

# RULES GOVERNING THE NEW MEXICO BAR

## 24-101. Board of bar commissioners.

**A. Organization of the State Bar of New Mexico.** In order to aid the courts in improving the administration of justice, to promote the interests of the legal profession in the state of New Mexico, to be cognizant of the needs of individual and minority members of the profession, to improve the relations between the legal profession and the public, to encourage and assist in the delivery of legal services to all in need of such services, to foster and maintain high ideals of integrity, learning, competence and public service, to provide a forum for the discussion of subjects pertaining to the practice of law and law reform, to promote and provide continuing legal education in technical fields of substantive law and practice and to participate in the legislative, executive and judicial processes by informing its membership about issues affecting the legal system and relating to the purpose of the state bar, and upon approval by the Board of Bar Commissioners, to take such further action as may be necessary to present the views of the bar commission to the appropriate court, executive office or legislative body for consideration; and to the end that the responsibility of the legal profession and the individual members thereof may be more effectively and efficiently discharged in the public interest, and acting within the powers vested in it by the constitution of this state and its inherent power over members of the legal profession as officers of the court, the Supreme Court of New Mexico does hereby create and continue an organization known as the State Bar of New Mexico, and all persons now or hereafter licensed in this state to engage in the practice of law shall be members of the State Bar of New Mexico in accordance with the rules of this court. The State Bar of New Mexico may incorporate, sue and be sued, may enter into contracts and acquire, hold, encumber, dispose of and deal in and with real and personal property, and promote and further the aims as set forth herein and hereinafter in these rules.

Except as otherwise provided by the rule adopted by the supreme court, no person shall practice law in this state or hold himself or herself out as one who may practice law in this state unless such person is an active member of the state bar, and no suspended or disbarred member shall practice law in this state or hold himself or herself out as one who may practice law in this state, while suspended or disbarred.

**B. Young lawyers division established.** The Supreme Court of New Mexico does hereby establish as a division of the state bar, a Young Lawyers Division. Membership in this Young Lawyers Division shall consist of all members of the State Bar of New Mexico in good standing under thirty-six (36) years of age and those members who have been admitted to the practice of law in any state less than three (3) years. Membership shall terminate automatically at the adjournment of the annual convention of the state bar next after a member attains thirty-six (36) years of age or three (3) years after admission to the practice of law in any state, whichever occurs last. The Young Lawyers Division shall adopt bylaws applicable to its division and approved by the Board of Bar Commissioners; provided, however, such bylaws shall not be inconsistent

with these rules. The bylaws of the Young Lawyers Division shall establish the process for the election of its officers and directors.

**C. Board established.** A Board of Bar Commissioners is established as the governing board of the state bar. Each commissioner shall have one vote. Except as otherwise provided by Paragraph I, the board shall consist of twenty-one (21) bar commissioners, consisting of those district bar commissioners elected pursuant to Paragraph D, as well as the immediate past president of the state bar and the chair of the Young Lawyers Division. The board has perpetual succession and may use a common seal. The board may employ an executive director. The board may adopt bylaws applicable to the state bar and the board; provided, however, any such bylaws inconsistent with these rules shall be invalid.

**D. Bar commissioner districts.** The following bar commissioner districts are established and each district shall be represented by the indicated number of district bar commissioners, each of whom shall have their principal place of practice in the district represented and shall be nominated and elected by the members of the bar from the district in which the member's principal place of practice is located;

(1) the first bar commissioner district, which consists of Bernalillo County, shall be represented by eight bar commissioners;

(2) the second bar commissioner district, which consists of San Juan, McKinley, Cibola and Valencia Counties, shall be represented by one bar commissioner;

(3) the third bar commissioner district, which consists of Rio Arriba, Sandoval, Los Alamos and Santa Fe Counties, shall be represented by three bar commissioners;

(4) the fourth bar commissioner district, which consists of Taos, Colfax, Union, Mora, Harding, San Miguel and Guadalupe Counties, shall be represented by one bar commissioner;

(5) the fifth bar commissioner district, which consists of Quay, Curry, Roosevelt and DeBaca Counties, shall be represented by one bar commissioner;

(6) the sixth bar commissioner district, which consists of Lea, Eddy, Chaves, Lincoln and Otero Counties, shall be represented by three bar commissioners; and

(7) the seventh bar commissioner district, which consists of Catron, Socorro, Torrance, Sierra, Hidalgo, Luna, Grant and Dona Ana Counties, shall be represented by two bar commissioners.

**E. Terms of office.** The district bar commissioners shall be elected to terms of three (3) years and shall hold office until their successors are elected and qualified.

**F. Vacancies.** Vacancies on the board of the district bar commissioners shall be filled by appointment of the board, and district bar commissioners so appointed shall serve until the next regular election of district bar commissioners, at which time an election of a district bar commissioner to fill the unexpired term shall be held.

**G. Nominations for district commissioners.** Nominations to the office of district bar commissioner shall be by the written petition of any ten or more active status members of the bar in good standing. Any number of candidates may be nominated on a single petition which shall be received by the executive director within a period to be fixed by the bylaws of the State Bar of New Mexico. No state or federal judge shall be eligible to serve as a member of the board of the state bar while in office.

**H. Officers of board of commissioners; election.** In accordance with the bylaws of the state bar, the Board of Bar Commissioners shall elect a president, a president-elect, a vice president, and a secretary-treasurer, who shall take office at the annual meeting of the state bar. All of said officers shall be members of the Board of Bar Commissioners and shall be officers of the state bar and of its Board of Bar Commissioners. Terms of office for the officers of the board shall commence as of the annual meeting of the state bar and those officers shall serve until the next annual meeting of the state bar unless said officer(s) resign in which case they shall serve until their successors are elected and take office.

The immediate past president shall be a voting member of the board for a period of one (1) year and shall have such duties as may be assigned by the president and board.

**I. Extension of the president and president-elect's term as a commissioner.** If a district bar commissioner is elected president-elect, then at the expiration of such commissioner's elected term, such commissioner's term automatically shall be extended for an additional full three (3) year term; but he or she shall serve only the portion of the term which ends one year after his or her term as president; unless he or she shall be elected in the election provided for in this section to fill the remainder of the term. During the extended term, there shall be elected from the district in which the president-elect resides, one less member to the board than said district would be otherwise entitled to under these rules. At the regular election of commissioners one year after the year when the said president-elect's term of office as president expires, an election shall be held in the president's district to elect a member from that district to the board who shall serve for the remainder of the term.

[As amended, effective January 1, 1987; July 1, 1987; June 1, 1992.]

## **ANNOTATIONS**

**The 1992 amendment**, effective June 1, 1992, in Paragraph A, rewrote the first paragraph and made gender neutral changes in the second paragraph; in Paragraph B, substituted "practice of law in any state" for "State Bar of New Mexico" in two places and made minor stylistic changes; in the third sentence in Paragraph C, substituted

"twenty-one (21) bar commissioners" for "twenty (20) bar commissioners" and inserted "immediate past" and "of the state bar and the chair"; in Paragraph H, substituted "Board of Bar Commissioners" for "board of commissioners" in the second sentence of the first paragraph, and, in the second paragraph, substituted "a voting member" for "ex officio member", made a gender neutral change, and deleted ", but shall have no vote unless he is serving as an elected member of the board" from the end; rewrote Paragraph I; and deleted former Paragraph J, a temporary provision relating to two new district bar commissioners elected pursuant to the 1986 amendment.

**"State bar" deemed generic term.** - "State bar" is a generic term referring to that group of attorneys which has been admitted to practice before the courts of this state. State Bar v. Guardian Abstract & Title Co., 91 N.M. 434, 575 P.2d 943 (1978).

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

7 C.J.S. Attorney and Client § 8.

## **24-102. Annual license fee.**

Every member of the state bar shall, prior to the first day of January of each year, pay to the executive director of the state bar an annual license fee, which fee shall be determined and fixed by the board of bar commissioners prior to January of each calendar year. Members whose dues are received after the first day of February will be assessed a late payment penalty of one hundred dollars (\$100.00). If the member's dues, and late penalty are not received before the last day of March, the Board of Bar Commissioners shall, through its executive director, certify to this court the name of such member on a list of names of all members failing to pay their annual license fees and late penalties. New admittees shall pay the annual license fee fixed by the bar on or before the first day of the first month following the date of their admission prorated for the number of full months remaining in the calendar year following the date of their admission to the bar. New admittees whose dues are received after the first day of the second month following their admission will be assessed a late payment penalty of one hundred dollars (\$100.00). If the new admittee's dues and late penalty are not received after the first day of the third month following the new admittee's admission, the Board of Bar Commissioners shall, through its executive director, certify to this court the name of such member on a list of names of all members failing to pay their annual license fees and late penalties.

Whenever the Board of Bar Commissioners of the State Bar shall cause to be certified to the supreme court that any member of the state bar has failed or refused to pay the license fee or late penalty imposed herein, immediately upon receipt of said certification from the executive director of the state bar, the clerk of the supreme court shall issue a citation requiring the delinquent member to show cause before the court, within fifteen (15) days after service of such citation, why such member should not be suspended from the right to practice in the courts of this state. Service of such citation may be personal or by registered mail. The payment of such delinquent license fee on or before

the return day of such citation, and payment of accrued costs, shall be deemed sufficient showing of cause, and shall serve to discharge the citation.

Any member suspended under the provisions of this rule shall be required to petition the Board of Bar Examiners for reinstatement, and as a condition precedent to any granting of reinstatement shall be required to pay a reinstatement fee of:

- A. twice that member's then license fee, plus
- B. all fees in arrears, plus
- C. all accrued late penalty payments.

Any attorney in good standing may file a petition with the supreme court for voluntary withdrawal as a member of the bar of this state. Upon the filing of such petition, the court may enter an order terminating the petitioner's membership in the bar of this state, and the petitioner shall not thereafter be entitled to practice law in the courts of this state. No order of suspension for failure thereafter to pay the annual bar license fee will be entered against such member, and the member's withdrawal will not prejudice the member's record or standing during the period of membership in the bar of this state.

The Board of Bar Commissioners may waive all or part of any license fee in cases of extreme individual hardship. In cases where a petition for waiver of all or part of any license fee has been rejected by the Board of Bar Commissioners, an attorney may petition the supreme court for modification or reversal of the action of the board.

All moneys collected by the executive director in accordance with the provisions of this rule shall be deposited to an account designated as State Bar of New Mexico general fund and shall be disbursed by order of the Board of Bar Commissioners in carrying out the functions, duties and powers vested in said board. The Board of Bar Commissioners shall on or before March 1 of each year submit to the Supreme Court of New Mexico 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 board. No member of the Board of Bar Commissioners or any committee member appointed by the board shall receive any compensation, but shall receive mileage and per diem at the same rate as provided for public officers and employees of the state and may be reimbursed with the approval of the Board of Bar Commissioners for expenses incurred in conjunction with travel on Board of Bar Commission business.

[As amended December 22, 1986, May 9, 1985; March 1, 1988; September 1, 1991; June 1, 1992.]

## ANNOTATIONS

**The 1988 amendment**, effective March 1, 1988, in the first paragraph, substituted the present second sentence for the former second sentence which read "Members whose

dues are received after the last day of February may be assessed a late penalty as determined by the board, and if received after March 31, an additional late penalty may be assessed", added the present third sentence, substituted "will be assessed a late penalty of one hundred dollars (\$100.00)" for "may be assessed a late penalty as determined by the board, and if received after the first day of the third month following their admission, an additional late payment penalty may be assessed" in the next-to-last sentence; in the second paragraph, substituted "license fee or late penalty imposed herein, immediately upon receipt of said certification" for "license fee imposed herein, within twenty (20) days of receipt of said certification" and "fifteen (15) days" for "twenty (20) days" in the first sentence; in the third and fifth paragraphs, substituted "member" for "attorney"; and, in the third paragraph, substituted "pay a reinstatement fee of" for "pay all fees in arrears and accrued costs" and added the provisions designated A, B, and C.

**The 1991 amendment**, effective September 1, 1991, in the second sentence of the last paragraph, substituted "shall on or before March 1" for "shall submit on or before January 1 of each year a proposed budget to the Supreme Court of New Mexico. It shall likewise on or before March 1".

**The 1992 amendment**, effective June 1, 1992, in the second paragraph, inserted "Bar" near the beginning; made gender neutral and stylistic changes in the second paragraph and the third paragraph from the end; and added the next-to-last paragraph.

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

Use of compulsory bar association dues or fees for activities from which particular members dissent, 40 A.L.R.4th 672.

7 C.J.S. Attorney and Client § 7.

## **24-103. Annual meeting of the state bar.**

There shall be an annual meeting presided over by the president of the state bar, open to all members of the bar in good standing, and held at such time and place as the Board of Bar Commissioners may designate, for the discussion of the affairs of the bar and the administration of justice. The annual election of commissioners shall close at noon (12:00 n.) seven (7) days prior to the first day of such meeting and the ballots canvassed by at least three commissioners not running for reelection, appointed by the president and the results announced at the annual meeting.

## **24-104. Annual budget of the state bar.**

A. **Budget.** The Board of Bar Commissioners shall, on or before January 1 of each year, submit to the supreme court for approval a proposed budget for the ensuing calendar year.

**B. Bylaws.** The Board of Bar Commissioners shall adopt bylaws which provide for:

- (1) publication of the proposed budget of the State Bar in the Bar Bulletin;
- (2) an opportunity for any member of the bar to be heard on any item in the proposed budget; and
- (3) notice to members of the bar who appeared on such proposed budget of the supreme court hearing date on the proposed budget.

**C. Hearing.** Any member of the bar who appears before the Board of Bar Commissioners on the proposed budget of the Board of Bar Commissioners shall be given an opportunity to be heard by the supreme court on any matter not resolved by the commissioners.

[Effective September 1, 1991.]

#### **ANNOTATIONS**

**Effective dates.** - Pursuant to a supreme court order dated February 27, 1991, this rule is effective September 1, 1991.