trust accounting requirements set forth in Rule 17-204 NMRA; the Creed of Professionalism of the State Bar of New Mexico; and the rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys.

[As amended, effective November 14, 1988; July 24, 1996; as amended by Supreme Court Order No. 05-8300-010, effective September 1, 2005; by Supreme Court Order No. 08-8300-028, effective for the February 2009 bar examination; as amended by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. 17-8300-022, effective December 31, 2017; as amended by Supreme Court Order No. 22-8300-013, effective October 1, 2022.]

**Committee commentary.** — The requirements of this rule are intended to assist the Board of Bar Examiners in assessing whether an applicant has demonstrated

- (a) the ability to reason, recall complex factual information, and integrate that information with complex legal theories;
- (b) the ability to communicate with clients, attorneys, courts, and others with a high degree of organization and clarity;
- (c) the ability to use good judgment on behalf of clients and in conducting one's professional business;
- (d) the ability to conduct oneself with respect for and in accordance with the law;
- (e) the ability to avoid acts that exhibit disregard for the rights, health, safety, and welfare of others;
- (f) the ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes, and any applicable order of a court or tribunal;
- (g) the ability to act diligently and reliably in fulfilling one's obligations to clients, attorneys, courts, and others; and
- (h) the ability to comply with deadlines and time constraints.

[Adopted by Supreme Court Order No. 10-8300-018, effective July 4, 2010; as amended by Supreme Court Order No. 22-8300-013, effective October 1, 2022.]

## **ANNOTATIONS**

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-013, effective October 1, 2022, provided that a license to practice law shall not be denied based solely on the applicant's citizenship or immigration status, removed a provision that required a person seeking admission to practice law in New Mexico be a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work in the United States, required all applicants for admission to practice law in New Mexico submit a signed certificate stating that the applicant has read and is familiar with the New Mexico Rules of Professional Conduct, including the succession planning requirements set forth in Rule 16-119 NMRA, the New Mexico Rules Governing Discipline, including the trust accounting requirements set forth in Rule 17-204 NMRA, the Creed of Professionalism of the State Bar of New Mexico, and New Mexico statutes and New Mexico Supreme Court rules relating to the conduct of attorneys, and made certain technical, non-substantive amendments; substituted "board" with "Board of Bar Examiners" throughout the rule and committee commentary; in Paragraph A, added "License to practice law



shall not be denied based solely on the applicant's citizenship or immigration status.”; in Paragraph B, deleted former Subparagraph B(7), which provided “is a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States”; and added Paragraph H.

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-022, effective December 31, 2017, in Paragraph B(2), changed “another state of states” to “another state or states”.

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-018, effective November 1, 2015, authorized applicants who have taken the Uniform Bar Examination to apply for admission to the New Mexico bar, provided a minimum score for, and a time requirement in which to take, the Multistate Professional Responsibility Examination, required applicants to have taken certain courses on New Mexico law prior to being approved for admission to the New Mexico bar, and made technical changes; in Subparagraph B(2), after “application is made”, added “or at the time of application for admission by transferred Uniform Bar Examination (UBE) score”; in Subparagraph B(6), changed each occurrence of “judgement” to “judgment”; in Paragraph E, after the heading, deleted “All applicants shall be required to take and pass the written examination in accordance with Article 2 of these rules except” and added “Except”, after “Rule 15-107 NMRA”, added “all applicants shall be required to take and pass the bar examination in New Mexico or meet the requirements of these rules for admission by transferred Uniform Bar Examination Score.”; and added new Paragraphs F and G.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-001, effective June 1, 2015, authorized applicants to be admitted by motion without examination; and in Paragraph E, after “written examination”, added “in accordance with Article 2 of these rules” and after “University of New Mexico”, added the remainder of the sentence.

**The 2008 amendment**, approved by Supreme Court Order No. 08-8300-028, effective for the February 2009 bar examination, added Subparagraph (7) of Paragraph B.

**The 2005 amendment**, approved by Supreme Court Order No. 05-8300-010, effective September 1, 2005, amended Subparagraph (1) of Paragraph B to reduce the age requirement from twenty-one to eighteen years of age, added a new Paragraph C providing for character and fitness standards and relettered Paragraphs C and D as Paragraphs D and E.

**The 1996 amendment**, effective to apply to the February 1997 bar examination, added Subparagraph B(6) and made a related stylistic change.

**The 1988 amendment**, effective November 14, 1988, added the second sentence in Paragraph B.

**The standard of good moral character is not unconstitutionally vague** and does not violate equal protection requirements. *In re Application of Oppenheim*, 2007-NMSC-022, 141 N.M. 596, 159 P.3d 245.

**Rational connection between qualification and fitness required.** — A state cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the due process or equal protection clause of the fourteenth amendment. A state can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the applicant's fitness or capacity to practice law. *Schwartz v. Board of Bar Exmrs.*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Affidavit requirement valid.** — Applicant to take the New Mexico bar examination must be shown to be a person of good moral character before he is eligible to take the bar examination, and requirement of submission of an affidavit of an attorney of this state to that effect does not deny due process or equal protection. *Henington v. State Bd. of Bar Exmrs.*, 1956-NMSC-001, 60 N.M. 393, 291 P.2d 1108.

**Good moral character prerequisite to taking examination.** — The right to take an examination to practice law is a qualified right, and one who seeks permission to take such examination must be prepared to satisfy reasonable requirements as to good moral character and training. *Henington v. State Bd. of Bar Exmrs.*, 1956-NMSC-001, 60 N.M. 393, 291 P.2d 1108.

**Court final arbiter of standards for bar admission.** — The legislature may enact valid laws in fixing minimum requirements for admission to the bar, but in no event maximum; and it may not require the courts to admit on standards other than as accepted or established by the courts, and any legislation which attempts to do so is an invasion of the judicial power and violative of the constitutional provisions establishing the separate branches of government and prohibiting the legislature from invading the judiciary. *In re Sedillo*, 1959-NMSC-095, 66 N.M. 267, 347 P.2d 162.

**Powers of supreme court over admission to practice.** — The supreme court has the ultimate responsibility to grant or withhold an admission to practice law. That court must independently examine and weigh the evidence and then pass upon its sufficiency. A particular case must be judged on its own merits, and an ad hoc determination in each instance must be made by the court. *Nall v. Board of Bar Exmrs.*, 1982-NMSC-051, 98 N.M. 172, 646 P.2d 1236.

**Character indication of fitness.** — Membership in the bar is a privilege burdened with conditions. A fair private and professional character is one of them. Compliance with that condition is essential at the moment of admission; but it is equally essential afterwards. Whenever the condition is broken the privilege is lost. To refuse admission to an unworthy applicant is not to punish him for past offenses. The examination into character, like the examination into learning, is merely a test of fitness. *Schwartz v.*

*Board of Bar Exmrs.*, 1955-NMSC-081, 60 N.M. 304, 291 P.2d 607, *rev'd on other grounds*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Conduct and opinion of peers relevant to character.** — Proof of his good moral character entails a consideration of two kinds of indirect evidence: first, the pattern of conduct an individual follows; and, second, a consideration of the regard his fellows and associates have for him. *Schware v. Board of Bar Exmrs.*, 1955-NMSC-081, 60 N.M. 304, 291 P.2d 607, *rev'd on other grounds*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Arrest, aliases, communist affiliation deemed not moral unfitness.** — Arrests with convictions, use of aliases many years ago and communist party membership during the 1930's do not raise substantial doubts about applicant's good moral character. Therefore, denial of application is denial of due process because these circumstances do not rationally justify a finding of moral unfitness. *Schware v. Board of Bar Exmrs.*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Burden of proof as to moral character.** — The burden is on the applicant to prove good moral character. The board then has the opportunity to rebut, showing evidence of bad moral character. *Nall v. Board of Bar Exmrs.*, 1982-NMSC-051, 98 N.M. 172, 646 P.2d 1236.

**Burden of proof in challenging board's findings or decision.** — The applicant has the burden of showing that the board's findings are not supported by the evidence or that the decision was erroneous or unlawful. Reasonable doubts are resolved in favor of the applicant. *Nall v. Board of Bar Exmrs.*, 1982-NMSC-051, 98 N.M. 172, 646 P.2d 1236.

**ABA educational requirements may not be waived.** — Subsection (b)(2) (now Subparagraph (2) of Paragraph B) does not permit a case-by-case waiver of the American Bar Association educational requirements. *In re Adams*, 1985-NMSC-051, 102 N.M. 731, 700 P.2d 194.

**Full-time practice notwithstanding nonlegal work.** — Court holds applicant to the bar has been engaged in the full-time practice of law where for the previous seven years he has advised the government on questions of law involving contracts, mortgages, patents and leaseholds, inter alia, although much of the time has been spent doing work nonlawyers could do. *Harty v. Board of Bar Exmrs.*, 1970-NMSC-011, 81 N.M. 116, 464 P.2d 406 (decided under former rule).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law § 12.

Criminal record as affecting applicant's moral character for purposes of admission to the bar, 88 A.L.R.3d 192.

Violation of draft laws as affecting character for purposes of admission to the bar, 88 A.L.R.3d 1055.

Failure to pay creditors as affecting applicant's moral character for purposes of admission to the bar, 4 A.L.R.4th 436.

Validity, construction and effect of reciprocity provisions for admission to bar of attorney admitted to practice in another jurisdiction, 14 A.L.R.4th 7.

Sexual conduct or orientation as ground for denial of admission to bar, 21 A.L.R.4th 1109.

Falsehoods, misrepresentations, impersonations, and other irresponsible conduct as bearing on requisite good moral character for admission to bar, 30 A.L.R.4th 1020.

Validity, construction, and application of enactment, implementation or repeal of formal educational requirement for admission to the bar, 44 A.L.R.4th 910.

7 C.J.S. Attorney and Client §§ 13 to 16.

## **15-104. Application.**

**A. Form of application.** All applications shall be under oath on forms provided by the Board of Bar Examiners, shall contain the information relating to the applicant's qualifications and eligibility as may be required by the board, and shall include applicant's age, residence, addresses for at least the five (5) years immediately preceding the date of application, citizenship, occupations, general and legal background, and information as to the applicant's background and moral character. The Supreme Court may revoke the license of any attorney at any time upon satisfactory showing that the license was obtained by false representations, fraud, or deceit.

**B. Filing requirements.** Applications for admission to the State Bar of New Mexico shall be submitted in duplicate on forms prescribed by the Board of Bar Examiners from time to time. Applications shall be filed with the board at its executive offices. Applications to take the bar examination shall be filed as follows:

(1) The filing deadline for the February bar examination is September 20th immediately preceding the examination and the filing deadline for the July bar examination is January 20th immediately preceding the examination.

(2) Applicants seeking a re-examination must file by December 10th for the February bar examination and May 10th for the July bar examination. No application for re-examination shall be accepted after the applicable deadline.

(3) No application will be accepted after the applicable filing date set forth in this rule except upon payment of any additional late fees as required by these rules.

**C. Documents needed.** The following documents shall be furnished with the application:

(1) a copy of the Federal Bureau of Investigation identification record of the applicant and a copy of the New Mexico Department of Public Safety identification record of the applicant;

(2) a credit report from one (1) of the three (3) major credit reporting agencies printed within thirty (30) days of submission of the application for admission; the credit report shall be included with the application for admission;

(3) a properly authenticated transcript (sent from the law school) evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school formally accredited by the American Bar Association along with a completed law school certification on a form prescribed by the board; except that if the applicant is not a graduate of an accredited law school, the applicant shall transmit with the application

(a) a certificate of admission in another state;

(b) three (3) certificates vouching for the applicant's good moral character by members of the bar of the other state; and

(c) one (1) or more certificates by a judge or judges of the highest court of original jurisdiction in the other state, or the clerk thereof, to the effect that the applicant has been actively engaged in the actual practice of law in that state for at least four (4) years prior to the date of the certificate, and further that applicant is in good standing in the bar of the state and has not been disbarred, been placed under disciplinary suspension, or resigned from the bar while under disciplinary investigation, is not the subject of any pending disciplinary proceedings in the state, or if the applicant has been suspended or disbarred, that the applicant has been duly reinstated. Certificates of admission from other states may be sent directly to the board under separate cover. All of those papers will be returned to the applicant in due course. Other documents submitted will be returned to the applicant, if requested, upon approval by the chair or vice chair of the board; and (4) character and fitness statements from three (3) licensed attorneys in good standing in any jurisdiction in the United States, who are familiar with the applicant's qualifications, certifying that the applicant is a person of good moral character and physically and mentally qualified for admission to the State Bar of New Mexico.

[As amended, effective November 14, 1988; effective November 1, 1994; November 17, 1999 for bar examinations after January 1, 2001; April 9, 2002; as amended by Supreme Court Order No. 08-8300-028, "effective for the February 2009 bar examination"; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. 16-8300-004, effective immediately for applications for the February 2017 bar examination and thereafter; as amended by

Supreme Court Order No. 17-8300-008, effective for applications pending or filed on or after August 4, 2017.]

## ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-008, effective for applications pending or filed on or after August 4, 2017, changed the deadlines for filing applications to take the New Mexico bar examination for applicants seeking re-examination; in Paragraph B, Subparagraph B(2), after “must file by”, deleted “January” and added “December”, and after “February bar examination and”, deleted “June” and added “May”.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-004, effective immediately for applications for the February 2017 bar examination and thereafter, extended the filing deadlines for the February and July bar examinations, and made technical amendments throughout the rule; in Paragraph A, after “showing that the”, deleted “same” and added “license”; in Paragraph B, in the introductory paragraph, after “admission to the”, deleted “bar” and added “State Bar”; in Subparagraph B(1), after “February”, added “bar”, after the first occurrence of “examination is”, deleted “on”, after “September”, deleted “10th” and added “20th”, after the second occurrence of “examination is”, added “on”, and after “January”, deleted “10th” and added “20th”; in Subparagraph B(3), after “upon payment of”, deleted “such” and added “any”; in Subparagraph C(3)(c), after “All”, deleted “such” and added “of those”; in Subparagraph C(4), after “qualified for admission to the”, deleted “bar” and added “State Bar”; and substituted “the” for “such” throughout the rule.

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-018, effective November 1, 2015, clarified certain filing requirements for applications to take the bar examination; in Paragraph B, after “executive offices”, inserted a period and added “Applications to take the bar examination shall be filed”.

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-012, effective May 14, 2013, provided that applications for re-examination will not be accepted after the deadline; required that a credit report printed within thirty days of submission of an application be submitted with the application; in Subparagraph (2) of Paragraph B, added the last sentence; and in Paragraph C, added Subparagraph (2).

**The 2008 amendment**, approved by Supreme Court Order No. 08-8300-028, effective for the February 2009 bar examination, added the requirement in Subparagraph (2) of Paragraph C that a completed law school certification on a form prescribed by the board be furnished with the application.

**The 2002 amendment**, effective April 9, 2002, substituted "directly to the Board of Bar Examiners" for "to the secretary of the board at Santa Fe" in the undesignated paragraph following Paragraph C(2)(c).

**The 1999 amendment**, effective November 17, 1999, and applicable for bar examinations after January 1, 2001, rewrote the rule.

**Cross references.** — For criminal history information for bar applicants, see 34-2-9 NMSA 1978.

**Rational connection between qualifications and fitness required.** — A state cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the due process or equal protection clause of the fourteenth amendment. A state can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the applicant's fitness or capacity to practice law. *Schwartz v. Board of Bar Exmrs.*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Good moral character prerequisite to taking examination.** — Applicant to take the New Mexico bar examination must be shown to be a person of good moral character before he is eligible to take the bar examination and requirement of submission of an affidavit of an attorney of this state to that effect does not deny due process or equal protection. *Henington v. State Bd. of Bar Exmrs.*, 1956-NMSC-001, 60 N.M. 393, 291 P.2d 1108.

**Character indication of fitness.** — Membership in the bar is a privilege burdened with conditions. A fair private and professional character is one of them. Compliance with that condition is essential at the moment of admission; but it is equally essential afterwards. Whenever the condition is broken the privilege is lost. To refuse admission to an unworthy applicant is not to punish him for past offenses. The examination into character, like the examination into learning, is merely a test of fitness. *Schwartz v. Board of Bar Exmrs.*, 1955-NMSC-081, 60 N.M. 304, 291 P.2d 607, *rev'd on other grounds*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Conduct and opinion of peers relevant to character.** — Proof of his good moral character entails a consideration of two kinds of indirect evidence: first, the pattern of conduct an individual follows; and, second, a consideration of the regard his fellows and associates have for him. *Schwartz v. Board of Bar Exmrs.*, 1955-NMSC-081, 60 N.M. 304, 291 P.2d 607, *rev'd on other grounds*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Arrest, aliases, communist affiliation deemed not moral unfitness.** — Arrests with convictions, use of aliases many years ago and communist party membership during the 1930's do not raise substantial doubts about applicant's good moral character. Therefore, denial of application is denial of due process because these circumstances do not rationally justify a finding of moral unfitness. *Schwartz v. Board of Bar Exmrs.*, 1955-NMSC-081, 60 N.M. 304, 291 P.2d 607, *rev'd on other grounds*, 353 U.S. 232, 77 S. Ct. 752, 1 L. Ed. 2d 796 (1957).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law §§ 12, 22 to 24, 38.

Bias of members of license revocation board, 97 A.L.R.2d 1210.

Procedural due process requirements in proceedings involving applications for admission to bar, 2 A.L.R.3d 1266.

Pardon as restoring public office or license or eligibility therefor, 58 A.L.R.3d 1191.

7 C.J.S. Attorney and Client §§ 13 to 16, 17.

### **15-105. Application fees.**

A. **Fees.** Every applicant shall pay the fees as prescribed by the Board of Bar Examiners from time to time. The following fees are fixed, until changed by the board, for applicants seeking admission by examination:

(1) five hundred dollars (\$500.00) for applicants whose graduation from law school is less than one (1) year prior to filing the application;

(2) a reduced fee of one hundred dollars (\$100.00) for applicants who apply to repeat the examination within one (1) year after the first unsuccessful examination result. If the applicant does not successfully complete the examination within the first year, the applicant shall pay the full applicable application fee for all subsequent re-examinations; an additional fee may also be required by the board to update the investigative report;

(3) reasonable additional costs to be determined by the board, in connection with any investigations or hearings. Such costs shall include, but not be limited to, board attorney fees, court reporter fees, medical evaluations, and any other fees for services to complete the investigation and hearing. Payment of such fees shall be a prerequisite for admission or for consideration of subsequent reapplications. In all cases, the applicant shall bear the applicant's own costs associated with the application, investigation, and hearing;

(4) one thousand dollars (\$1,000.00) for all other applicants;

(5) late filing fees shall be assessed as follows:

(a) two hundred dollars (\$200.00) if an application is received and filed on or before November 2 immediately preceding the February bar exam and April 2 immediately preceding the July bar exam; and

(b) five hundred dollars (\$500.00) if an application is received and filed on or before December 2 immediately preceding the February bar exam and May 2



immediately preceding the July bar exam. No applications for first-time applicants will be accepted after these dates.

**B. Remittance of fees.** All remittances for fees shall be made payable to the New Mexico Board of Bar Examiners, shall be deposited to an account designated as New Mexico Board of Bar Examiners general fund, and shall be disbursed by order of the board in carrying out the functions, duties, and powers vested in said board. Application fees and costs are not refundable and will be applied toward the expenses of the board, including appropriate investigation by the National Conference of Bar Examiners.

**C. Budget.** The board shall submit on or before January 1 of each year a proposed budget to the Supreme Court.

**D. Audit.** The board shall likewise, on or before March 1 of each year, submit to the Supreme Court an accounting and audit of all funds received and disbursed during the prior calendar year. Such audit shall be performed by an auditor to be selected by the Supreme Court.

**E. Compensation.** Members of the board shall receive mileage and per diem at the same rate as provided for public officials and employees of the state and any other compensation for service to the board as approved by the Supreme Court.

[As amended, effective August 21, 1987; November 14, 1988; December 15, 1993; November 1, 1994; April 23, 2001; August 23, 2002; December 12, 2003; as amended, by Supreme Court Order No. 05-8300-010, effective September 1, 2005; by Supreme Court Order No. 07-8300-009, effective April 17, 2007; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 13-8300-048, effective December 6, 2013, for applications for the July 2014 bar examination and subsequent bar examinations; as amended by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. 17-8300-008, effective for applications pending or filed on or after August 4, 2017.]

## ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-008, effective for applications pending or filed on or after August 4, 2017, changed the dates by when certain fees are assessed for late applications to take the New Mexico bar examination; in Paragraph A, Subparagraph A(5)(b), after “on or before”, deleted “January” and added “December”, and after “February bar exam and”, deleted “June” and added “May”.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-001, effective June 1, 2015, imposed fees on applicants seeking admission by examination; and in Paragraph A, in the introductory sentence, after “changed by the board”, added “for applicants seeking admission by examination”.

**The second 2013 amendment**, approved by Supreme Court Order No. 13-8300-048, effective December 6, 2013, raised application and late filing fees; in Subparagraph (1) of Paragraph A, at the beginning of the sentence, deleted “four hundred and fifty dollars (\$450.00)” and added “five hundred dollars (\$500.00)”; in Subparagraph (4) of Paragraph A, at the beginning of the sentence, deleted “eight hundred dollars (\$800.00)” and added “one thousand dollars (\$1,000.00)”; in Subparagraph (5) of Paragraph A, at the beginning of the sentence, deleted “later” and added “late”; in Item (a) of Subparagraph (5) of Paragraph A, at the beginning of the sentence, deleted “fifty dollars (\$50.00)” and added “two hundred dollars (\$200.00)”, after “if an application is”, added “received and”, after “received and filed”, deleted “within thirty (30) days of the filing deadline” and added the remainder of the sentence; in Item (b) of Subparagraph (5) of Paragraph A, in the first sentence, at the beginning of the sentence, deleted “one hundred dollars (\$100.00)” and added “five hundred dollars (\$500.00)”, after “if an application is”, added “received and”, after “received and filed”, deleted “within sixty (60) days of the filing deadline” and added the remainder of the sentence, and added the second sentence; deleted former Item (c) of Subparagraph (5) of Paragraph A, which imposed a fee of one hundred fifty dollars (\$150) for applications filed within ninety (90) days of the filing deadline; and deleted former Item (d) of Subparagraph (5) of Paragraph A, which imposed a fee of two hundred dollars (\$200) for applications filed ninety (90) days or more after the filing deadline and which prohibited the acceptance of new applications after January 5th for the February exam or June 5th for the July exam.

**The first 2013 amendment**, approved by Supreme Court Order No. 13-8300-012, effective May 14, 2013, provided that the reduced application fee applies only to applicants who apply for a re-examination within one year after the first unsuccessful examination result; provided that the full application fee applies for all re-examinations of applicants who do not successfully complete the examination within one year; authorized the board to charge additional fees to update investigative reports; and in Subparagraph (2) of Paragraph A, in the first sentence, after “to repeat the examination”, added the remainder of the sentence, added the second sentence, and deleted language that authorized the board to impose a fee if the investigative report was dated more than fifteen months prior to the date of application.

**The 2007 amendment**, approved by Supreme Court Order No. 07-8300-009, effective April 17, 2007, amended Paragraph A to delete the provision in Subsection (1) that limited the \$450.00 application fee to applicants who had not practiced law in another state and to amend Subparagraph (3) to add the third, fourth and fifth sentences defining “costs” and providing for the payment of costs.

**The 2005 amendment**, approved by Supreme Court Order No. 05-8300-010, effective September 1, 2005, amended Paragraph E to provide for payment of compensation to members of the Board of Bar Examiners at a rate approved by the Supreme Court.

**The 2003 amendment**, effective December 12, 2003, substituted “four hundred and fifty dollars (\$450.00)” for “five hundred and fifty dollars (\$550.00)” in subparagraph (1) and

"one hundred dollars (\$100.00)" for "two hundred dollars (\$200.00)" in subparagraph (2) of Paragraph A.

**The 2002 amendment**, effective August 23, 2002, rewrote Paragraph A(5) which formerly read "one hundred fifty dollars (\$150.00) payable upon filing of an application after the deadline set by these rules and upon approval of the chief justice for filing of said application".

**The 2001 amendment**, effective April 23, 2001, substituted "two hundred dollars (\$200.00)" for "four hundred dollars (\$400.00)" and deleted "not less than forty (40) days prior to the next scheduled examination" in Paragraph A(2).

**The 1994 amendment**, effective November 1, 1994, substituted "the application" for "the current application" in Paragraph A(1); substituted the language beginning "provided, however" for "provided, that the said reduced fee shall apply only for two successive repeat examinations" in Paragraph A(2); rewrote Paragraph A(3), which read: "an additional fee not to exceed three hundred fifty dollars (\$350.00) to defray investigation costs for applicants for whom the board determines an additional investigation is desirable"; deleted "except for applicants who apply to repeat" following "applicants" in Paragraph A(4); and substituted "secretary" for "secretary treasurer" in the first sentence and "Application fees and costs" for "Remittances for fees" in the last sentence in Paragraph B.

**The 1993 amendment**, effective for the July 1994 bar examination, substituted "six hundred dollars (\$600.00)" for "three hundred twenty-five dollars (\$325.00)" in Subparagraph A(1), "four hundred dollars (\$400.00)" for "one hundred seventy-five dollars (\$175.00)" in Subparagraph A(2), and "eight hundred dollars (\$800.00)" for "five hundred dollars (\$500.00)" in Subparagraph A(4).

**The 1988 amendment**, effective November 14, 1988, added Paragraph A(5) and deleted "nor any examiner appointed by the court" following "Board of Bar Examiners" near the beginning of Paragraph E.

**Cross references.** — For Per Diem and Mileage Act, see 10-8-1 to 10-8-8 NMSA 1978.

**The board may not assess the attorney fees that the board incurred** to investigate and hear an application for admission to the bar. *In re: Application of Oppenheim*, 2007-NMSC-022, 141 N.M. 596, 159 P.3d 245.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law §§ 12, 22 to 24.

Procedural due process requirements in proceedings involving applications for admission to bar, 2 A.L.R.3d 1266.

7 C.J.S. Attorney and Client § 17.

## **15-106. Repeat applications.**

There shall be no limit on the number of repeat examinations an applicant may take. However, a completely new application shall be filed for each examination, accompanied by the appropriate application fee prescribed by Rule 15-105 NMRA. The secretary shall cause an appropriate reinvestigation of fitness to be made if directed by the board, or, if the applicant's last investigative report was dated more than fifteen (15) months prior to the date of the latest application, and charge a fee under Rule 15-105 NMRA. Applicants seeking reexamination must file their application for repeat examination in accordance with the deadlines set forth in Rule 15-104 NMRA.

[As amended, effective November 1, 1994; July 8, 2003.]

### **ANNOTATIONS**

**The 2003 amendment**, effective July 8, 2003, substituted "in accordance with the deadlines set forth in Rule 15-104 NMRA" for "not less than forty (40) days prior to the next scheduled examination" at the end of the last sentence.

**The 1994 amendment**, effective November 1, 1994, substituted "appropriate application fee prescribed by Rule 15-105" for "appropriate fee. See Rule 15-105" in the first sentence, and substituted "made if directed by the board, or, if the applicant's last investigative report was dated more than fifteen (15) months prior to the date of the latest application, and charge a fee under Rule 15-105" for "made when directed by the board, or, for applicants whose last investigative report was dated more than fifteen (15) months earlier and charge a fee under Paragraph C of Rule 15-105" in the second sentence.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law §§ 12, 22 to 24.

Procedural due process requirements in proceedings involving applications for admission to bar, 2 A.L.R.3d 1266.

7 C.J.S. Attorney and Client § 17.

## **15-107. Admission by motion.**

A. An applicant who meets the requirements of Rules 15-103 and 15-104 NMRA and this rule may, upon motion, be admitted to the practice of law in New Mexico if the applicant

(1) has been admitted to practice law in one (1) or more reciprocal states, territories, or protectorates of the United States of America, or the District of Columbia, as such are defined in Paragraph F of this rule and is currently an active member in good standing in at least one (1) reciprocal state and has been admitted to and

engaged in the active practice of law as defined in Paragraph D of this rule in one (1) or more states, territories, or protectorates of the United States of America, or the District of Columbia, including New Mexico, for at least five (5) of the past seven (7) years preceding application to New Mexico;

(2) has never been denied certification because of character and fitness to practice law in New Mexico or any other state;

(3) has not, within the five (5) years preceding application under this rule, taken and failed the New Mexico Bar Examination;

(4) is not now nor ever has been admitted to the practice of law in New Mexico, unless the applicant voluntarily withdrew or resigned from membership in the State Bar of New Mexico while in good standing;

(5) has not been previously denied admittance to practice law on application or motion to practice law in New Mexico or any other state;

(6) has not previously engaged in the unauthorized practice of law in New Mexico or any other state;

(7) establishes that the applicant is currently a member in good standing in every state where the applicant is admitted to practice law or, if the applicant is not presently a member eligible to practice in a state, territory, protectorate, or District of Columbia, establishes that the applicant resigned in good standing. An applicant who is disbarred or suspended for any reason from the practice of law in another state at the time of filing an application for admission on motion shall not be eligible for admission on motion;

(8) submits evidence of a passing scaled score on the Multistate Professional Responsibility Examination as described in Paragraph E of Rule 15-205 NMRA;

(9) otherwise establishes to the satisfaction of the Board and the Supreme Court of New Mexico that the applicant possesses the character and fitness to practice law in this state; and

(10) submits evidence of in-person attendance at, and successful completion of, a course approved by the Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism, before being approved for admission.

**B. Amendment of application.** Every applicant is required promptly to amend his or her application in the event any of the answers on the application has been affected by intervening conduct or events.

**C. Documents needed.** The following documents shall be furnished with each application, in addition to any and all other information that may be required by the Board:

(1) a copy of the Federal Bureau of Investigation identification record of the applicant and a copy of the New Mexico Department of Public Safety identification record of the applicant;

(2) a properly authenticated transcript (sent from the law school) evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school formally accredited by the American Bar Association including a completed law school certification on a form prescribed by the Board;

(3) a certificate of admission, currently valid license to practice law, or certificate of good standing from every state where admitted;

(4) character and fitness statements from three non-related licensed attorneys in good standing in every state where the applicant is licensed to practice law, who are familiar with the applicant's qualifications, certifying that the applicant is a person of good moral character and physically and mentally qualified for admission to the bar of New Mexico;

(5) a letter from the grievance or disciplinary entity of every state, district, territory, protectorate, province or foreign country in which the applicant is admitted indicating that there are no disciplinary complaints or charges pending against the applicant;

(6) one (1) or more certificates by a judge or judges of the highest court of original jurisdiction, or the clerk thereof, or by the authority designated in such other state to provide such certificate or certificates to that effect that

(a) the applicant has been eligible to engage in the actual practice of law in that state for at least five (5) of the seven (7) years immediately prior to the date of the certificate;

(b) the applicant is in good standing in the bar of such state and has not been disbarred, placed under disciplinary suspension, or resigned from such bar while under disciplinary investigation;

(c) the applicant is not the subject of any pending disciplinary complaints or proceedings in such state; and

(d) if the applicant has been suspended or disbarred, that the applicant has been duly reinstated; and

(7) an affidavit executed by the applicant describing the applicant's active practice of law for the required durational period in every applicable jurisdiction, which shall include a detailed explanation of how it satisfies the definition of the active practice of law as set forth in Paragraph D of this rule.

**D. Active practice of law defined.**

(1) For the purposes of this rule, the "active practice of law" shall include the following activities, if performed in a state in which the applicant is admitted and authorized to practice law, or, if performed in a state that affirmatively permits such activity by a lawyer not admitted in that state, however, in no event shall any activities performed pursuant to any rule regarding the practice of law pending admission or in advance of bar admission in another state be accepted toward the durational requirements:

(a) representation of one or more clients in the private practice of law;

(b) service as a lawyer with a local, state, territorial or federal agency, or governmental branch, including United States military service with any branch of the United States military;

(c) full time teaching at a law school formally accredited by the American Bar Association;

(d) service as a judge in a local, state, territorial, or federal court of record of the United States;

(e) service as a judicial law clerk in a local, state, territorial, or federal court of record of the United States;

(f) service as in-house counsel provided to the applicant's employer or its organizational affiliates; or

(g) any combination of the above.

(2) "Full-time, gainful employment in the performance of legal services" is defined for the purpose of this rule to require that during each of the required five (5) years in the durational period, the applicant spent at least one thousand (1,000) hours per year engaged in one or more of the activities listed above, and derived at least fifty percent (50%) of the applicant's non-investment income from such activity or activities.

(3) The active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the state in which it was performed or in the state in which the clients receiving the unauthorized services were located.

**E. Application and filing fees.** Any applicant seeking admission to the practice of law on motion shall meet the requirements of Paragraphs A through D of this rule and shall

(1) file an application for admission by motion, including character and fitness investigation information, in a manner established by the Board, including all required supporting documents;

(2) pay the non-refundable application fee of two thousand five hundred dollars (\$2,500). There shall be no refund of, or credit for, this application fee for any reason, including but not limited to denial of admission, withdrawal of the application, or failure to pursue admission after application, regardless of the date of notification by the applicant; and

(3) as provided in Subparagraph (A)(3) of Rule 15-105 NMRA, pay all costs as determined by the Board in connection with any investigation and hearings, and bear his or her own costs associated with any application, investigation, and hearing.

**F. Reciprocal states.** Upon recommendation by the Board and due consideration by the Supreme Court of New Mexico, the Court shall approve and maintain a list of states considered “reciprocal” to New Mexico for purposes of this rule, and that list shall be posted publicly on the Board’s website. Upon recommendation of the Board, or on the Court’s own motion, the Court may modify the list of reciprocal states based upon recognition of rule changes in the various states and other relevant considerations in the Court’s discretion. The status of reciprocal states will be considered current as of the later of June 1, 2015, or the date of receipt of an application for admission by motion and the current “reciprocal” status of states determined applicable to that applicant as of such date.

[Adopted by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. 14-8300-021, effective June 1, 2015.]

## ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-021, effective June 1, 2015, clarified the language of the rule, including the definition of “active practice of law”; eliminated practice under a limited license as a consideration in the satisfaction of the requirements for admission by motion; changed “jurisdiction” to “state” throughout the rule; in Paragraph A (1), after “had been admitted”, deleted “by bar examination”, after “District of Columbia”, added “as such are defined in Paragraph F of this rule and is currently an active member in good standing in at least one (1) reciprocal state”, after “active practice of law”, added “as defined in Paragraph D of this rule in one (1) or more states, territories, or protectorates of the United States of America, or the District of Columbia, including New Mexico”, and after “preceding application to New Mexico” deleted “in one or more reciprocal jurisdictions, as such are defined in Paragraph F of this rule”; in Paragraph A (4), after “withdrew or resigned



from”, deleted “the bar” and added “membership in the State Bar” and after “while in good standing”, deleted “or practiced under a limited license pursuant to Rule 15-301.2 NMRA”; in Paragraph C (6), deleted the former language which required the applicant to submit a certificate from the highest court of any jurisdiction relied upon by the applicant to satisfy the practice of law durational requirements and added the current language; in Paragraph D (1), after “active practice of law”, deleted the former language which required the applicant to have been actively and continuously engaged in full-time, gainful employment in the performance of legal services which could include the activities listed in Subparagraph (1) if performed in a reciprocal jurisdiction when the applicant was admitted in active status, and added the current language; in Paragraph D (1)(a), after “more clients in the”, added “private” and after “federal agency”, added “or governmental branch”; deleted former Paragraph D (1)(g) which provided that service in New Mexico pursuant to a limited license would be treated as performed in a reciprocal jurisdiction; in Paragraph D (3), in the third sentence, after “considered current as of the”, added “later of June 1, 2015, or the”, after “admission by motion”, deleted “to determine” and added “and”, after “and the current”, added “reciprocal”, after “reciprocal’ status of”, deleted “jurisdictions” and added “states determined”, and after “applicable to that applicant”, added “as of such date”.

## **ARTICLE 2**

### **Examinations**

#### **15-201. Written examination.**

A. **Necessity.** All applicants for admission to the bar of New Mexico shall be required to take and pass a written examination prescribed by the Board of Bar Examiners in accordance with these rules.

B. **Purpose.** The bar examination shall be designed to test the applicant's minimum competence to practice law in this state.

[As amended, effective November 1, 1994.]

#### **ANNOTATIONS**

**The 1994 amendment**, effective November 1, 1994, rewrote Paragraph B, which read: "The bar examination shall be designed to test the applicant's ability to reason logically, to analyze accurately the problems presented to him and to communicate an adequate knowledge of the fundamental principles of law and professional ethics and their application. The examination shall not be designed primarily for the purpose of testing memory or experience."

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law § 22.

Validity, under federal constitution, of state bar examination procedures, 30 A.L.R. Fed. 934.

7 C.J.S. Attorney and Client § 18.

### **15-202. Admission by transferred Uniform Bar Examination score.**

An applicant who meets all other requirements of these rules may be admitted to practice law in New Mexico if the applicant has earned a total scaled score of two hundred sixty (260) or higher of the Uniform Bar Examination taken in another jurisdiction within thirty-six (36) months preceding the date of application for admission.

[As amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015.]

#### **ANNOTATIONS**

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-018, effective November 1, 2015, rewrote the rule to authorize an applicant who has taken the Uniform Bar Examination (UBE) in another state to apply for admission to the New Mexico bar within thirty-six months of taking the UBE if the applicant meets the score required under the rule and otherwise meets all other requirements for admission to the New Mexico bar; in the heading, deleted "Place and times of examinations." and added the new language; and after the heading, deleted the entire language of the rule which read "The Board of Bar Examiners shall hold examinations for admission of applicants to the bar of this state at such times and places as the board may direct. Applicants who desire to do so may type the examination but will be required to furnish their own laptop computers. The MPRE may be taken anywhere in the United States, at the times and places designated by the National Conference of Bar Examiners.", and added the new language.

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-012, effective May 14, 2013, deleted the former specification of the date when examinations were to commence; required applicants to furnish their own laptop computers; deleted the former specification of who may take the MPRE; in the first sentence, after "as the board may direct", deleted "commencing on the Monday before the last Wednesday in February and the Monday before the last Wednesday in July, unless otherwise announced"; in the second sentence, after "furnish their own", deleted "typewriters" and added "laptop computers"; deleted the former third sentence, which provided that all other supplies will be provided; and in the current third sentence, after "Bar Examiners", deleted "and may be taken by those in their last year of law school, as well as those who have already graduated".

### **15-203. Subjects for examination.**

The examination shall be the Uniform Bar Examination (UBE) prepared by the National Conference of Bar Examiners and comprised of six (6) Multistate Essay Examination (MEE) questions, two (2) Multistate Performance Test (MPT) items, and the Multistate Bar Examination (MBE). Applicants may be tested on any subject matter listed by the National Conference of Bar Examiners as areas of law to be tested on the UBE. Questions will be unlabeled and not necessarily limited to one (1) subject matter.

[As amended, effective November 14, 1988; July 24, 1996; February 28, 2002; as amended by Supreme Court Order No. 07-8300-004, effective March 1, 2007; as amended by Supreme Court Order No. 14-8300-021, effective for the February 2015 bar examination and subsequent bar examinations; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015.]

### **ANNOTATIONS**

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-018, effective November 1, 2015, completely rewrote the rule to provide that the New Mexico bar examination shall be the Uniform Bar Examination prepared by the National Conference of Bar Examiners; deleted Paragraphs A, B and C and added the new undesignated paragraph.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-021, effective for the February 2015 bar examination and subsequent bar examinations, added civil procedure as a testable subject; and in Paragraph B (1), at the beginning of the sentence, after "The", changed "six (6)" to "seven (7)" and after "multistate subjects", added "civil procedure".

**The 2007 amendment**, approved by Supreme Court Order No. 07-8300-010, effective March 1, 2007, delete Paragraph B and insert a new Paragraph B. For provisions of the pre-2007 version of Rule 15-203 NMRA, see the 2005 NMSA 1978 on New Mexico One Source of Law.

**The 2002 amendment**, effective February 28, 2002, inserted "and federal personal income tax; and" in Paragraph B(4) and added Paragraph B(5).

**The 1996 amendment**, effective July 24, 1996, added Paragraph C.

**The 1988 amendment**, effective November 14, 1988, inserted "estates and trusts" in Paragraph B(4).

**15-204. Withdrawn.**

### **ANNOTATIONS**

**Withdrawals.** — Pursuant to Supreme Court Order No. 15-8300-018, 15-204 NMRA, relating to bar admission rule questions, was withdrawn effective November 1, 2015. For provisions of former rule, see the 2015 NMRA on *NMOneSource.com*.

## **15-205. Grading and scoring.**

**A. Policies and graders.** Subject to the approval of the Supreme Court, the Board of Bar Examiners may adopt grading policies as it deems appropriate provided the policies are not inconsistent with the policies applicable to grading of the UBE as coordinated by the National Conference of Bar Examiners. Graders shall be appointed by the Board of Bar Examiners for the grading of examinations.

**B. Nonidentity grading.** Every applicant shall be assigned an examination number at random. Grading of the MEE and MPT answers shall be strictly anonymous, and the information matching the names and code numbers of the applicants shall be kept in the custody of the secretary of the board, or such other person as is designated by the board, until all papers have been finally graded, all numerical or percentage grades for each applicant have been compiled, and each applicant has been determined by examination number to have either passed or failed the bar examination.

**C. Weighting; scaling; minimum passing score.** The raw scores assigned to the MEE and MPT answers by the graders shall reflect the relative quality of each answer (ranging from non-responsive to well above average). The MEE and MPT raw scores shall be combined and converted to the MBE scale to calculate written scaled scores according to the method used by the National Conference of Bar Examiners for jurisdictions that administer the UBE. The written scaled scores and the MBE scaled scores shall be combined to determine UBE total scores, with the MEE weighted thirty percent (30%), the MPT weighted twenty percent (20%), and the MBE weighted fifty percent (50%). Scaled scores shall be used to assure that the standard used to measure competence is not affected by the difficulty of the particular test or the ability of the applicants sitting for a particular examination. A total UBE score of two hundred sixty (260) shall be the minimum passing score.

**D. Uniformity of grading.** In order to assure maximum fairness and uniformity in grading, the Board of Bar Examiners shall prescribe standards for grading to be used by all graders. To the extent possible, all the answers to a particular question should be graded by the same grader.

**E. Ethics exam.** The Board of Bar Examiners shall test applicants on professional responsibility and legal ethics by separate examination. Regardless of test results on the other examination parts, applicants must receive a minimum scaled score of eighty (80) on the MPRE to be eligible for admission. A passing scaled score of eighty (80) or above achieved no more than five (5) years before filing a first application for admission in New Mexico will be accepted. The MPRE must be passed by the applicant within one (1) year after the date of notification that the applicant has passed the MEE, MPT, and MBE parts of the examination or within one (1) year after application for admission by

transfer of Uniform Bar Examination score or admission on motion. For purposes of this paragraph, the date of notification shall be the date notification is mailed to the applicant by the secretary of the board.

[As amended, effective November 14, 1988; November 1, 1994; July 17, 1995; July 24, 1996; July 6, 1998; February 28, 2002; as amended by Supreme Court Order No. 11-8300-032, effective September 1, 2011; as amended by Supreme Court Order No. 13-8300-048, effective December 6, 2013, for applications for the July 2014 bar examination and subsequent bar examinations; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. 16-8300-004, effective immediately for applications for the February 2017 bar examination and thereafter.]

## ANNOTATIONS

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-004, effective immediately for applications for the February 2017 bar examination and thereafter, required the Board of Bar Examiners to test applicants for admission to the State Bar on professional responsibility and legal ethics by separate examination, set the minimum passing score on the ethics exam to be eligible for admission to the State Bar, and made certain technical amendments throughout the rule; in Paragraph A, after “Supreme Court, the”, deleted “board” and added “Board of Bar Examiners”, after “adopt”, deleted “such”, and after “provided”, deleted “such” and added “the”; in Paragraph C, after “fifty”, added “percent”; and added new Paragraph E.

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-018, effective November 1, 2015, established new grading and scoring policies for the newly adopted Uniform Bar Examination, and removed provisions regarding the ethics examination, adding related provisions to Rule 15-103 NMRA; in the heading of the rule, deleted “Administration and grading” and added “Grading and scoring”; in Paragraph A, after “deems appropriate”, deleted “for the examinations” and added “provided such policies are not inconsistent with the policies applicable to grading of the UBE as coordinated by the National Conference of Bar Examiners”; in Paragraph B, in the second sentence, after “Grading”, added “of the MEE and MPT answers”, and after “passed or failed the”, deleted “written” and added “bar”; in Paragraph C, in the heading, deleted “Essay and performance test portion of bar exam” and added “Weighting; scaling; minimum passing score”, in the first sentence, after “The”, added “raw scores”, deleted “grades for” and added “assigned to”, after the first occurrence of “the”, deleted “essay and performance test portion of the examination” and added “MEE and MPT answers by the graders”, after “above average”, deleted “and shall be calculated using the standard deviation method, which ensures that each essay question receives the same weight, and each performance test question is weighted 1.5 times that of each essay. Each applicant’s essay and performance test grades shall then be scaled to the MBE portion of the examination using the standard deviation method” and added the next two sentences, in the fifth sentence, after “A”, deleted “combined average scaled” and added “total UBE”, and after “score of”, deleted “130 on the MBE and essay parts of the examination” and

added "two hundred sixty (260)"; and deleted Paragraph E relating to the ethics examination.

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-048, effective December 6, 2013, authorized the acceptance of a passing scaled score of 80 or above on the ethics exam that was achieved no more than five years before a first application for admission; and added the third sentence.

**The 2011 amendment**, approved by Supreme Court Order No. 11-8300-032, effective September 1, 2011, required applicants to receive a minimum score of 80 on the MPRE to be admitted.

**The 2002 amendment**, effective February 28, 2002, substituted "1.5 times" for "2.5 times" near the end of the first sentence in Paragraph C.

**The 1998 amendment**, effective for bar examinations beginning with the February 1999 bar exam, rewrote Paragraph C and inserted "average" following "A combined" in the undesignated paragraph following Paragraph C.

**The 1996 amendment**, effective July 24, 1996, inserted "and performance test" in the paragraph heading in Paragraph C, and rewrote the final undesignated paragraph in Paragraph C.

**The 1995 amendment**, effective to apply to the July 1995 bar exam, substituted "score of 130 on the MBE" for "score of 133 on the MBE" in the last undesignated paragraph in Paragraph C.

**The 1994 amendment**, effective November 1, 1994, rewrote the last paragraph in Paragraph C, which read: "All applicants must receive an average scaled score of 133 on the MBE and essay. All applicants must also pass the MPRE"; rewrote Paragraph D, which read: "The Board of Bar Examiners shall be empowered to test applicants on professional responsibility and legal ethics by separate written examination and the supreme court shall set separate minimum standards for successful completion of such examination, regardless of test results on the other subjects"; and made minor stylistic changes throughout the rule.

**The 1988 amendment**, effective November 14, 1988, substituted "Board of Bar Examiners for completion of grading of such examinations" for "supreme court" at the end of Paragraph A.

**Cross references.** — For qualifications of bar examiners, see Rule 15-402 NMRA.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 C.J.S. Attorney and Client § 18.

## **15-206. Examination results.**

A. **Notification.** Upon completion of grading, the secretary of the board shall notify each applicant of the results of the applicant's examination, and such other information as the board may deem to be appropriate.

B. **Publication.** Bar examination statistics and other information determined by the board or Supreme Court to be nonconfidential may be made available to prospective students, applicants, members of the legal profession and to members of the public who are interested in standards for admission to the bar.

[As amended, effective November 1, 1994.]

## ANNOTATIONS

**The 1994 amendment,** effective November 1, 1994, substituted "the applicant's examination" for "his examination" in Paragraph A and made a minor stylistic change in Paragraph B.

### **15-207. Unsuccessful applicants; right of inspection.**

A. **Test scores; inspection.** Beginning thirty (30) days after notice to the applicant involved and ending on the sixtieth (60th) day thereafter, any unsuccessful applicant shall be entitled to the applicant's MBE, MEE, and MPT scores and shall be entitled under conditions specified by the board to a reasonable inspection of the following:

- (1) the MEE and MPT questions of the examination;
- (2) the applicant's answers to such MEE and MPT questions; and
- (3) sample answers for each question.

B. **Inspection not allowed.** No inspection of the Multistate Bar Examination, Multistate Essay Examination, Multistate Performance Test, or the Multistate Professional Responsibility Examination questions or answers shall be allowed unless authorized by the National Conference of Bar Examiners.

C. **Bar examination grading.** Any applicant who has failed the bar examination but is otherwise qualified for admission may, within thirty (30) days of notice to the applicant of examination results, upon written request, cause the board (or member or secretary thereof) to review the mathematical accuracy of the scoring of the applicant's examination. There shall be no right to hearing or appeal with regard to the grade that an applicant received for answers to exam questions; provided, however, that before the publication of the results of the exam, a committee of the board shall review and regrade as necessary the MEE and MPT answers for any applicant whose total UBE score is within six (6) points below the minimum passing score. The total UBE score after the regrade shall be the final score for that applicant.

[As amended, effective November 1, 1994; July 24, 1996; as amended by Supreme Court Order No. 11-8300-032, effective September 1, 2011; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015.]

## ANNOTATIONS

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-018, effective November 1, 2015, amended provisions regarding an unsuccessful applicant's right to inspect the applicant's test scores after a failed bar examination, reflecting New Mexico's adoption of the Uniform Bar Examination, and changed the score below the minimum passing score that requires the board of bar examiners to review and regrade a failed bar examination; in the introductory sentence of Paragraph A, after "MBE", deleted "MPRE and essay" and added "MEE, and MPT"; in Subparagraph A(1), after the first occurrence of "the", deleted "essay" and added "MEE and MPT"; in Subparagraph A(2), after "such", deleted "essay" and added "MEE and MPT"; in Paragraph B, after "No inspection of the", deleted "multi-state bar examination, multi-state performance test or the multi-state professional responsibility examination" and added "Multistate Bar Examination, Multistate Essay Examination, Multistate Performance Test, or the Multistate Professional Responsibility Examination"; in Paragraph C, in the first sentence, after "to review", deleted "the applicant's grading to determine", in the second sentence, after "regrade as necessary the", added "MEE and MPT" and deleted "written", after "applicant whose", deleted "overall exam" and added "total UBE", after "within", deleted "three" and added "six (6)", and after "below the", added "minimum", and in the third sentence, after "The", added "total UBE".

**The 2011 amendment**, approved by Supreme Court Order No. 11-8300-032, effective September 1, 2011, required a committee of the board to review and, if necessary, regrade the written answers of an applicant whose overall exam score is within three points below the passing score and provided that the score after regrade is the final score of the applicant.

**The 1996 amendment**, effective July 24, 1996, in Paragraph B, inserted "multi-state performance test" near the beginning, and added "unless authorized by the National Conference of Bar Examiners" at the end.

**The 1994 amendment**, effective November 1, 1994, deleted former Paragraph C, which read: "Copies; integrity of examinations. No applicant may procure copies of or remove the questions, the applicant's answers or the sample passing answers or engage in any conduct which will substantially endanger the fairness, confidentiality and integrity of examinations", redesignated former Paragraph D as Paragraph C, and made a gender neutral change in Paragraph C.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Court review of bar examiners' decision on applicant's examination, 39 A.L.R.3d 719.



Failed applicant's right of access to bar examination questions and answers, 57  
A.L.R.4th 1212.

### **15-208. Periodic studies.**

A thorough study should be made of the bar examination results periodically to determine its effectiveness and to discover defects and suggest improvements in the bar examination system.

## **ARTICLE 3 Admission**

### **15-301. Investigation, interviews and appeals.**

A. **Investigations.** The board shall conduct an investigation and otherwise inquire into and determine the character, fitness, and general qualifications of every applicant for admission. In every investigation and inquiry the board may obtain information relating to the character, fitness, and general qualifications of the applicant; and may take and hear testimony, administer oaths and affirmations, and compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents. Any member of the board may administer the oaths and affirmations. Investigations and inquiries shall be informal, but shall be thorough, with the object of ascertaining the truth. Technical rules of evidence need not be observed. Any hearing for that purpose may be held by a division of the board consisting of not less than three (3) members of the board, and the board chair, the board vice-chair, or a member of the board appointed by the board chair to preside shall serve as the division's presiding officer, who shall have power to issue subpoenas. A complete record shall be made of all hearings held under this rule, and each applicant shall be advised of the nature of any allegations or charges made which may lead to denial of licensure, and may cross-examine adverse witnesses, be represented by counsel, and present relevant evidence. Subpoenas shall be freely issued on the written request of any applicant. Failure to respond to subpoenas issued under this rule will be an act of contempt of the Supreme Court and shall forthwith be reported by the board to the Supreme Court.

B. **Interviews.** The board, any member of the board, or a committee of the board, shall investigate and may hold interviews as to an applicant's qualification. An interview is not a "hearing" as described in these rules; however, information gathered at an interview of the applicant shall be admissible at hearings and an applicant's truthfulness shall be considered relevant to the applicant's qualifications.

C. **Hearings.** The board may hold a hearing on the qualifications of any applicant. The hearing may be held by a committee consisting of not less than three members, of whom no fewer than one (1) shall be a member of the board. Members of hearing committees shall be members of the bar of this state, appointed by the chair of the board upon recommendation of the board. The chair of the board or any member of the

board appointed by the chair shall chair the committee. The applicant shall be advised of the nature of the subject and purpose of the hearing and may cross-examine witnesses, be represented by counsel, and present evidence on the applicant's behalf. A record shall be made of all committee hearings. The committee chair shall have the power to issue subpoenas on behalf of the committee. Subpoenas shall be freely issued on the written request of the applicant. Failure to respond to a committee subpoena will be an act of contempt of the Supreme Court and shall be reported by the board to the Supreme Court.

**D. Appeals.** If after a hearing the board refuses to recommend the admission of an applicant, the board shall make written findings of fact and conclusions. The findings and conclusions of the board shall be filed with the secretary of the board and a copy sent by certified or registered mail to the applicant. Any applicant aggrieved by a decision or action of the board may within sixty (60) days after the date of mailing of the findings and conclusions to the applicant, appeal to the Supreme Court by filing a petition and brief-in-chief with the clerk of the Court specifying wherein the board has erred, and by serving copies on the secretary of the board. A docketing statement and docket fee will not be required. The record on appeal to the Supreme Court shall consist of the application and file of the board, the record of the hearing, whether by tape recording or transcript, and the findings and conclusions of the board. Within forty-five (45) days after the board has received the petition on appeal it will file a response. Oral arguments shall be made in accordance with the Rules of Appellate Procedure. The petitioner shall be responsible for making satisfactory arrangements with the secretary of the board for the record on appeal, whether by tape recording or transcript. The Supreme Court may tax the costs of appeal against the petitioner or the board, or partially against both, as it may deem equitable.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 20-8300-001, effective August 31, 2020.]

## ANNOTATIONS

**The 2020 amendment**, approved by Supreme Court Order No. 20-8300-001, effective August 31, 2020, revised the requirements for the composition of hearing committees formed by the board of bar examiners to hold hearings on the qualifications of applicants for admission to the practice of law, and made certain technical amendments; and in Paragraph C, after the first occurrence of "committee", deleted "of the board", after "three members", added "of whom no fewer than one (1) shall be a member", and added "Members of hearing committees shall be members of the bar of this state, appointed by the chair of the board upon recommendation of the board."

**The 1994 amendment**, effective November 1, 1994, deleted former Paragraph A relating to interviews; redesignated former Paragraph B as Paragraph A, deleted "and hearings" from the paragraph heading, and substituted "cross-examine adverse witnesses, be represented by counsel and present relevant evidence" for "cross-examine witnesses against him, be represented by counsel and present evidence in his

own behalf" in that paragraph; added Paragraphs B and C; redesignated Paragraph C as Paragraph D and rewrote that paragraph; and made minor stylistic changes throughout the rule.

**Powers of supreme court over admission to practice.** — The supreme court has the ultimate responsibility to grant or withhold an admission to practice law. That court must independently examine and weigh the evidence and then pass upon its sufficiency. A particular case must be judged on its own merits, and an ad hoc determination in each instance must be made by the court. *Nall v. Board of Bar Exmrs.*, 1982-NMSC-051, 98 N.M. 172, 646 P.2d 1236.

**Burden of proof as to moral character.** — The burden is on the applicant to prove good moral character. The board then has the opportunity to rebut, showing evidence of bad moral character. *Nall v. Board of Bar Exmrs.*, 1982-NMSC-051, 98 N.M. 172, 646 P.2d 1236.

**Burden of proof in challenge to board's findings or decision.** — The applicant has the burden of showing that the board's findings are not supported by the evidence or that the decision was erroneous or unlawful. Reasonable doubts are resolved in favor of the applicant. *Nall v. Board of Bar Exmrs.*, 1982-NMSC-051, 98 N.M. 172, 646 P.2d 1236.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Criminal record as affecting applicant's moral character for purposes of admission to the bar, 88 A.L.R.3d 192.

Violation of draft laws as affecting character for purposes of admission to the bar, 88 A.L.R.3d 1055.

## **15-301.1. Public employee limited license.**

### **A. Definitions.** As used in this rule

(1) "public employee" means any officer, employee, or servant of a governmental entity, excluding independent contractors;

(2) "governmental entity" means any state agency or any local public body as defined in Subparagraphs (3) and (4) of this paragraph;

(3) "local public body" means all political subdivisions of this state and their agencies, instrumentalities, and institutions;

(4) "state agency" means any of the branches, agencies, departments, boards, instrumentalities, or institutions of the State of New Mexico.

**B. Eligibility.** Upon application, the clerk of the Supreme Court may issue a limited license to an attorney who

(1) is admitted to practice law in another state, territory, or protectorate of the United States or the District of Columbia;

(2) is not under disciplinary disbarment or suspension in any jurisdiction in which the attorney is licensed;

(3) has not resigned from the bar of such other jurisdiction while under disciplinary suspension or while under disciplinary proceedings;

(4) is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and

(5) satisfies the limited license requirements set forth in this rule.

**C. Application procedure.** An applicant for a limited license to represent public defender clients or any governmental entity in this state shall file with the clerk of the Supreme Court an application for limited license which shall be accompanied by the following:

(1) a certificate of admission to practice and good standing from each jurisdiction in which the applicant currently has an active license to practice law and proof of compliance with Rule 15-103(B)(1) and (2) NMRA;

(2) a letter from the head of the governmental entity that has employed the applicant certifying employment with that governmental entity;

(3) a certificate signed by the applicant stating that the applicant has

(a) read and is familiar with the New Mexico Rules of Professional Conduct, the Creed of Professionalism of the State Bar of New Mexico, and rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys; and

(b) applied for a character and fitness investigation with the New Mexico Board of Bar Examiners in conformance with Rules 15-104(A) and (C) and 15-301 NMRA; and

(4) a docket fee in the amount of one hundred twenty-five dollars (\$125.00) payable to the New Mexico Supreme Court and two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for limited license being nonrefundable.

**D. License; issuance and revocation.**

(1) If an applicant for a limited license to represent public defender clients or a governmental entity complies with the provisions of this rule, the clerk of the Supreme Court may issue a limited license to represent public defender clients or practice law as an employee of a governmental entity.

(2) A limited license issued under this rule only permits the limited licensee to practice law in New Mexico as a public employee representing public defender clients or a governmental entity.

(3) The clerk of the Supreme Court shall revoke the limited license of any person found in violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys or if, after notice from the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board's character and fitness investigation. Upon revocation of a limited license, the limited licensee shall not appear in any court in this state as an attorney.

#### **E. Suspension for failure to cooperate.**

(1) *Petition for suspension for failure to cooperate.* The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by the Board to obtain the attorney's cooperation and compliance. A copy of the petition shall be served on the respondent-attorney.

(2) *Response to the petition.* If the respondent-attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the attorney's limited license to practice law until further order of the Supreme Court. The attorney's response shall set forth facts showing that the attorney has complied with the requests or the reasons why the attorney has not complied, and the attorney may request a hearing.

(3) *Supreme Court action.* Upon consideration of a petition for suspension and the attorney's response, if any, the Supreme Court may suspend the attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board's findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board.

(4) *Reinstatement.* An attorney suspended under this paragraph may apply to the Supreme Court for reinstatement upon proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Court. A copy of the application must be delivered to the Board, who may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate an attorney suspended under the provisions of this paragraph upon proof of compliance with the requests of the Board.

#### **F. Expiration.**

(1) A limited license issued under this rule shall expire upon the occurrence of any of the earliest of the following events:

(a) termination of employment with the governmental entity unless the provisions of Subparagraph (G)(5) of this rule are followed; or

(b) admission to the New Mexico Bar upon

(i) passing the bar examination;

(ii) Uniform Bar Examination admission under Rule 15-202 NMRA; or

(iii) admission on motion under Rule 15-107 NMRA.

(2) The head of the governmental entity that employed the attorney shall notify the Clerk of the Supreme Court when the attorney is no longer employed by the governmental entity.

(3) When a limited license expires or is revoked, an attorney who resides or maintains a legal residence in this state shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

#### **G. Limited licensee status.**

(1) An applicant granted a limited license under this rule shall be a member of the State Bar of New Mexico and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.

(2) Licensees under this rule shall pay the annual state bar membership fee of one hundred twenty-five dollars (\$125.00).

(3) The annual disciplinary fee assessment under Rule 17-203(A) NMRA is waived.

(4) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.

(5) To avoid the expiration of a limited license under Subparagraph (F)(1)(a) of this rule, an applicant who terminates employment with one governmental entity and accepts employment with another governmental entity must serve written notice on the clerk of the Supreme Court of the applicant's change in employment, and the employer must also comply with Subparagraph (C)(2) of this rule.

[Approved, effective June 13, 2000; as amended effective February 28, 2002; October 24, 2003; March 29, 2004; as amended by Supreme Court Order No. 05-8300-010, effective September 1, 2005; as amended by Supreme Court Order No. 17-8300-007, effective August 1, 2017.]

## ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-007, effective August 1, 2017, revised the eligibility requirements and application procedures for a public employee limited license to practice law in New Mexico as a public employee representing public defender clients or a governmental entity, provided procedures for the suspension and reinstatement of the public employee limited license, and revised the rules regarding the expiration of the limited license and the status of an applicant granted a public employee limited license; in Paragraph A(2), after “means”, deleted “the” and added “any”, and after “state”, added “agency”; in Paragraph B, in the introductory clause, after “limited”, deleted “non-renewable one (1) year”, in Subparagraph B(2), after “is”, deleted “in good standing to practice law in each state” and added “not under disciplinary disbarment or suspension in any jurisdiction”, and added new Subparagraphs B(3) and B(4) and redesignated former Subparagraph B(3) as Subparagraph B(5); in Paragraph C, in the introductory clause, after “accompanied by”, added “the following”, in Subparagraph C(1), after “from each”, deleted “state” and added “jurisdiction”, after “applicant”, deleted “is licensed” and added “currently has an active license”, after “compliance with”, deleted “Subparagraphs (1) and (2) of Paragraph B of”, and after “Rule 15-103”, added “(B)(1) and (2)”, in Subparagraph C(2), after “entity”, deleted “which” and added “that”, in Subparagraph C(3), in the introductory clause, after “applicant”, added “stating”, added subparagraph designation “(a)”, in Subparagraph C(3)(a), added “the Creed of Professionalism of the State Bar of New Mexico”, and after the semicolon, added “and”, and added Subparagraph C(3)(b), in Subparagraph C(4), after “New Mexico Supreme Court and”, deleted “disciplinary fee in the amount of one hundred fifty dollars (\$150.00) payable to the Disciplinary Board” and added “two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for limited license being nonrefundable”, and deleted “All fees and costs associated with an application for limited license are nonrefundable.”; in Paragraph D(1), after “limited”, deleted “one (1) year”, and deleted “This license shall not be renewed.”, in Subparagraph D(2), after “issued”, deleted “pursuant to” and added “under”, and after “permits the”, added “limited”, in Subparagraph D(3), after “clerk”,

added “of the Supreme Court”, after “violation of”, deleted “these rules” and added “this rule or”, after “any”, added “other”, deleted “or any state or federal law” and added “regulating the licensing or conduct of attorneys or if, after notice from the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board’s character and fitness investigation”, and after “license, the”, deleted “applicant” and added “limited licensee”; added new Paragraph E and redesignated former Paragraphs E and F as Paragraphs F and G, respectively; in Paragraph F, deleted “An attorney who is issued a limited license to represent public defender clients or practice law as an employee of a governmental entity shall take the next New Mexico bar examination for which the applicant is eligible.”, designated the remainder of the introductory clause as Subparagraph F(1) and deleted former Subparagraphs E(1) and E(2), in Subparagraph F(1), after “issued”, deleted “pursuant to” and added “under”, after “expire upon”, added “the”, and after “occurrence of”, added “any of”, redesignated former Subparagraph E(3) as Subparagraph F(1)(a), and after “entity”, added “unless the provisions of Subparagraph (G)(5) of this rule are followed; or”, deleted former Subparagraph E(4), redesignated former Subparagraph E(5) as Subparagraph F(1)(b), and after “upon”, added subparagraph designation “(i)” and added new Subparagraphs F(1)(b)(ii) and F(1)(b)(iii), added new Subparagraph F(2) and redesignated former Subparagraph E(6) as Subparagraph F(3), and deleted “once” and added “When”, and after “approved by”, deleted “this” and added “the Supreme”; and in Paragraph G, deleted “An attorney granted a limited license pursuant to this rule shall not be a member of the state bar but shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline. Licensees shall pay the annual disciplinary fee as part of the application process.” and added the remainder of the paragraph.

**The 2005 amendment**, approved by Supreme Court Order No. 05-8300-010, effective September 1, 2005, amended Subparagraph C(1) to require proof of compliance with Subparagraphs (1) and (2) of Paragraph B, amended Subparagraph (3) of Paragraph D to prohibit an attorney with a revoked limited license from appearing in any court in this State and added Subparagraph (6) of Paragraph E to prohibit appearances under *pro hac vice* rules approved by the Supreme Court.

**The 2004 amendment**, effective March 29, 2004 increased the disciplinary fee in Paragraph C from \$100.00 to \$130.00 a year.

**The 2002 amendment**, effective February 28, 2002, substituted "employee" for "defender" in the rule heading; inserted Paragraph A and redesignated former Paragraphs A through E as Paragraphs B through F and deleted former Paragraph F pertaining to "Expiration of rule"; in Paragraph B, deleted "New Mexico" preceding "Supreme Court"; in Paragraph C, inserted "or any governmental entity in this state" following "clients", in Paragraph C(2), substituted "head of the governmental entity which has employed the applicant certifying employment with that governmental entity" for "Chief Public Defender certifying full-time employment with the New Mexico Public Defenders Department"; in Paragraph D(1), inserted "or a governmental entity" near the beginning, and inserted "or practice law as an employee of a governmental entity" near the end of the first sentence; added Paragraph D(2) and redesignated former Paragraph



D(2) as present Paragraph D(3); in Paragraph E, inserted "or practice law as an employee of a governmental entity" near the middle of the first sentence, and inserted "issued pursuant to this rule" near the beginning of the second sentence; and in Paragraph E(3), substituted "governmental entity" for "New Mexico Public Defenders Department".

## **15-301.2. Legal services provider limited law license.**

A. **Definitions.** As used in this rule, the following definitions apply:

(1) "applicant" means an attorney who meets the eligibility requirements set forth in Paragraph B of this rule and who completes the application process in Paragraph C of this rule;

(2) "qualified legal services provider" means a not for profit legal services organization whose primary purpose is to provide legal services to low income clients or a legal department within a non-profit organization that employs at least one (1) lawyer full-time to provide legal services to low income clients; and

(a) is an organization described in Section 501(c)(3) and exempt from federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 or corresponding provisions of federal income tax laws from time to time in effect;

(b) is registered with the New Mexico Attorney General Registry of Charitable Organizations in compliance with the New Mexico Charitable Solicitations Act; and

(c) is recommended by the New Mexico Commission on Access to Justice.

B. **Eligibility.** Upon application, the clerk of the Supreme Court may issue a legal services limited license to represent legal services clients through a qualified legal services provider to an attorney who meets the following conditions:

(1) is an inactive member of the State Bar of New Mexico or an active or inactive member of the bar in another state, territory, or protectorate of the United States of America or the District of Columbia at the time of submitting an application under this rule;

(2) is not under disciplinary disbarment or suspension in any jurisdiction in which the attorney is licensed;

(3) has not resigned from the bar of such other jurisdiction while under disciplinary suspension or while under disciplinary proceedings;

(4) is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and

(5) satisfies the legal services limited license requirements set forth in this rule.

**C. Application procedure.** An applicant for a legal services limited license to represent legal services clients through a qualified legal services provider shall file with the clerk of the Supreme Court an application for a legal services limited license. The application shall be accompanied by the following:

(1) a certificate of admission to practice and good standing from each jurisdiction in which the applicant currently has an active license to practice law or in the case of an inactive attorney a certificate showing that attorney's inactive status;

(2) a letter from the director of the qualified legal services provider that employs the applicant certifying the applicant's employment, whether for monetary compensation or otherwise;

(3) a certificate signed by the applicant stating that the applicant has

(a) read and is familiar with the New Mexico Rules of Professional Conduct, other New Mexico Supreme Court rules and New Mexico statutes relating to the conduct of attorneys, and the Creed of Professionalism of the State Bar of New Mexico; and

(b) applied for a character and fitness investigation with the New Mexico Board of Bar Examiners in conformance with Rules 15-104(A) and (C) and 15-301 NMRA;

(4) a docket fee in the amount of one hundred twenty-five dollars (\$125.00) payable to the New Mexico Supreme Court and two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for a legal services limited license being nonrefundable.

**D. License; issuance and revocation.**

(1) If an applicant for a legal services limited license to represent legal services clients through a qualified legal services provider complies with the provisions of this rule, the clerk of the Supreme Court may issue a legal services limited license.

(2) A legal services limited license issued under this rule permits the applicant to practice law in New Mexico only as an attorney representing legal services clients through a qualified legal services provider.

(3) The clerk of the Supreme Court shall revoke the legal services limited license of any person found in violation of this rule or any other rules approved by the Supreme Court regulating the licensing and conduct of attorneys or if, after notice from

the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board's character and fitness investigation. Upon revocation of a legal services limited license, the limited licensee shall not represent any legal services client or appear before any court of the State of New Mexico representing any legal services client.

**E. Suspension for failure to cooperate.**

(1) *Petition for suspension for failure to cooperate.* The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by the Board to obtain the attorney's cooperation and compliance. A copy of the petition shall be served on the respondent-attorney.

(2) *Response to the petition.* If the respondent-attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the attorney's limited license to practice law until further order of the Supreme Court. The attorney's response shall set forth facts showing that the attorney has complied with the requests or the reasons why the attorney has not complied, and the attorney may request a hearing.

(3) *Supreme Court action.* Upon consideration of a petition for suspension and the attorney's response, if any, the Supreme Court may suspend the attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board's findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board.

(4) *Reinstatement.* An attorney suspended under this paragraph may apply to the Supreme Court for reinstatement upon proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Court. A copy of the application must be delivered to the Board, who may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate an attorney suspended under the provisions of this paragraph upon proof of compliance with the requests of the Board.

**F. Expiration.** The director of the qualified legal services provider that employed the attorney shall notify the clerk of the Supreme Court when the attorney is no longer employed by the qualified legal services provider. A legal services limited license shall expire upon the occurrence of any of the earliest of the following events:

- (1) termination of employment with a qualified legal services provider unless the provisions of Subparagraph (G)(5) of this rule are followed;
- (2) admission to the New Mexico Bar upon
  - (a) passing the bar examination;
  - (b) Uniform Bar Examination admission under Rule 15-202 NMRA; or
  - (c) admission on motion under Rule 15-107 NMRA; or
- (3) reinstatement under Rule 15-302 NMRA of an inactive member of the State Bar of New Mexico.

**G. Legal services limited licensee status.**

- (1) An applicant granted a legal services limited license under this rule shall be a member of the state bar and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.
- (2) Licensees under this rule shall pay the annual state bar membership fee of one hundred twenty-five dollars (\$125.00).
- (3) The annual disciplinary fee assessment under Rule 17-203(A) NMRA is waived.
- (4) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.
- (5) To avoid the expiration of a limited license under Subparagraph (F)(1) of this rule, an applicant who terminates employment with one qualified legal services provider and accepts employment with another qualified legal services provider must serve written notice on the clerk of the Supreme Court of the applicant's change in employment, and the employer must also comply with Subparagraph (C)(2) of this rule.

[Adopted by Supreme Court Order No. 08-8300-024, effective August 29, 2008; as amended by Supreme Court Order No. 09-8300-001, effective January 14, 2009; by Supreme Court Order No. 11-8300-048, effective January 1, 2012; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 17-8300-007, effective August 1, 2017.]

## ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-007, effective August 1, 2017, revised the eligibility requirements and application procedures for a legal services provider limited license to represent legal services clients through a qualified legal services provider, provided procedures for the suspension and reinstatement of the legal services limited license, and revised the rules regarding the expiration of the limited license and the status of an applicant granted a legal services limited license; in Paragraph B(2), deleted “in good standing in each jurisdiction in which the attorney is licensed” and added “not under disciplinary disbarment or suspension in any jurisdiction in which the attorney is licensed”, added new Subparagraphs B(3) and B(4), redesignated former Subparagraph B(3) as Subparagraph B(5), and deleted former Subparagraph B(4), which provided “supplies a sworn statement that the applicant has not been the subject of disciplinary action by the bar or courts of any jurisdiction during the preceding five (5) years; provided, however, that complaints against the applicant shall not be considered disciplinary actions”; in Paragraph C(1), after “from each”, deleted “state” and added “jurisdiction”, after “the applicant”, deleted “is licensed” and added “currently has an active license”, in Subparagraph C(3), added the subparagraph designation “(a)”, added Subparagraph C(3)(b), in Subparagraph C(4), added “and two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for a legal services limited license being nonrefundable”, and deleted former Subparagraph C(5); in Paragraph D(3), added “or if, after notice from the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board’s character and fitness investigation”, and changed “applicant” to “limited licensee”, and after “any legal services client”, deleted “nor” and added “or”; added a new Paragraph E and redesignated former Paragraphs E and F as Paragraphs F and G, respectively; in Paragraph F, added “The director of the qualified legal services provider that employed the attorney shall notify the clerk of the Supreme Court when the attorney is no longer employed by the qualified legal services provider.”, and after “occurrence of any of”, added “the earliest of”, in Subparagraph F(1), after “legal services provider”, added “unless the provisions of Subparagraph (G)(5) of this rule are followed”, in Subparagraph F(2), added the subparagraph designation “(a)”, added new Subparagraphs F(2)(b) and F(2)(c), deleted former Subparagraphs F(3), F(4), and F(6), and redesignated former Subparagraph F(5) as Subparagraph F(3); and in Paragraph G(2), after “shall pay”, deleted “a reduced” and added “the”, after “membership fee of”, deleted “one hundred dollars (\$100.00), consisting of a state bar services fee of fifty dollars (\$50.00) and a disciplinary fee of fifty dollars (\$50.00) in lieu of the fee required by Rule 17-203 NMRA” and added “one hundred twenty-five dollars (\$125.00)”, added new Subparagraph G(3), redesignated former Subparagraph G(3) as Subparagraph G(4), and added Subparagraph G(5).

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-012, effective May 14, 2013, provided that a legal services limited license will expire upon failure to pay the annual membership fee or to meet minimum legal education requirements; and in Paragraph E, adds Subparagraph (6).

**The 2011 amendment**, approved by Supreme Court Order No. 11-8300-048, effective January 1, 2012, eliminated the limitation on the issuance of limited licenses to emeritus and non-admitted attorneys and provided for the issuance of limited law licenses to all qualified attorneys; in the title, after "license", deleted "for emeritus and non-admitted attorneys"; in Subparagraph (1) of Paragraph A, after "'applicant' means an", deleted "emeritus attorney or non-admitted", after "requirements set forth in", deleted "Paragraphs B or C" and added "Paragraph B", and after "application process in Paragraph", deleted "D" and added "C"; deleted former Subparagraph (2) of Paragraph A, which defined "emeritus attorney" to mean a person who is an inactive member in good standing of a state bar or an active member in good standing of a state bar other than the State Bar of New Mexico and who has been admitted to practice for at least 20 years; deleted former Subparagraph (3) of Paragraph A, which defined "non-admitted attorney" to mean a person who is not a member of the State Bar of New Mexico, but who is admitted to practice before the highest court of another jurisdiction and who is in good standing in that jurisdiction; deleted former Paragraph B, which provided for the issuance of a limited renewable three year license, limited to one renewal, to an emeritus attorney who satisfied the requirements of the rule and who provided a sworn statement that the attorney had not been subject to disciplinary action in the five years preceding the attorney's retirement; designated former Paragraph C as the new Paragraph B and relettered the subsequent paragraphs; in new Paragraph B, in the title, after "Eligibility", deleted "of non-admitted attorneys", after "legal services limited", deleted "non-renewable three (3) year", after "legal services provider to", deleted "a non-admitted" and added "an", and after "attorney who", added "meets the following conditions"; in Subparagraph (1) of Paragraph B, at the beginning of the sentence, deleted "has been" and added "is an inactive member of the State Bar of New Mexico or", after "an active", added "or inactive", and after "District of Columbia", deleted "for three (3) years immediately preceding submission of" and added "at the time of submitting"; in Subparagraph (2) of Paragraph B, after "good standing", deleted "to practice law"; in Subparagraph (1) of Paragraph C, after "in the case of an", deleted "emeritus" and added "inactive"; in Subparagraph (2) of Paragraph C, after "applicant's employment", added the remainder of the sentence; in Subparagraph (1) of Paragraph D, after "Supreme Court may issue a legal services limited", deleted "non-renewable three (3) year", and after "non-renewal three (3) year license", added the remainder of the sentence; and in Subparagraph (5) of Paragraph E, deleted all of the former language of the subparagraph, which provided for the expiration of a limited license three years after the date of issuance, subject to renewal for one term, and added the existing new language.

**The 2009 amendment**, as approved by Supreme Court Order No. 09-8300-001, effective January 14, 2009, in Subparagraph 5 of Paragraph D, replaced "disciplinary fee in the amount provided by Rule 17-203 NMRA payable to the Disciplinary Board" with "state bar membership fee of one hundred dollars (\$100.00) payable to the State Bar of New Mexico, consisting of a state bar services fee of fifty dollars (\$50.00) and a disciplinary fee of (\$50.00) in lieu of the fee required by Rule 17-203 NMRA".

### **15-301.3. Military spouse attorney limited license.**

A. **Definitions.** For purposes of this rule the following definitions apply:

(1) “dependent” is used as defined by the United States Department of Defense (or, for the Coast Guard when it is not operating as a service in the United States Navy, by the United States Department of Homeland Security);

(2) “military spouse attorney” means an attorney who is the spouse of an active duty service member of the United States Uniformed Services stationed within the State of New Mexico and resides or intends to reside in the State of New Mexico within the next six (6) months of the date of application for limited license; and

(3) “service member” is used as defined by the United States Department of Defense.

B. **Eligibility.** On application, the clerk of the Supreme Court may issue a limited license to a military spouse attorney who

(1) holds an active license to practice law in another state, territory, or protectorate of the United States or the District of Columbia;

(2) is in good standing in all jurisdictions where the military spouse attorney is admitted to practice;

(3) has not resigned from the bar of another jurisdiction while under disciplinary suspension or while under disciplinary proceedings;

(4) is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and

(5) satisfies the limited license requirements set forth in this rule.

C. **Application procedure.** A military spouse attorney applicant for a limited license shall file with the clerk of the Supreme Court an application for limited license which shall be accompanied by the following:

(1) a certificate of admission to practice and good standing from each jurisdiction in which the applicant currently has an active license to practice law and proof of compliance with Rule 15-103(B)(1) NMRA;

(2) documentation demonstrating

(a) receipt of a juris doctor or bachelor of laws and letters degree of a law school formally accredited by the American Bar Association and license to practice law in another jurisdiction; or

(b) receipt of a juris doctor or bachelor of laws and letters degree of any law school and proof of the active practice of law in another state or states for at least two (2) out of the last four (4) years immediately preceding the military spouse attorney's application for limited admission to practice in New Mexico;

(3) a certificate signed by the military spouse attorney stating that

(a) the applicant has read and is familiar with the New Mexico Rules of Professional Conduct, including the succession plan requirements of Rule 16-119 NMRA; the New Mexico Rules Governing Discipline, including the trust accounting requirements of Rule 17-204 NMRA; the Creed of Professionalism of the State Bar of New Mexico; and the rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys;

(b) if an applicant is a graduate of a law school accredited by the American Bar Association, the applicant has applied for a character and fitness investigation with the New Mexico Board of Bar Examiners under Rules 15-103(C), 15-104, and 15-301 NMRA; and

(c) if an applicant is not a graduate of a law school accredited by the American Bar Association, the applicant has applied for a character and fitness investigation with the New Mexico Board of Bar Examiners under Rules 15-103(C), 15-104, and 15-301 NMRA, excepting that active practice requirements for the certificate required by Rule 15-104(C)(3)(c) are two (2) years of active engagement in the actual practice of law out of the past four (4) years;

(4) evidence of a minimum scaled score of eighty (80) on the Multistate Professional Responsibility Examination; and

(5) the New Mexico Supreme Court docket fee, the New Mexico Board of Bar Examiners character and fitness investigation fee, and any fees and costs associated with a character and fitness hearing.

**D. Application fees and costs; return of documents.** All fees and costs associated with an application for limited license are nonrefundable. Certificates of admission from other states may be sent directly to the Board of Bar Examiners under separate cover. All those papers will be returned to the applicant in due course. Other documents submitted will be returned to the applicant, if requested, on approval by the chair or vice chair of the Board of Bar Examiners

**E. License; issuance and revocation.**

(1) If an applicant for a limited license to practice as a military spouse attorney complies with the provisions of this rule, the clerk of the Supreme Court may issue a limited license to practice law as a military spouse attorney.



(2) A limited license under this rule only permits the licensee to practice law in New Mexico as a military spouse attorney.

(3) The clerk of the Supreme Court shall revoke the limited license of the military spouse attorney if

(a) the attorney is found in violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys; or

(b) the Supreme Court revokes the limited license based on the character and fitness investigation conducted by the Board of Bar Examiners.

On revocation of a limited license, the military spouse attorney shall not appear in any court in this state as an attorney.

#### F. **Suspension for failure to cooperate.**

(1) ***Petition for suspension for failure to cooperate.*** The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the military spouse attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by the Board of Bar Examiners to obtain the military spouse attorney's cooperation and compliance. A copy of the petition shall be served on the military spouse attorney.

(2) ***Response to the petition.*** If the military spouse attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the military spouse attorney's limited license to practice law until further order of the Supreme Court. The military spouse attorney's response shall set forth facts showing that the military spouse attorney has complied with the requests or the reasons why the military spouse attorney has not complied, and the military spouse attorney may request a hearing.

(3) ***Supreme Court action.*** On consideration of a petition for suspension and the military spouse attorney's response, if any, the Supreme Court may suspend the military spouse attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the military spouse attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board of Bar Examiners for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board of Bar Examiners' findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board of Bar Examiners.

(4) **Reinstatement.** A military spouse attorney suspended under this paragraph may apply to the Supreme Court for reinstatement on proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Supreme Court. A copy of the application must be delivered to the Board of Bar Examiners, which may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate a military spouse attorney suspended under the provisions of this paragraph on proof of compliance with the requests of the Board of Bar Examiners.

#### **G. Expiration.**

(1) A limited license issued under this rule shall expire one hundred eighty (180) days after the occurrence of any of the earliest of the following events:

(a) the military spouse attorney ceases to be a dependent;

(b) the service member is permanently transferred outside the jurisdiction under military orders, but if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice under the provisions of this rule until the service member is assigned to a location with dependents authorized;

(c) the military spouse attorney permanently relocates to another jurisdiction for reasons other than the service member's permanent transfer outside the jurisdiction;

(d) the military spouse attorney is admitted to the State Bar of New Mexico under Rules 15-201, 15-202, or 15-107 NMRA; or

(e) the military spouse attorney requests termination.

(2) If any event listed in this paragraph occurs, the military spouse attorney shall notify the Board of Bar Examiners, clients, and courts in which the military spouse attorney has entered an appearance of the event in writing within sixty (60) days of the date on which the event occurs and take appropriate action under Rule 16-116 NMRA of the New Mexico Rules of Professional Conduct in those matters for which the termination of the limited license requires declining or terminating representation.

(3) When a limited license expires or is revoked, a military spouse attorney who resides or maintains a legal residence in this state may be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

#### **H. Limited licensee status.**

(1) A military spouse attorney granted a limited license under this rule shall be a member of the State Bar of New Mexico and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.

(2) Licensees under this rule shall pay the annual license fee under Rule 24-102 NMRA and the annual disciplinary fee assessment under Rule 17-203(A) NMRA.

(3) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.

(4) Within one (1) year of receiving a limited license, licensees shall complete a trust accounting class to comply with Rule 17-204 NMRA of the New Mexico Rules Governing Discipline, unless the licensee is exempt under Rule 17-204(E) NMRA.

(5) Within one hundred twenty (120) days of receiving a limited license, the licensee shall submit a statement to the Board of Bar Examiners certifying that the licensee or the law firm employing the licensee is in compliance with the succession planning requirements of Rule 16-119 NMRA of the New Mexico Rules of Professional Conduct.

[Adopted by Supreme Court Order No. 22-8300-013, effective October 1, 2022.]

## **15-302. Admission to practice.**

A. **Time for admission.** Applicants who have qualified for admission and applicants who are being admitted with conditions set by the Supreme Court shall be granted a license to practice law in all the courts of this state. Applicants will be admitted at the next regular session of the Supreme Court following fulfillment by the applicant of all requirements of these rules. Successful applicants shall arrange with the court clerk to present themselves for admission within six (6) months after notification that they have satisfied all requirements for admission or follow the requirements for out-of-state swearing-in, as prescribed by the Board of Bar Examiners. On good cause presented in writing prior to expiration of the six (6) month period, the Board of Bar Examiners may extend the period for admission. Applicants who fail to present themselves or apply for an extension within the period above fixed, or who fail to arrange for out-of-state swearing-in as prescribed by the Board of Bar Examiners, will be deemed to have abandoned their application for admission.

### **B. Reinstatement from inactive status or suspension under Rule 24-102 NMRA.**

(1) A member of the bar who has been on inactive status and in good standing in the state bar for a period of more than one (1) year under the Rules Governing the New Mexico Bar who wishes to return to active status shall be required to file an application for reinstatement to active status with the Board of Bar Examiners for recommendation to the Supreme Court, and shall be required to pay to the Board of

Bar Examiners a fee of three hundred fifty dollars (\$350.00), plus any reasonable additional expenses, attorney fees, and costs in connection with any investigations and hearings as the Board of Bar Examiners deems necessary. Reinstatement shall be recommended upon a showing that the applicant satisfies all applicable requirements for an active status attorney in New Mexico. Upon receipt of a recommendation for reinstatement from the Board of Bar Examiners, the clerk of the Supreme Court shall issue a certificate of reinstatement to active status unless otherwise ordered by the Supreme Court.

(2) A member of the bar who has been suspended under Rule 24-102 NMRA and has been referred to the Board of Bar Examiners under Rule 24-102(F)(2) NMRA, who wishes to be reinstated to active status shall be required to file an application for reinstatement to active status with the Board of Bar Examiners for recommendation to the Supreme Court, and shall be required to pay to the Board of Bar Examiners a fee of three hundred fifty dollars (\$350.00), plus any reasonable additional expenses, attorney fees, and costs in connection with any investigations and hearings as the Board of Bar Examiners deems necessary. Reinstatement shall be recommended upon a showing that the applicant has remedied the deficiencies that led to the suspension, paid the reinstatement fee to the State Bar of New Mexico required under Rule 24-102(F)(1) NMRA, and satisfies all other applicable requirements for an active status attorney in New Mexico. Upon receipt of a recommendation for reinstatement from the Board of Bar Examiners, the clerk of the Supreme Court shall issue a certificate of reinstatement to active status unless otherwise ordered by the Supreme Court.

(3) Unless otherwise ordered by the Supreme Court, an applicant for reinstatement under this paragraph will not be required to take the bar examination.

**C. Reinstatement; additional condition.** The Supreme Court, as a condition of reinstatement, may impose a requirement that the applicant enroll in continuing legal education classes or a bar review course or any other requirement that the Supreme Court may deem necessary.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. 16-8300-035, effective for status changes on or after December 31, 2016; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021.]

## **ANNOTATIONS**

**The 2021 amendment**, approved by Supreme Court Order No. 21-8300-030, effective December 31, 2021, required the Board of Bar Examiners to recommend reinstatement for members of the bar who have been on inactive status and in good standing in the state bar for a period of more than one year, who wish to be reinstated to active status, and have satisfied all applicable requirements for an active status attorney, required the Board of Bar Examiners to recommend reinstatement for members of the bar who have

been suspended under Rule 24-102 NMRA, who wish to be reinstated to active status, and have remedied the deficiencies that led to the suspension and satisfied all other applicable requirements for an active status attorney in New Mexico, required the clerk of the Supreme Court, upon receipt of a recommendation for reinstatement from the Board of Bar Examiners, to issue a certificate of reinstatement to active status to these individuals unless otherwise ordered by the Supreme Court, and made technical amendments; in Paragraph B, Subparagraph B(1), after "Rules Governing the New Mexico Bar", added "who wishes to return to active status", and added the last two sentences; and in Subparagraph B(2), after "A member of the bar who has been suspended", deleted "for a period of one (1) year or more for nonpayment of active status dues or fees or for non-compliance with MCLE requirements" and added "under Rule 24-102 NMRA and has been referred to the Board of Bar Examiners under Rule 24-102(F)(2) NMRA, who wishes to be reinstated to active status", and added the last two sentences.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-035, effective December 31, 2016, provided separate procedures for reinstatement to active status for certain attorneys who have been on inactive status and for certain attorneys who have been suspended from the State Bar for nonpayment of dues or for non-compliance with MCLE requirements; in Paragraph B, designated the first sentence as Subparagraph B(1), added Subparagraph B(2), and designated the last sentence from former Paragraph B as Subparagraph B(3); in Subparagraph B(1), after "A member of the bar who", deleted "voluntarily withdraws from membership" and added "has been on inactive status and in good standing", after "in the state bar", deleted "or goes on inactive status pursuant to the rules of the state bar, or who has been suspended for nonpayment of bar dues or fees," and added "for a period of one (1) year or more under the Rules Governing the New Mexico Bar"; and in Subparagraph B(3), after "reinstatement", added "under this paragraph".

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-018, effective November 1, 2015; in Paragraph A, in the third sentence, after "notification that they have", deleted "passed the examination" and added "satisfied all requirements for admission".

**The 1994 amendment**, effective November 1, 1994, in Paragraph A, substituted "and applicants who are being admitted with conditions set by the Supreme Court" for "as provided in these rules" in the first sentence, substituted "Applicants" for "Qualified applicants" in the second sentence, added the language beginning "or follow" in the third sentence, and inserted "or who fail to arrange for out-of-state swearing-in as prescribed by the Board of Bar Examiners" in the last sentence; deleted former Paragraph B relating to reinstatement of residents; redesignated former Paragraph C as Paragraph B and, in that paragraph, deleted "non-residents" from the paragraph heading, inserted "voluntarily withdraws from membership in the state bar, or" near the beginning, deleted "and who moves from the state" following the first occurrence of "fees", substituted the language beginning "a fee of three hundred fifty dollars (\$350.00)" for "such fee not to exceed three hundred fifty dollars (\$350.00), as the

board deems necessary to defray investigation and reinstatement costs" at the end of the first sentence, and added the last sentence; deleted former Paragraph D relating to a bar examination for reinstatement if not already passed; redesignated former Paragraph E as Paragraph C; and made gender neutral and minor stylistic changes throughout the rule.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law §§ 12 to 24.

7 C.J.S. Attorney and Client §§ 10 to 18.

### **15-303. Limited privilege to practice law.**

**A. Privilege afforded law professors.** A law professor who is not a member of the state bar, or any lawyer or law professor who is an inactive member of the state bar, may practice as a lawyer in any state court or before any state administrative tribunal but only to the extent necessary to supervise clinical law students in a clinical law program which is approved by the law school dean.

**B. Requirements and limitations for law school professors.** In order to make an appearance as lawyer pursuant to this rule, the law professor must:

(1) be duly employed as a full-time permanent or visiting faculty member of the University of New Mexico School of Law, teaching in a classroom setting at the law school, and supervising students in a clinical law program;

(2) be admitted by examination to the bar of another state or the District of Columbia;

(3) neither ask for nor receive any compensation or remuneration of any kind for services rendered by the law professor under this rule, other than salary as a law professor; and

(4) certify in writing that the law professor has read and is familiar with the New Mexico Rules of Professional Conduct and the Rules of the Supreme Court of New Mexico and New Mexico statutes relating to the conduct of lawyers.

#### **C. Certification.**

(1) The law school dean shall certify the law professor or the supervisor in the clinical law program. This certification and the written certification as required by Subparagraph (4) of Paragraph B shall be filed with the clerk of this Court at the beginning of each academic year and shall remain in effect for that academic year.

(2) Any law professor certified pursuant to this rule shall not be a member of the state bar but shall be subject to all disciplinary procedures provided by law,

Supreme Court rule governing the discipline of lawyers, or both, and shall be required to pay the annual disciplinary fee. Any person allowed to practice under this rule may be permanently barred from practicing law in New Mexico or receive any lesser sanction, if he is found in violation of the Rules of Professional Conduct.

[As amended, effective November 1, 1994.]

## ANNOTATIONS

**The 1994 amendment**, effective November 1, 1994, substituted "for services rendered by the law professor" for "for his services" in Paragraph B(3), and substituted "the law professor" for "he" and made a minor stylistic change in Paragraph B(4).

**Law reviews.** — For article, "Requiring a Live Client, In-House Clinical Course: A Report on the University of New Mexico Law School Experience," see 19 N.M.L. Rev. 265 (1989).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law § 12.

### 15-304. Oath.

I, \_\_\_\_\_, do solemnly swear or affirm:

I will support the Constitution of the United States and the Constitution of the State of New Mexico;

I will maintain the respect due to courts of justice and judicial officers;

I will comply with the Rules of Professional Conduct adopted by the New Mexico Supreme Court;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval;

I will maintain civility at all times, abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;

I will never reject from any consideration personal to myself the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.

[As amended, effective December 8, 1992; November 1, 1994; as amended by Supreme Court Order No. 10-8300-017, effective March 30, 2010.]

## ANNOTATIONS

**The 2010 amendment**, approved by Supreme Court Order No. 10-8300-017, effective March 30, 2010, in the eighth sentence, after "I will", added "maintain civility at all times".

**The 1994 amendment**, effective November 1, 1994, deleted "Roll and" from the rule heading and made gender neutral changes throughout the rule.

## ARTICLE 4 Bar Examiners

### 15-401. Board of Bar Examiners.

A. **Composition.** The Board of Bar Examiners shall be composed of twelve members of the state bar of New Mexico. The members of the board shall be appointed by the New Mexico Supreme Court. The Board of Bar Examiners shall be charged with the following duties:

(1) investigating the professional qualifications and good moral character of applicants for admission or reinstatement to the bar of New Mexico;

(2) preparing, arranging for and administering examinations for admission to the bar of New Mexico;

(3) making recommendations to the Supreme Court with respect to reinstatement or readmission to practice of lawyers who have for any reason withdrawn from the state bar of New Mexico;

(4) discussing with applicants for admission to the bar general problems of purposes, policies and procedures of the bar examination; and

(5) administering these rules and adopting its own practices not inconsistent with these rules.

B. **Officers.** There shall be a chairman and a vice-chairman to be selected by the members. There shall be a secretary-treasurer of the board, who need not be a member of the board.



**C. Administrative assistance.** The Board of Bar Examiners shall be provided with adequate administrative and clerical assistance.

**D. Confidentiality.**

(1) All records maintained by the board regarding applications for admission and reinstatement to the state bar and all proceedings by the board, including board meetings and meeting minutes, shall be confidential except as provided by these rules or by order of the Supreme Court; provided, however, the board may release a copy of an application to the applicant upon receipt of a written request from the applicant or to a third person or entity upon receipt of a properly executed authorization by the applicant. The board is authorized to release information with respect to any applicant, which would otherwise be confidential, to the licensing or disciplinary agencies of any jurisdiction and to the National Conference of Bar Examiners.

(2) Upon the filing of proceedings in the Supreme Court, the proceedings, pleadings, supporting documents, and subsequent orders, including orders granting conditional admission, shall no longer be confidential or sealed unless ordered by the Supreme Court on its own motion or the motion of a party. A party may request all or part of the Court record be sealed by the Supreme Court by filing a motion to seal with the pleadings and transcript pursuant to Rule 12-314 NMRA. An order by the Supreme Court suspending or revoking admission to the State Bar of New Mexico shall be a matter of public record unless otherwise ordered by the Court.

[As amended, effective April 1, 1989; November 1, 1994; January 1, 1999; December 1, 2000; as amended by Supreme Court Order No. 18-8300-010, effective December 31, 2018.]

## **ANNOTATIONS**

**The 2018 amendment**, approved by Supreme Court Order No. 18-8300-010, effective December 31, 2018, provided that upon filing of proceedings in the Supreme Court, the proceedings, pleadings, supporting documents, and subsequent orders are no longer confidential or sealed unless ordered by the Court, provided that a party may file a motion requesting all or part of the court record be sealed, and provided that an order by the Supreme Court suspending or revoking admission to the State Bar of New Mexico shall be a matter of public record unless otherwise ordered by the Court; in Paragraph D, added subparagraph designation "(1)" and added Subparagraph D(2).

**The 2000 amendment**, effective December 1, 2000, added Paragraph D.

**The 1999 amendment**, effective January 1, 1999, in the first sentence of Paragraph A, substituted "twelve" for "eleven".

**The 1994 amendment**, effective November 1, 1994, substituted "who need not be a member of the board" for "who need not be a member and who may be, but need not

be, the clerk of the New Mexico Supreme Court" in Paragraph B and made a minor stylistic change in Paragraph A(3).

**The 1989 amendment**, effective on and after April 1, 1989, in the first sentence in Paragraph A, substituted "eleven members" for "nine members".

**Educational prerequisites constitutional.** — The educational qualifications required of applicants before they are permitted to practice law in this state do not violate the fourteenth amendment or N.M. Const., art. II, § 18, either in regard to the clause requiring due process of law or in providing for equal protection of the laws. *Henington v. State Bd. of Bar Exmrs.*, 1956-NMSC-001, 60 N.M. 393, 291 P.2d 1108.

**Board recommendations given great weight.** — The supreme court has ultimate responsibility to grant or withhold admission to the practice of law, but, in determining whether or not an applicant should be admitted, the court will always give the most serious consideration to the recommendations of the Board of Bar Examiners and will overrule them only when unalterably convinced that they are not well founded. *Lucius v. State Bd. of Bar Exmrs.*, 1972-NMSC-082, 84 N.M. 382, 503 P.2d 1160.

**Court promulgates bar admission standards.** — The legislature may enact valid laws in fixing minimum requirements for admission to the bar, but in no event maximum; and it may not require the courts to admit on standards other than as accepted or established by the courts, and any legislation which attempts to do so is an invasion of the judicial power and violative of the constitutional provisions establishing the separate branches of government and prohibiting the legislature from invading the judiciary. *In re Sedillo*, 1959-NMSC-095, 66 N.M. 267, 347 P.2d 162 (decided under former law).

**Board minutes deemed "public records".** — The minutes of the Board of Bar Examiners meet the requirements of the definition of "public records" and, as such, are required under 14-2-1 NMSA 1978 to be subject to the inspection of the public. 1953-54 Op. Att'y Gen. No. 5933.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorneys at Law §§ 2, 19.

Court review of bar examiners' decision on applicant's examination, 39 A.L.R.3d 719.

7 C.J.S. Attorney and Client § 18.

## **15-402. Qualifications.**

A. **Attorneys and judges.** Bar examiners shall be attorneys or judges with an active bar membership and affirmative interest in legal education and requirements for admission to the bar.

**B. Devotion to duty and compensation.** A bar examiner shall devote whatever time is necessary to perform the duties required of this office. The sole compensation that a bar examiner receives shall be per diem and mileage for attending meetings or hearings of the board, or of any panel or committee thereof, at the same rate as provided in the Per Diem and Mileage Act for nonsalaried public officers attending meetings and any other compensation for service to the board as approved by the Supreme Court.

**C. Essential conduct.** A bar examiner shall be conscientious, studious, thorough, and diligent in learning the methods, problems, and progress of legal education, in preparing bar examinations, and in seeking to improve the examination, its administration, and requirements for admission to the bar. A bar examiner shall be just and impartial in recommending the admission of applicants.

**D. Adverse influence, conflicting duties and inconsistent obligations.** A bar examiner shall not have adverse interests, conflicting duties, or inconsistent obligations that will in any way interfere with the proper administration of the bar examiner's duties as a bar examiner. A bar examiner shall not participate directly or indirectly in courses for the preparation of applicants for bar admission, serve as a law school faculty member, or act as a trustee or regent of a law school or of a university of which a law school is a part, or with which a law school is affiliated. A bar examiner shall act in a manner that does not create any suspicion that the examiner may be swayed by improper considerations.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013.]

## ANNOTATIONS

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-012, effective May 14, 2013, required that bar examiners have an active bar membership; authorized the Supreme Court to approve compensation in addition to per diem and mileage for service by bar examiners to the board; in Paragraph A, deleted the former title of the paragraph and added the current title, after "Bar examiners shall be", deleted "practicing", and after "judges with a", added "active bar membership and"; and in Paragraph B, in the second sentence, after "public officers attending meetings" added the remainder to the sentence.

**The 1994 amendment**, effective November 1, 1994, made gender neutral changes throughout the rule.

### **15-403. Tenure.**

Each bar examiner shall serve for a term of up to five (5) years and shall be eligible for reappointment. The members of the Board of Bar Examiners shall be appointed for staggered terms to insure continuity of policy, but there shall be sufficient rotation in the

personnel of the board to bring new views to it and to insure continuing interest in its work. Upon a vacancy occurring on the Board of Bar Examiners, a new member shall be appointed as provided by these rules to serve for the remainder of the unexpired term of the member being replaced.

#### **15-404. Rulemaking powers.**

The board shall have the authority to adopt rules of procedure, standards for grading, forms and other procedures necessary to the efficient and fair performance of its duties consistent with these rules.

#### **15-405. Preparation of questions.**

The board shall adopt a policy as to the number, preparation and makeup of the questions. The Board of Bar Examiners may utilize the services of exam writers to prepare bar examination questions, either by arranging for the drafting services of qualified persons, including law school professors, or by using the services of the National Conference of Bar Examiners or other appropriate state or national agencies. The Board of Bar Examiners shall not use any questions prepared by any person who is affiliated with, teaches for or has any interest in a bar exam review course or who is in any way involved with assisting bar exam applicants with their exam preparation. The board, or a committee thereof, shall review and approve each question.

[As amended, effective November 1, 1994; as amended, by Supreme Court Order No. 06-8300-013, effective May 12, 2006.]

### **ANNOTATIONS**

**The 2006 amendment**, approved by Supreme Court Order No. 06-8300-013 effective May 12, 2006, in Paragraph D deleted the requirement that exam writers be expert and revised the limitations on who may prepare exam questions by substituting for the prohibition against law school faculty members preparing questions with a limitation against those involved in bar examination course from participating in the writing of bar exam questions.

**The 1994 amendment**, effective November 1, 1994, substituted "expert exam writers" for "expert draftsmen" in the second sentence.

#### **15-406. Regular and special meetings.**

The Board of Bar Examiners may hold other examinations for the Multi-State Professional Responsibility Examination, or other examinations or meetings in the state for the purpose of passing upon the qualifications of applicants or for the disposition of the business before it as it may deem necessary. The board will meet on the second Saturday in December and the second Saturday in May of each year for the purpose of interviewing applicants and considering applications under Rules 15-104 and 15-301,

unless the board designates another date. It may hold examinations or meetings at such places and times as in its judgment will be most convenient for all parties concerned; but whenever examinations are held as provided in this rule, all persons whose applications are on file awaiting examination must be notified of the time and place at least ten (10) days prior thereto.