

Rules Governing Admission to the Bar

ARTICLE 1 General Provisions

PREFACE

The Supreme Court, pursuant to its constitutional power of superintending control, has the inherent authority to regulate the practice of law, prescribe the qualifications for admission to the bar, and grant or withhold the right to practice law.

[Adopted Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

Committee commentary. —

[1] Article VI, Section 3 of the New Mexico Constitution grants the Supreme Court the constitutional power of superintending control, with the inherent power to regulate all practice affecting the judicial branch. That regulatory power includes the authority and duty to prescribe the qualifications for admission to the bar. *In re Treinen*, 2006-NMSC-013, 139 N.M. 318, 131 P.3d 1282. Defining, regulating, granting, or withholding the right of admission to practice law is a fundamental component of that power. *See, e.g., State Bar v. Guardian Abstract & Title Co.*, 1978-NMSC-016, 91 N.M. 434, 575 P.2d 943; *Application of Sedillo*, 1959-NMSC-095, 66 N.M. 267, 347 P.2d 162; *see also* NMSA 1978, § 36-2-1 (1941) (codifying the Supreme Court's constitutional authority to define and regulate the practice of law); NMSA 1978, § 40-5A-10 (1997) (stating the Supreme Court is to adopt rules for the licensing of lawyers).

[2] The Immigration and Nationality Law Practice Act, NMSA 1978, §§ 36-3-1 to -10 (1987), prevents the unauthorized practice of law by nonlawyers who hold themselves out as immigration consultants rendering services in immigration, nationality, or citizenship matters and who are outside pertinent federal regulations regulating the practice of immigration law.

[3] Rules regarding foreign legal consultants are contained in Rules 26-101 through 26-106 NMRA.

[4] Rules governing pro hac vice practice are addressed in Rule 24-106 NMRA.

[5] Rules governing admission as an emeritus attorney are addressed in Rule 24-111 NMRA.

[6] Rules concerning the unauthorized practice of law are contained in Rule 16-505 NMRA.

[Adopted Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-101. 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; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

Committee commentary. — The entirety of the Rules Governing Admission to the Bar have been recompiled and amended, with significant portions rewritten. These amended and recompiled rules apply to all applications submitted to the board after the effective date of the Supreme Court's adoption, and Articles 1 and 6 of these rules are effective on the date of the Supreme Court's order adopting them.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, removed the definitions of "notice", MBE", "MPRE", "practice of law", "lawyer", "legal service", "grader", "in good standing", "serious crime", and "state", and added the committee commentary; in the rule heading, deleted "Definitions"; and deleted former Paragraph A, former paragraph designation "B" and the former paragraph heading "Title".

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. Definitions and rules of construction.

For purposes of these rules:

A. "ABA" means the American Bar Association;

B. "active practice of law" means:

(1) 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 this activity by a lawyer not admitted in that state, however, in no event shall any activities performed under any rule regarding the practice of law pending admission or in advance of admission to practice law 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 ABA;

(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) 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.

C. "admission" means the admission, re-admission, or reinstatement of a license to practice law in the State of New Mexico and membership in the State Bar of New Mexico;

D. "bar examiner" means a member of the board;

E. "board" means the Board of Bar Examiners of the State of New Mexico, which is a standing committee of the Supreme Court;

F. “conditional admission” means the grant of a license to practice law subject to the supervision the board, and under conditions approved by the Supreme Court;

G. “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);

H. “government entity” means any state agency or any local public body as defined in these rules;

I. “in good standing” means unconditionally admitted to the practice of law by a state lawyer licensing authority, and:

(1) not disbarred in any state;

(2) not suspended from the practice of law in any state for disciplinary reasons;

(3) not resigned or withdrawn from any state lawyer licensing authority while under disciplinary suspension by, or while undergoing disciplinary proceedings by, that state;

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

(5) if previously disbarred or suspended by a state lawyer licensing authority, duly and fully reinstated in that state;

J. “lawyer” means a person, admitted to a state bar, who by education and training may legally perform legal service in that state;

K. “legal service” means advising, advocating, or counseling to or for others about a matter involving law which may not be lawfully performed by someone who is not a lawyer;

L. “local public body” means all political subdivisions of this state and their agencies, instrumentalities, and institutions;

M. “MBE” means the Multi-State Bar Examination prepared and administered by the NCBE;

N. “MEE” means the Multi-State Essay Examination prepared and administered by the NCBE;

O. “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 an application for a limited license;

P. "MPRE" means the Multi-State Professional Responsibility Examination prepared and administered by the NCBE;

Q. "MPT" means the Multi-State Performance Test prepared and administered by the NCBE;

R. "NCBE" means the National Conference of Bar Examiners;

S. "notice" means delivery to the person affected by the item being delivered, which shall be effective either on (1) placing the document or letter in the United States first class mail with a proper address and postage pre-paid, or (2) submitting the document or letter by electronic means previously authorized by the intended recipient, which is not returned as undeliverable; notice to the board under these rules is effective by sending an electronic submission to the email address(es) or electronic submission portal identified by the board for that purpose, or, when permitted under these rules, in-hand delivery of paper documents to front desk personnel at the board's offices during normal business hours;

T. "practice law," "practice of law," and variations thereof, means providing or performing legal services;

U. "prove" means, unless otherwise specified, to prove by a preponderance of the evidence;

V. "public defender clients" means persons represented under contract with the Law Offices of the Public Defender for the State of New Mexico;

W. "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

(1) 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;

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

(3) is recommended by the New Mexico Commission on Access to Justice;

X. "reciprocal state" and "reciprocal states" means a state or states approved as reciprocal to New Mexico by the Supreme Court as of the date an application is

submitted, the current list for which is available from the board and publicly posted on the board's website;

Y. "rules" and "these rules" means the Rules Governing Admission to the Bar, Rules 15-101 to -608 NMRA;

Z. "serious crime" means:

(1) any felony; or

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

(a) conduct as an attorney;

(b) interference with the administration of justice;

(c) false swearing;

(d) misrepresentation;

(e) fraud;

(f) willful failure to file tax returns;

(g) deceit;

(h) bribery;

(i) extortion;

(j) misappropriation;

(k) theft; or

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

AA. "service member" is used as defined by the United States Department of Defense;

BB. "service on the board," "serving the board," and reasonable variations thereof, means un-retained electronic submission or delivery of documents described in these rules to the email address(es) or electronic submission portal identified by the board for that purpose, and, when permitted under these rules, in-hand delivery of

paper documents to front desk personnel at the board's offices during normal business hours;

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

DD. "state agency" means any of the branches, agencies, departments, boards, instrumentalities, or institutions of the State of New Mexico;

EE. "Supreme Court" means the New Mexico Supreme Court;

FF. "suspended" and "suspension" means suspension, lapse, or other prohibition from the practice of law, for reasons other than nonpayment of dues or failure to complete mandatory continuing legal education requirements; and

GG. "UBE" means the Uniform Bar Examination prepared and administered by the NCBE.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, changed the title of the rule, and added the definitions of certain terms for purposes of the state bar admission rules; in the rule heading, deleted "Admission requirements" and added "Definitions and rules of construction"; deleted the former language of the rule, which provided "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."; and added Paragraphs A through GG.

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. Confidentiality.

A. **Board records and examination records confidential.** All records of the board and its committees regarding applications it receives and investigations, interviews, and hearings it conducts, and all proceedings by the board, including board meetings, committee meetings, minutes, and communications among examiners and committee members about an application, shall not be considered part of the applicant's file and shall be confidential except as provided by these rules or by order of the Supreme Court. NCBE examination information and materials shall be confidential unless authorized for release by the NCBE. The Supreme Court may request and review the board's records for any applicant without affecting the confidential status of that record.

B. Filings with the Supreme Court not confidential. Motions and petitions filed by the board with the Supreme Court about an application are not confidential. However, the board's submission to the Supreme Court of lists of applicants who have passed and failed the examination of the minimum competence to practice law shall be confidential until the Supreme Court makes some or all of the list public, but those portions of the list not made public shall remain confidential.

C. Release of records to NCBE and agencies. The board may release records of any applicant to the NCBE to any state's agency involved in the licensing and discipline of lawyers and the University of New Mexico School of Law. The board shall not be responsible for the confidentiality of records so released.

D. Application copy. An applicant may request a copy of that applicant's application and any records submitted by the applicant to the board by delivering a written request to the board along with payment of fees for preparing the copy. An applicant's request for a copy may designate a third party to receive the copy in lieu of the applicant. The board may prescribe a form for making requests for copies and a table of fees for the preparation and delivery of copies.

E. Written waiver of confidentiality. An applicant may waive confidentiality of that applicant's application by written authorization. The board may prescribe a form required to be used for a waiver of confidentiality. An applicant's waiver of confidentiality under this Paragraph or Paragraph F shall not affect the confidential nature of documents identified in Paragraph A.

F. Waiver of confidentiality on filing of proceedings. If an applicant files proceedings in any court which concerns that applicant's application, the proceedings of the board or Supreme Court about the applicant, or the board's recommendation or petition to the Supreme Court, then that applicant shall be deemed to have waived the confidentiality of the board's file about that applicant. Proceedings before, and papers and records filed with, the Supreme Court are not confidential except as required by law, as set forth in these rules, or as may be ordered by the Supreme Court.

G. Sealing. The Supreme Court on its own motion, or on motion of the applicant or the board, may seal all or part of the proceedings initiated by a petition, and a record on appeal, including filings and transcripts. Any motion to seal filed by the applicant or the board shall be made under Rule 12-314 NMRA, and shall specify the portions of the record or filings for which sealing is sought.

[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; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to qualifications for applicants seeking admission to practice law in New Mexico and added new language related to the confidentiality of records of the Board of Bar Examiners regarding applications, and related documents, for admission to practice law in New Mexico, and withdrew the committee commentary.

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. *Schware 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. *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).

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. Withdrawn.

ANNOTATIONS

Withdrawals. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, former 15-104 NMRA, relating to applications, was withdrawn effective December 31, 2023. For provisions of former rule, see the 2023 NMRA on *NMOneSource.com*.

15-105. Withdrawn.

ANNOTATIONS

Withdrawals. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, 15-105 NMRA, relating to application fees, was withdrawn effective December 31, 2023. For provisions of former rule, see the 2023 NMRA on *NMOneSource.com*.

15-106. Withdrawn.

ANNOTATIONS

Withdrawals. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, 15-106 NMRA, relating to repeat applications, was withdrawn effective December 31, 2023. For provisions of former rule, see the 2023 NMRA on *NMOneSource.com*.

15-107. Withdrawn.

ANNOTATIONS

Withdrawals. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, 15-107 NMRA, relating to admission by motion, was withdrawn effective December 31, 2023. For provisions of former rule, see the 2023 NMRA on *NMOneSource.com*.

ARTICLE 2

Admission Requirements and Procedures

15-201. Admission to the practice of law.

A. **Requirements for the practice of law.** Unless otherwise ordered by the Supreme Court, no person may practice law in New Mexico or be an active member of the State Bar of New Mexico until that person has qualified and met the requirements of these rules to the satisfaction of the Supreme Court.

B. **Delegation to board.** The board shall administer the process for admission, including determining whether an applicant has the necessary qualifications and meets

the requirements prescribed by these rules, recommending an applicant's admission to the Supreme Court, and other steps for finalizing an applicant's licensure as may be delegated by the Supreme Court.

C. Methods of licensure. The various methods of licensure by which a person may apply for admission, and the qualifications and requirements for each license, are described in Article 3 of these rules.

D. Admission process. Any applicant desiring admission must, for the applicant's desired method of licensure:

(1) submit to the board an application identifying the method of licensure being applied for, the required information described for that license, and any additional information requested by the board;

(2) pay to the board the fees required for the method of licensure;

(3) prove the applicant meets the qualifications, including character and fitness, as described for the method of licensure; and

(4) on issuance of an order authorizing that applicant's admission, comply with the admission procedures described for the method of licensure.

E. Jurisdiction. Submission of an application shall subject an applicant to the jurisdiction of the Supreme Court and the board. If a license to practice law is granted to an applicant, the board's jurisdiction over the applicant shall terminate three (3) years after the grant of the license. The board's jurisdiction over an applicant who has withdrawn an application or who has been denied admission shall terminate thirty (30) days after the withdrawal or denial and conclusion of any appeal thereof.

F. Revocation. In addition to any grounds and procedures for revocation specified for a method of licensure, the board may hold a hearing to recommend to the Supreme Court the revocation of any license obtained by an applicant's false representations, fraud, or deceit in the application process. The Supreme Court may revoke a license at any time on satisfactory showing that the license was obtained by an applicant's false representations, fraud, or deceit.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

Committee commentary. —

[1] See Restatement (Third) of the Law Governing Lawyers, § 2 (2000).

[2] See Rule 24-101 NMRA; NMSA 1978, § 36-2-27 (1999); NMSA 1978, § 40-5A-10 (1997).

[3] See NMSA 1978, § 36-2-24 (1909) (stating that within three years, the Supreme Court may revoke a license obtained by false representation, fraud, or deceit).

[4] Rules regarding *pro hac vice* practice are contained in Rule 24-106 NMRA.

[5] Rules governing admission as an emeritus attorney are addressed in Rule 24-111 NMRA.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the written bar examination and added new language related to the process for admission to the bar of New Mexico, and added the committee commentary.

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. Qualifications.

A. **Required qualifications.** Every applicant for any method of licensure shall prove to the satisfaction of the board that the applicant possesses each of the following qualifications:

- (1) **Age.** Is at least eighteen (18) years of age;
- (2) **Law degree.** Is a graduate with a juris doctor or bachelor of laws and letters degree (but not only a masters of law degree) from a law school that is:
 - (a) formally accredited by the ABA; or

(b) not formally accredited by the ABA, in which event the applicant must also show admission to the practice of law in one or more other states for at least four (4) of the six (6) years immediately preceding submission of an application under these rules;

(3) **Good standing.** Is, for every state in which applicant has ever been admitted to practice law, in good standing, by providing a certificate to that effect from each state in which applicant has ever been licensed;

(4) **Child support obligations.** 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 to -13 NMSA 1978, or imposed under a child support or spousal support order entered by a court of any state. Any applicant who is subject to an order shall provide evidence acceptable to the board of compliance with all applicable child and spousal support orders. An applicant who has appeared on the State of New Mexico Human Services Department’s certified list of obligors shall submit a certified statement from that department showing that the applicant is in compliance with the judgment and order for support; and

(5) **Certificate of understanding.** Has read and is familiar with (a) the New Mexico Rules of Professional Conduct, including the succession planning requirements set forth in Rule 16-119 NMRA, (b) the New Mexico Rules Governing Discipline, including the trust accounting requirements set forth in Rule 17-204 NMRA, (c) the Creed of Professionalism of the State Bar of New Mexico, (d) the rules of the Supreme Court of New Mexico, and (e) the New Mexico statutes relating to the conduct of attorneys. Proof shall be made by submitting a signed certificate in a form prescribed by the board confirming compliance with this subparagraph, and that the applicant understands those items.

B. Citizenship or immigration status. Admission may not be denied solely on an applicant’s citizenship or immigration status.

[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. S-1-RCR-2023-00036, effective December 31, 2023.]

Committee commentary. —

[1] The requirements of this rule are intended to assist the board 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.

[2] See NMSA 1978, § 40-5A-10 (1997) (requirements specified in the Parental Responsibility Act).

[3] See Rules 23-101 to -115 NMRA (New Mexico Supreme Court General Rules).

[4] See NMSA 1978, §§ 36-1-1 to 36-3-10 (1863-1864, as amended through 2019) (New Mexico statutes relating to the conduct of attorneys).

[5] See the Creed of Professionalism of the State Bar of New Mexico.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to admission to the bar of New Mexico for an applicant who passed the Uniform Bar Examination in another jurisdiction and added language related to the qualifications for admission to the bar of New Mexico, and added the committee commentary.

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. Application.

A. **Form of application.** All applications shall:

- (1) be made under oath or affirmation;
- (2) be on forms or in a method as may be required by the board;
- (3) include the applicant's full name, any aliases or other names used, age, current residence, residential addresses for at least the five (5) years immediately preceding the date of application, citizenship, occupations, general and legal background, information as to the applicant's background and moral character, and other information as may be required by the board; and
- (4) contain any information relating to the applicant's qualifications and eligibility as may be required by the board.

B. **Additional documentation.** Unless otherwise specified for the chosen method of licensure, after submitting an application, an applicant shall cause to be submitted to the board the following within the prescribed time period:

- (1) **Credit report.** A full credit report issued by one (1) of the three (3) major credit reporting agencies and printed within thirty (30) days of submission of the application for admission.

C. **Separate documentation.** Unless otherwise specified for the chosen method of licensure, an applicant shall promptly arrange for the following to be submitted to the board directly from the appropriate issuing person or body:

(1) **Transcript.** A properly authenticated law school transcript evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school;

(2) **Law school certification form.** A grant of permission, in a form prescribed by the board, permitting the board to obtain specified information from the applicant's law school;

(3) **Fingerprints.** Fingerprints pursuant to a method or service prescribed by the board, for the purposes of obtaining the applicant's identification record from the Federal Bureau of Investigation and New Mexico Department of Public Safety; and

(4) **Character and fitness statements.** Character and fitness statements from three (3) actively licensed attorneys certifying that the applicant is a person of good moral character and physically and mentally qualified for admission. The statements must be from persons who are in good standing in any state, familiar with the applicant's qualifications, and not related to the applicant.

D. Documentation if admitted to another bar. Unless otherwise specified for the chosen method of licensure, for each state in which an applicant is, or has previously been admitted to practice law, the applicant shall also arrange for the following to be submitted directly to the board:

(1) **Good standing certificate.** One (1) or more certificates by the state's law license issuing authority to the effect that the applicant:

(a) is in good standing to practice law and has not been disbarred, been placed under suspension, or withdrawn or resigned from the practice of law while under disciplinary investigation;

(b) is not the subject of any pending disciplinary investigations or proceedings; and

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

(2) **Disciplinary history.** A document showing the applicant's disciplinary history from that state's issuing authority, describing all of the applicant's history of discipline that is disclosable based on that state's rules and policies;

(3) **Unaccredited law school applicants.** If the applicant is not a graduate of a law school accredited by the ABA at the time of the applicant's graduation:

(a) The character and fitness statements referenced above must be from members of the bar of each state in which applicant is admitted; and

(b) Each of the good standing certificate(s) referenced above must also state that the applicant has been licensed to practice law in that state for at least four (4) years before the date of the certificate.

E. Course on New Mexico law. All applicants must submit to the board, prior to being issued a license, evidence of attendance at, and successful completion of, a course approved by the board or Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism.

F. Filing deadlines. The filing deadlines, if any, for an application and required documentation, are as described in the rule for each method of licensure. For any application-related deadline specified in these rules, a filing shall be considered timely if the document is submitted in the manner specified by the board before 5:00 p.m. Mountain Time on the day of the deadline. The board shall not accept an application filed after the specified deadlines.

G. Updating required. Throughout the pendency of an application, including any character and fitness review, and any period during which a matter is on appeal to the Supreme Court, an applicant shall continually update the board with respect to all matters inquired of in the application or by the board.

H. Repeat applications. The number of repeat applications for any method of licensure that an applicant may make, or the number of examinations that an applicant may take, is unlimited. Thus, if an applicant is denied admission, withdraws an application, or after submitting an application does not receive a license for any other reason, the applicant may again submit an application according to Rule 15-201(D) NMRA. Any resubmitted application shall be accompanied by payment of all prescribed fees for the selected method of licensure.

I. Withdrawal of application. An applicant may, at any time before admission or denial of admission, withdraw an application by giving notice to the board. The board may deem an applicant's application withdrawn if the applicant has failed to submit all documents requested by the board by twelve (12) months after the submission date of the application, although an applicant may request a six (6) month extension of time to submit documents requested by the board by submitting a written request before the expiration of the twelve (12) month period. An applicant whose application has been withdrawn may file a new application following the procedure described in Rule 15-201(D) NMRA. Fees and costs paid on a withdrawn application shall be forfeited and not returned except as described in Rule 15-204 NMRA.

J. Document retention and destruction. No original papers submitted by an applicant will be returned. The board may destroy documents in compliance with records retention requirements set forth in 1.21.2.667-668 NMAC.

K. No deferrals. An application may not be deferred.

[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; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the subjects contained in the Uniform Bar Examination and added language related to the application process for admission to the bar of New Mexico.

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. Fees and costs.

A. **Application fees and costs.** Every submitted application shall be accompanied by the fees and costs described in the rule for the applicant’s chosen method of licensure in the manner identified by the board. Except for deposits made under Paragraph C of this rule, all fees and costs paid to the board under these rules shall be non-refundable. Regardless of timing, fees and costs shall not be returned by the board

for any reason, including but not limited to denial of admission, withdrawal of an application, and failure to pursue admission after application.

B. Pass-through costs. Applications for certain methods of licensure require the board to purchase services and materials, or obtain information directly from certain sources, the actual costs for which shall be directly passed through to an applicant. The board shall publish a schedule of the items and the costs, which shall be updated by the board from time to time. The board may collect some pass-through costs up front, may direct the applicant to pay some pass-through costs directly to the vendor, or may require payment of pass-through costs as they are incurred (or about to be incurred) by the board. Items for which costs and fees are passed through to an applicant may include, but are not limited to:

- (1) investigations;
- (2) NCBE investigation;
- (3) NCBE application;
- (4) NCBE scoring;
- (5) MPRE score transfer or reporting as may be required by the NCBE;
- (6) UBE score transfer or reporting as may be required by the NCBE;
- (7) law school transcripts requested by the board;
- (8) Certificates of Good Standing and Certificates of Disciplinary History requested by the board;
- (9) fingerprinting;
- (10) credit reports;
- (11) laptop registration fees; and
- (12) examination materials.

C. Advance deposits against certain costs. If the board requires an applicant to place funds on deposit in anticipation of the board incurring certain costs related to character and fitness evaluations, any hearing, and any appeals, the applicant shall submit the required funds to the board which shall be placed in an IOLTA account. The board shall apply the deposited funds to actual costs as they are incurred, and account to the applicant as funds are expended. On payment of the final invoice of costs, the board shall return any surplus funds to the applicant. If the funds on deposit are less than the costs incurred, the applicant shall pay the deficiency to the board.

[Withdrawn by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as reinstated by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

Compiler's notes. — Pursuant to Supreme Court Order No. 15-8300-018, former Rule 15-204 NMRA, relating to bar admission rule questions, was withdrawn effective November 1, 2015. Rule 15-204 NMRA, relating to fees and costs, was approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.

15-205. Evaluation of qualifications, character and fitness.

A. **Purpose; burden.** To assure the protection of the public and to safeguard the justice system, an applicant for any methods of licensure must prove the applicant is qualified, has good character, and is fit to practice law.

B. **Applicant's history.** To enable the board to evaluate an applicant's character and fitness, an applicant shall inform the board of applicant's history regarding the following:

- (1) unlawful conduct;
- (2) academic misconduct;
- (3) misconduct in employment;
- (4) acts involving dishonesty, fraud, deceit, or misrepresentation;
- (5) acts which demonstrate disregard for the rights or welfare of others;
- (6) abuse of legal process, including the filing of vexatious or frivolous lawsuits;
- (7) neglect of financial responsibilities or professional obligations;
- (8) violation of an order of a court, including child support orders;
- (9) conduct that evidences current mental or emotional instability that may impair the ability to practice law;
- (10) conduct that evidences current drug or alcohol dependence or abuse that may impair the ability to practice law;
- (11) denial of admission to the bar in another jurisdiction on character and fitness grounds;

(12) disciplinary action by a lawyer disciplinary agency or other professional disciplinary entity;

(13) suspension of a lawyer's license by any entity, including suspensions for non-payment of dues and failure to comply with mandatory continuing legal education requirements;

(14) making of false statements, including omissions, on bar applications in any state; or

(15) as otherwise determined by the board for just and good cause.

C. Review. The board shall review each application to determine whether an applicant is qualified for admission including whether the applicant's present character and fitness qualifies the applicant for admission. To enable the board to reach a determination, an applicant shall supply additional information as requested by the board. The board may conduct further inquiry into an applicant's qualifications by conducting investigations, interviews, and hearings as described in Article 4 of these rules.

D. Factors considered. In making its determination, the board shall consider the following factors in assigning weight and significance to an applicant's prior conduct:

(1) the applicant's age at the time of the conduct;

(2) the recency of the conduct;

(3) the reliability of the information about the conduct;

(4) the seriousness of the conduct;

(5) the factors underlying the conduct;

(6) the cumulative effect of the conduct or information;

(7) the evidence of rehabilitation;

(8) the applicant's positive social contributions since the conduct;

(9) the applicant's candor in the admissions process; and

(10) the materiality of any omissions or misrepresentations.

E. Conviction; rehabilitation. An applicant who has been convicted of a serious crime must put forth clear and convincing evidence of good moral character by showing

that the applicant is rehabilitated and satisfies all other requirements for good moral character.

[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; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the grading and scoring of the Uniform Bar Examination and added language related to the evaluation of applicants' qualifications for admission to the bar of New Mexico.

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. Requirements of licensees.

On admission under these rules, and except as described in the rule pertaining to a licensee's method of licensure, a licensee shall:

- A. be a member of the State Bar of New Mexico;
- B. be subject to the Rules of Professional Conduct and the Rules Governing Discipline;
- C. pay any required dues or fees assessed by the State Bar of New Mexico;
- D. pay annual disciplinary fees assessed under Rule 17-203(A) NMRA;
- E. comply with the Rules for Minimum Continuing Legal Education, Rules 18-101 to -303 NMRA; and
- F. comply with any other requirements for maintaining in good standing a license to practice law.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the notification and publication of bar exam results and added language related to requirements for a licensee to maintain their licensure.

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. Licensure.

A. **Recommendation and order.** On determination that an applicant has qualified for admission, the board shall recommend admission to the Supreme Court, and identify whether the license is a limited license. On receipt of the board's recommendation, the Supreme Court may review an applicant's application and record, and if satisfied the applicant is qualified, enter an order granting the applicant admission subject to any limitations or conditional admission identified by the board or imposed by the Supreme Court. If the Supreme Court is not satisfied an applicant is qualified, it may refuse the

board's recommendation, set the matter for oral argument, remand the matter to the board for further proceedings, or take other action it deems appropriate.

B. Admitted applicants; roll of attorneys; swearing-in; deadline. An applicant who receives an order granting admission shall sign the roll of attorneys and be sworn-in using the oath in Rule 15-208 NMRA. Admitted applicants may be sworn-in and sign the roll of attorneys: (1) at a ceremony arranged by the board and Supreme Court, or (2) by making arrangements with the Clerk of the Supreme Court. All admitted applicants shall complete this process within six (6) months of the date of the order granting admission. If, before the expiration of this six (6) month deadline, the board receives a written request from an applicant showing good cause for an extension, the board may grant an extension. Any applicant who fails to complete the process by the deadline without timely extension shall be deemed to have withdrawn the application for admission.

[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; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to an unsuccessful applicant's right inspect their bar exam scores and added language related to the process for state bar licensure.

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. Oath or affirmation.

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 by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to periodic reviews of the bar examination system and added language for a state bar licensee's oath or affirmation.

ARTICLE 3 Methods of Licensure

15-301. Examination method.

A. **Description.** As further specified in this rule, a qualified applicant may apply for a license to be issued on the applicant's satisfactory completion of all requirements for this method of licensure, including receipt of a passing score on the bar examination. Recent law school graduates typically select this method of licensure, although the method of licensure described in this rule may be sought by any qualified applicant.

B. **Application deadlines.** A complete application for a license under this rule, along with required fees, must be submitted to the board on or before the deadlines specified below. Applications for the February examination will open on September 1st of each year. Applications for the July examination will open on February 1st of each year. An application submitted after the pertinent filing deadline will be rejected.

(1) Applications filed after November 1st for the February examination shall incur a late fee;

(2) The final deadline for the February examination shall be January 1st;

(3) Applications filed after May 1st for the July examination shall incur a late fee;

(4) The final deadline for the July examination shall be June 1st.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and must pass all examinations described in Rule 15-501(A) NMRA.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for a license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph C, then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA;

(2) the applicant may take examinations described in Article 5 of these rules, even if a character and fitness evaluation is not yet complete; and

(3) on the board's determination the applicant is qualified and possesses the requisite character and fitness, and that the applicant has passed the MPRE, and the applicant has passed the examination of the minimum competence to practice law within two (2) years of completing all requirements under these rules, the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant, and the applicant shall comply with the requirements of Rule 15-207(B) NMRA. The board may extend the expiration of examination results on showing of good cause.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for a license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court;

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA; and

(3) **Late fee.** When applicable as set forth in Paragraph B of this rule, a late fee of five hundred dollars (\$500.00).

G. **Specific ongoing requirements.** An applicant approved for a license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA.

H. **Limitations.** A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. **Expiration.** A license issued under this rule does not expire.

J. **Suspension of license.** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 20-8300-001, effective August 31, 2020; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to investigations, interviews and appeals of applicants for admission to the bar of New Mexico and added language related to the examination method of licensure.

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. Recompiled.

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, former 15-301.1 NMRA was recompiled and amended as 15-304 NMRA, effective December 31, 2023.

15-301.2. Recompiled.

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, former 15-301.2 NMRA was recompiled and amended as 15-305 NMRA, effective December 31, 2023.

15-301.3. Recompiled.

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, former 15-301.3 NMRA was recompiled and amended as 15-306 NMRA, effective December 31, 2023.

15-302. UBE score transfer method.

A. **Description.** As further specified in this rule, a qualified applicant may apply for a license to be issued on the applicant's satisfactory completion of all requirements for this method of licensure, including receipt of a passing score on the UBE in a state other than New Mexico.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for a license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and must provide proof that the applicant has received a passing score on the examination of the minimum competence to practice law within five (5) years before the date of submission of the application, and has received a passing score on the examination of professional responsibility and legal ethics.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for a license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph C, then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA; and

(2) on the board's determination the applicant is qualified and possesses the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for a license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA.

H. **Limitations.** A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. **Expiration.** A license issued under this rule does not expire.

J. **Suspension of license.** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[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; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the admission to the bar of New Mexico and added language related to the Uniform Bar Examination transfer method of licensure.

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. Reciprocal license method.

A. **Description.** As further specified in this rule, a qualified applicant who is already admitted to practice law in one or more reciprocal states may apply for a license to be

issued on applicant's proof of having satisfied all requirements and qualifications set forth for this method of licensure.

B. Application deadlines. An application for a license under this rule may be submitted at any time.

C. Qualifications. An applicant for a license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and has received passing scores on all examinations described in Rule 15-501(A) NMRA. In addition, the applicant must:

(1) have been admitted to practice law in at least one (1) reciprocal state and currently be an active member in good standing in that state;

(2) be engaged in the active practice of law in at least one (1) reciprocal state or has been practicing law in New Mexico under either the Rule 15-304 NMRA or Rule 15-305 NMRA methods of licensure for at least five (5) of the past seven (7) years preceding submission of the application;

(3) have never been denied a license to practice law in any state based on the applicant's character and fitness;

(4) have not, within the five (5) years preceding application under this rule, taken and failed the examination of minimum competence to practice law in New Mexico, as described in Article 5 of these rules;

(5) not currently be, and have never been, admitted to the practice of law in New Mexico other than holding a limited license under these rules or voluntarily withdrew or resigned from membership in the State Bar of New Mexico while in good standing;

(6) have not been previously denied licensure in any state, when the application or motion for licensure was based on admittance in reciprocal states;

(7) have not previously engaged in the unauthorized practice of law in any state;

(8) establish that if the applicant is not presently a member eligible to practice in a state that the applicant resigned or withdrew while in good standing, and at the time of submitting an application has never been disbarred or suspended from practice of law in another state; and

(9) execute an affidavit describing the applicant's active practice of law for the required durational period in every applicable jurisdiction, which describe in detail how it satisfies the definition of the active practice of law as set forth in these rules.

D. Character and fitness. The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for a license under this rule. An applicant shall pay any fees and costs associated with evaluating the applicant's character and fitness.

E. Procedure for issuance. On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph C, then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA; and

(2) on the board's determination the applicant is qualified and has the requisite character and fitness, and the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. Fees and costs. The following fees and costs must be paid by the applicant on submission of the application for a license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. Specific ongoing requirements. An applicant approved for a license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA.

H. Limitations. A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. Expiration. A license issued under this rule does not expire.

J. Suspension of license. A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. Revocation. A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to a limited privilege to practice law in New Mexico for law professors supervising clinical law students in a clinical law program and added language related to the reciprocal license method of licensure.

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. Public employee and public defender limited license method.

A. **Description.** As further specified in this rule, an applicant may apply for a limited license which permits that applicant to practice on behalf of government agencies or in the representation of public defender clients. Submission of a complete application by a qualified applicant will result in expedient issuance of a temporary limited license until the board completes its investigation at which time the applicant may be issued a limited license.

B. **Application deadline.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for a license under this rule shall provide proof that the applicant:

- (1) meets the qualifications set forth in Rule 15-202 NMRA;
- (2) is actively licensed to practice law in at least one other state without condition, restriction, or limitation;
- (3) is in good standing in all states in which applicant has ever been licensed to practice law;
- (4) has passed the examination of professional responsibility and legal ethics described in Rule 15-503 NMRA; and
- (5) is employed by a government entity or by either a firm or organization that has been awarded a contract to represent public defender clients, by providing a certificate from the applicant's supervisor confirming the applicant has been so

employed, and committing to notify the board and the Supreme Court when the applicant is no longer employed by the government entity, firm, or organization.

D. Character and fitness. The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for a license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. Procedure for issuance. Within ten (10) business days of the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees, and (c) documents described in Subparagraphs (C)(1) and (C)(2), above, the board shall provide the applicant's name to the Supreme Court for issuance of a temporary limited license;

(1) The Clerk of the Supreme Court shall then promptly issue a temporary limited license to the applicant;

(2) The board shall then complete an investigation and make a determination of the applicant's character and fitness; and

(3) on the board's determination the applicant is qualified and has the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. Fees and costs. The following fees and costs must be paid by the applicant on submission of the application for a license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board.

G. Specific ongoing requirements. An applicant approved for a temporary limited license or limited license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA, and additionally, the attorney shall inform the board immediately of change of employment.

H. Limitations. A person practicing law under a license issued under this rule may only practice law as: (1) an employee of a governmental entity, or (2) as a private practice attorney exclusively employed in the exclusive representation of public defender clients.

I. Expiration.

(1) A license issued under this rule shall expire on the earlier of:

(a) the licensee's cessation of employment with the governmental entity, unless the licensee:

- (i) has already accepted employment with another government entity;
- (ii) notifies the board of the change in employment; and
- (iii) provides a new certificate as described in Subparagraph (C)(4) of this rule; or

(b) the licensee being issued a license to practice law under another method of licensure described in these rules.

(2) On expiration of the limited license, the board shall notify the Supreme Court that the limited license has expired, and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

(3) An attorney whose temporary limited license or limited license has expired, and who resides or maintains a residence within 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.

J. Suspension. A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a temporary limited license issued under this rule may be suspended by the Supreme Court for an indefinite period as follows:

(1) **Petition by board.** The board may file a petition, under Rule 15-404 NMRA, to suspend a temporary limited license which shows that the licensee has not qualified for the license, complied with board requirements for a character and fitness investigation, responded to requests for information, appeared for a scheduled hearing, or produced records or documents requested by the board. One or more affidavits shall be attached to the petition identifying the efforts undertaken by the board to obtain the licensee's cooperation and compliance, whether the licensee interposed objections to producing the records or documents, and whether objections interposed by the licensee appear to have been made in good faith. In addition to service requirements required for a petition, a copy of the petition shall be served on the licensee's employer. Any response filed by the licensee shall set forth facts showing that the licensee has complied with the board's requests or the reasons why the licensee has not complied.

(2) **Reinstatement.** The Supreme Court may summarily reinstate a temporary limited license suspended under the provisions of this paragraph, on the licensee's filing of a motion for reinstatement with the Supreme Court, which proves compliance with the

requirements of the board as alleged in the petition to suspend or as otherwise ordered by the Supreme Court. The licensee shall serve the motion on the board, and the board may file a response within five (5) business days of service. The licensee and the board may also submit an agreed motion to reinstate the licensee's temporary limited license.

(3) ***No pro hac vice admittance.*** A licensee suspended under this rule shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

K. **Revocation.** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a license issued under this rule may also be revoked by the Supreme Court as follows:

(1) ***Summary revocation on petition by board.*** The Clerk of the Supreme Court shall summarily revoke a license issued under this rule on filing of a petition by the board, under Rule 15-404 NMRA, which shows that the board has determined the licensee does not have the character and fitness to practice law in New Mexico. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(2) ***Other revocation.*** The Supreme Court may revoke a license issued under this rule on the board's filing of a petition, under Rule 15-404 NMRA, showing the attorney's violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(3) ***No appearances; no pro hac vice admission.*** Except as ordered by the Supreme Court, a licensee whose license has been revoked under this rule shall not appear in any court in this state as an attorney, and shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

[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; Rule 15-301.1 NMRA recompiled and amended as Rule 15-304 NMRA by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, former 15-301.1 NMRA was recompiled and amended as 15-304 NMRA, effective December 31, 2023.

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule.

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".

15-305. Qualified legal services provider limited license method.

A. **Description.** As further specified in this rule, an applicant may apply for a limited license which permits that applicant to practice on behalf of a qualified legal services provider. Submission of a complete application by a qualified applicant will result in expedient issuance of a temporary limited license until the board completes its investigation at which time the applicant may be issued a limited license.

B. Application deadline. An application for a license under this rule may be submitted at any time.

C. Qualifications. An applicant for a license under this rule shall provide proof that the applicant:

(1) meets the qualifications set forth in Rule 15-202 NMRA;

(2) is either:

(a) actively licensed to practice law in at least one other state without condition, restriction or limitation, and not involved in disciplinary proceedings in that state; or

(b) an inactive member of the State Bar of New Mexico or another state, and was not under disciplinary proceedings when inactive status was taken;

(3) is in good standing in all states in which the applicant has ever been licensed to practice law;

(4) has passed the examination of professional responsibility and legal ethics described in 15-503 NMRA; and

(5) has been employed (for compensation or otherwise) by a qualified legal services provider to represent legal services clients, by providing a letter from the legal services provider employing the applicant.

D. Character and fitness. The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for a license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. Procedure for issuance.

(1) Within ten (10) business days of the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees, and (c) documents described in Paragraph C, above, the board shall provide the applicant's name to the Supreme Court for issuance of a temporary limited license;

(2) The Clerk of the Supreme Court shall then promptly issue a temporary limited license to the applicant;

(3) The board shall then complete an investigation and make a determination of the applicant's character and fitness; and

(4) On the board's determination the applicant is qualified and has the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for a license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a temporary limited license or limited license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA, and additionally, the attorney shall inform the board immediately of change of employment.

H. **Limitations.** A person practicing law under a license issued under this rule may only practice law by representing legal services clients through a qualified legal services provider.

I. **Expiration.**

(1) A license issued under this rule shall expire on the earlier of:

(a) the licensee's cessation of employment with the qualified legal services provider, unless the licensee:

(i) has already accepted employment with another qualified legal services provider;

(ii) notifies the board of the change in employment; and

(iii) provides a new certificate as described in Subparagraph (C)(4) of this rule; or

(b) the licensee being issued a license to practice law under another method of licensure described in these rules.

(2) On expiration of the limited license, the board shall notify the Supreme Court that the limited license has expired, and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

(3) An attorney whose temporary limited license or limited license has expired, and who resides or maintains a residence within 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.

J. **Suspension.** A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a temporary limited license issued under this rule may be suspended by the Supreme Court for an indefinite period as follows:

(1) **Petition by board.** The board may file a petition, under Rule 15-404 NMRA, to suspend a temporary limited license which shows that the licensee has not qualified for the license, complied with board requirements for a character and fitness investigation, responded to requests for information, appeared for a scheduled hearing, or produced records or documents requested by the board. One or more affidavits shall be attached to the petition identifying the efforts undertaken by the board to obtain the licensee's cooperation and compliance, whether the licensee interposed objections to producing the records or documents, and whether objections interposed by the licensee appear to have been made in good faith. Any response filed by the licensee shall set forth facts showing that the licensee has complied with the board's requests or the reasons why the licensee has not complied.

(2) **Reinstatement.** The Supreme Court may summarily reinstate a temporary limited license suspended under the provisions of this paragraph, on the licensee's filing of a motion for reinstatement with the Supreme Court, which proves compliance with the requirements of the board as alleged in the petition to suspend or as otherwise ordered by the Supreme Court. The licensee shall serve the motion on the board, and the board may file a response within five (5) business days of service. The licensee and the board may also submit an agreed motion to reinstate the licensee's temporary limited license.

(3) **No pro hac vice admittance.** A licensee suspended under this rule shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

K. **Revocation.** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a license issued under this rule may also be revoked by the Supreme Court as follows:

(1) **Summary revocation on petition by board.** The Clerk of the Supreme Court shall summarily revoke a license issued under this rule on the filing of a petition by the board, under Rule 15-404 NMRA, which shows that the board has determined the licensee does not have the character and fitness to practice law in New Mexico. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(2) **Other revocation.** The Supreme Court may revoke a license issued under this rule on the board's filing of a petition, under Rule 15-404 NMRA, showing the attorney's violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(3) **No appearances; no pro hac vice admission.** Except as ordered by the Supreme Court, a licensee whose license has been revoked under this rule shall not appear in any court in this state as an attorney, and shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

[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; Rule 15-301.2 NMRA recompiled and amended as Rule 15-305 NMRA by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

Committee commentary. — Emeritus attorneys should be aware of additional licensure options available as described in Rule 24-111 NMRA.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, former 15-301.2 NMRA was recompiled and amended as 15-305 NMRA, effective December 31, 2023.

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, and added the committee commentary.

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".

15-306. Military spouse attorney limited license method.

A. **Description.** As further specified in this rule, an applicant may apply for a limited license which permits a military spouse attorney to practice law in New Mexico. Submission of a complete application by a qualified applicant will result in expedient issuance of a temporary limited license until the board completes its investigation at which time the applicant may be issued a limited license.

B. **Application deadline.** An application for a license under this rule may be submitted at any time.

C. Qualifications. An applicant for a license under this rule shall provide proof that the applicant:

(1) meets the qualifications set forth in Rule 15-202 NMRA, except the requirements of Rule 15-202(A)(2)(b) NMRA and Rule 15-203(D)(3)(b) NMRA, if applicable, are modified to require that the applicant show admission to the practice of law in one or more other states for at least two (2) of the four (4) years immediately preceding submission of an application under these rules;

(2) is either:

(a) actively licensed to practice law in at least one other state without condition, restriction or limitation, and not involved in disciplinary proceedings in any state; or

(b) an inactive member of the State Bar of New Mexico or another state, and was not under disciplinary proceedings when inactive status was taken;

(3) is in good standing in all states in which applicant has ever been licensed to practice law;

(4) has passed the examination of professional responsibility and legal ethics described in Rule 15-503 NMRA;

(5) is the spouse of an active duty service member currently stationed within the State of New Mexico, or to be stationed within the State of New Mexico within the next six (6) months; and

(6) either:

(a) currently resides in the State of New Mexico; or

(b) intends to reside in the State of New Mexico within the next six (6) months by providing a certificate to that effect signed by the applicant.

D. Character and fitness. The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. Procedure for issuance.

(1) Within ten (10) business days of the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees, and (c) documents described in Subparagraphs (C)(1) and (C)(2), above, the board shall

provide the applicant's name to the Supreme Court for issuance of a temporary limited license;

(2) The Clerk of the Supreme Court shall then promptly issue a temporary limited license to the applicant;

(3) The board shall then complete an investigation and make a determination of the applicant's character and fitness; and

(4) If the board determines the applicant is qualified and has the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. Fees and costs. The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. Specific ongoing requirements. An applicant approved for a temporary limited license or limited license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA, and:

(1) shall inform the board immediately on an expiration event described in Paragraph I;

(2) within one (1) year of receiving a license under this rule, shall complete a trust accounting class to comply with Rule 17-204 NMRA of the New Mexico Rules Governing Discipline, unless the licensee demonstrates the exemption under Rule 17-204(E) NMRA applies; and

(3) within one hundred twenty (120) days of receiving a license under this rule, the licensee shall certify to the board the licensee or licensee's employer is in compliance with, or exempt from, the succession planning requirements of Rule 16-119 NMRA of the New Mexico Rules of Professional Conduct.

H. Limitations. A person practicing law under a license issued under this rule may only practice law in New Mexico as a military spouse attorney.

I. Expiration.

(1) A license issued under this rule shall expire:

(a) one hundred eighty (180) days after the earliest occurrence of any of the following events:

- (i) the licensee ceases to be a dependent;
- (ii) 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 licensee may continue to practice under the provisions of this rule until the service member is assigned to a location with dependents authorized;
- (iii) the licensee permanently relocates to another jurisdiction for reasons other than the service member's permanent transfer outside the jurisdiction; or
- (iv) the licensee requests termination of the license; or

(b) on the licensee being issued a license to practice law under another method of licensure described in these rules, in which event the licensee shall notify the board.

(2) If any event listed in Subparagraph (I)(1)(a) occurs, the licensee shall notify, in writing, the board, clients, and courts in which the licensee has entered an appearance of the event 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) On expiration of a license under this rule, a licensee 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.

(4) On expiration of a license under this rule, the board shall notify the Clerk of the Supreme Court that the limited license has expired, and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

J. Suspension. A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a temporary limited license issued under this rule may be suspended by the Supreme Court for an indefinite period as follows:

(1) ***Petition by board.*** The board may file a petition, under Rule 15-404 NMRA, to suspend a temporary limited license which shows that the licensee has not qualified for the license, complied with board requirements for a character and fitness investigation, responded to requests for information, appeared for a scheduled hearing,

or produced records or documents requested by the board. One or more affidavits shall be attached to the petition identifying the efforts undertaken by the board to obtain the licensee's cooperation and compliance, whether the licensee interposed objections to producing the records or documents, and whether objections interposed by the licensee appear to have been made in good faith. In addition to other service requirements required for a petition, a copy of the petition shall be served on the licensee's employer. Any response filed by the licensee shall set forth facts showing that the licensee has complied with the board's requests or the reasons why the licensee has not complied.

(2) **Reinstatement.** The Supreme Court may summarily reinstate a temporary limited license suspended under the provisions of this paragraph, on the licensee's filing of a motion for reinstatement with the Supreme Court, which proves compliance with the requirements of the board as alleged in the petition to suspend or as otherwise ordered by the Supreme Court. The licensee shall serve the motion on the board, and the board may file a response within five (5) business days of service. The licensee and the board may also submit an agreed motion to reinstate the licensee's temporary limited license.

(3) **No pro hac vice admittance.** A licensee suspended under this rule shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

K. **Revocation.** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a license issued under this rule may also be revoked by the Supreme Court as follows:

(1) **Summary revocation on petition by board.** The Clerk of the Supreme Court shall summarily revoke a license issued under this rule on the filing of a petition by the board, under Rule 15-404 NMRA, which shows that the board has determined the licensee does not have the character and fitness to practice law in New Mexico. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(2) **Other revocation.** The Supreme Court may revoke a license issued under this rule on the board's filing of a petition, under Rule 15-404 NMRA, showing the attorney's violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(3) **No appearances; no pro hac vice admission.** Except as ordered by the Supreme Court, a licensee whose license has been revoked under this rule shall not appear in any court in this state as an attorney and shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

[Adopted by Supreme Court Order No. 22-8300-013, effective October 1, 2022; Rule 15-301.3 NMRA recompiled and amended as Rule 15-306 NMRA by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, former 15-301.3 NMRA was recompiled and amended as 15-306 NMRA, effective December 31, 2023.

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule.

15-307. Law professor limited privilege to practice method.

A. **Description.** As further specified in this rule, a person not already licensed to practice law, or who is an inactive member of the State Bar of New Mexico, may be admitted to practice law in any New Mexico court or administrative tribunal, for the purpose of supervising clinical law students in a clinical law program of the University of New Mexico School of Law, under this method of licensure.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for a license under this rule shall provide:

(1) proof that the applicant is 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 approved by the dean of the law school;

(2) proof that the applicant is admitted by examination to the bar of another state;

(3) certificates of good standing;

(4) written certification that the applicant will neither seek for nor accept compensation or remuneration of any kind for legal services rendered by the law professor under this rule, other than salary as a law professor; and

(5) written certification as described in Rule 15-202(A)(5) NMRA.

D. **Character and fitness.** The board will not make a determination about the character and fitness of an applicant for this method of licensure unless otherwise ordered by the Supreme Court. If the Supreme Court orders a character and fitness

evaluation for an applicant for this method of licensure, then the applicant shall pay any fees and costs associated with that evaluation.

E. Procedure for issuance. On the board's receipt from an applicant of (a) a completed application for a license under this rule, and (b) documents required by Paragraph C, the board shall determine if the applicant is qualified;

(1) if qualified, the board shall provide the applicant's name to the Supreme Court for issuance of a limited license, and

(2) the Clerk of the Supreme Court shall then promptly issue a temporary limited license to the applicant.

F. Fees and costs. No fees or costs apply to this method of licensure, except for annual disciplinary fees assessed under Rule 17-203(A) NMRA.

G. Specific ongoing requirements. An applicant approved for a limited license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA, and additionally, the applicant shall:

(1) submit a new certification described in Subparagraph (C)(1), above, before the start of each academic year, and

(2) inform the board immediately of cessation of employment that complies with Subparagraph (C)(1), above.

H. Limitations. A person practicing law under this method of licensure may neither ask for, nor receive, any compensation or remuneration of any kind for legal services rendered in New Mexico, other than the salary received as a law professor, and may only practice law to the extent necessary to supervise clinical law students in a clinical law program at the University of New Mexico School of Law.

I. Expiration. A license issued under this rule expires (1) on cessation of employment described in Subparagraph (C)(1), above, or (2) at the conclusion of each academic year unless a new certification described in Subparagraph (C)(1) is submitted to the board before the start of the next academic year.

J. Suspension of license. A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. Revocation. A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-308. In-house counsel limited license method.

A. **Description.** As further specified in this rule, an applicant may apply for a limited license permitting that applicant to practice law as in-house counsel in New Mexico under this method of licensure.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time. Any attorney practicing as in-house counsel without a license to practice law shall have one year from the date this rule is effective to file an application with the board.

C. **Qualifications.** An applicant for a license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and has received passing scores on all examinations described in Rule 15-501(A) NMRA. In addition, the applicant must:

- (1) have been admitted to practice law in at least one (1) state and be currently an active member in good standing in that state;
- (2) be employed by a corporation, company, partnership, association, or other non-governmental business entity with a place of business in New Mexico;
- (3) submit a certificate from an officer, director, or the general counsel of the applicant's employer verifying the applicant is presently and exclusively employed as in-house counsel for that employer;
- (4) have never been denied a license to practice law in any state based on the applicant's character and fitness;
- (5) have not, within the five (5) years preceding application under this rule, taken and failed the examination of the minimum competence to practice law in New Mexico, as described in Article 5 of these rules;
- (6) not be, nor have ever been, admitted to the practice of law in New Mexico, unless the applicant had voluntarily withdrawn or resigned from membership in the State Bar of New Mexico while in good standing;
- (7) have not been previously denied licensure in any state;
- (8) have not previously engaged in the unauthorized practice of law in any state;

(9) at the time of submitting the application have never been disbarred or suspended from the practice of law in another state; and

(10) establish that if the applicant resigned or voluntarily withdrew from the practice of law in another state, that when the resignation or withdrawal occurred, the applicant was in good standing in that state.

D. Character and fitness. The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for a license under this rule. An applicant shall pay any fees and costs associated with evaluating the applicant's character and fitness.

E. Procedure for issuance. On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph C, then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA, and

(2) on the board's determination the applicant has the requisite character and fitness and meets the qualifications, the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant, and the applicant shall comply with the requirements of Rule 15-207(B) NMRA.

F. Fees and costs. The following fees and costs must be paid by the applicant on submission of the application for a license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court, and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. Specific ongoing requirements. An applicant approved for a license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA, and shall annually submit a certificate described in Subparagraph (C)(3), above.

H. Limitations.

(1) A person practicing law under a license issued under this rule may only:

(a) provide advice or legal services exclusively to the employer named in the application submitted for this method of licensure;

(b) provide legal advice to the directors, officers, employees, and agents of the business organization with respect to the employer's business affairs;

(c) negotiate and document matters for the business organization;

(d) represent the employer in its dealings with any New Mexico court, administrative agency or commission; and

(e) provide pro bono legal services in New Mexico under the auspices of organized legal aid societies, Supreme Court, or bar association projects, or under the supervision of an attorney licensed to practice law in New Mexico who is also working on the pro bono representation.

(2) A person practicing law under a license issued under this rule may not:

(a) represent or give advice to any shareholder, owner, partner, officer, employee, or other agent with respect to any personal matter or transaction;

(b) offer legal services or advice to any third party having dealings with the attorney's employer; or

(c) offer legal services or advice to the public.

I. Expiration.

(1) A license issued under this rule shall expire on the earlier of:

(a) the licensee's cessation of employment with the employer identified in the application, unless the licensee has:

(i) been issued a license to practice law under another method of licensure described in these rules;

(ii) already accepted employment with a qualified business; and

(iii) notified the board of the change in employment; or

(b) the licensee being issued a license to practice law under another method of licensure described in these rules.

(2) On expiration of a license issued under this rule, the board shall notify the Supreme Court that the in-house counsel license has expired and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

(3) An attorney whose in-house counsel license has expired, and who resides or maintains a residence within 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.

J. **Suspension.** A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

Committee commentary. — See Rule 16-505 NMRA regarding the unauthorized practice of law.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-309. Reinstated license method.

A. **Description.** As further specified in this rule, a person who was previously admitted to practice law in New Mexico on a non-limited license may apply for admission under this method of licensure if the applicant (1) withdrew from the practice of law before January 1, 2017, (2) transferred to inactive status under Rule 24-102.2(E) NMRA and has remained inactive for a period of two (2) years or more, (3) was suspended from the practice of law under Rule 24-102 NMRA and is required to submit an application to the board under Rule 24-102(F) NMRA, or (4) was ordered by the Supreme Court to reapply for licensure through the board.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for a license under this rule shall submit an application for this method of licensure as prescribed by the board, and shall prove the applicant:

- (1) meets the qualifications set forth in Rule 15-202 NMRA;
- (2) satisfies all applicable requirements for an active status attorney in New Mexico;
- (3) has the requisite character and fitness to practice law in New Mexico; and
- (4) if referred to the board under Rule 24-102(F)(2) NMRA:

- (a) has remedied all deficiencies that led to the suspension;
- (b) is current on dues owed to the State Bar of New Mexico;
- (c) has satisfied all mandatory continuing legal education credits required under Rules 18-101 to -303 NMRA;
- (d) has complied with any other requirements imposed by the Supreme Court, including, but not limited to, enrollment in and attendance of specific continuing legal education classes or bar review courses; and
- (e) has paid the fee described in Rule 24-102(F)(1) NMRA.

D. Character and fitness. The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for a license under this rule. An applicant shall pay any fees and costs associated with evaluating the applicant's character and fitness.

E. Procedure for issuance. On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph C, then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA; and

(2) on the board's determination that the applicant has the requisite character and fitness, is qualified, and has complied with any requirements for that applicant set by the Supreme Court, the board shall recommend to the Supreme Court that the applicant be reinstated, and the Clerk of the Supreme Court shall summarily issue the applicant a certificate of reinstatement to active status unless otherwise ordered by the Supreme Court.

F. Fees and costs. The following fees and costs must be paid by the applicant on submission of the application for a license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Supreme Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. Specific ongoing requirements. An applicant approved for a license under this rule shall comply with the requirements of Rule 15-206 NMRA and Rule 15-207 NMRA.

H. **Limitations.** A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. **Expiration.** A license issued under this rule does not expire.

J. **Suspension of license.** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

Committee commentary. — This rule only permits reinstatement in the specified instances. An attorney suspended under the Rules Governing Discipline, Rules 17-101 to -316 NMRA, must seek reinstatement as described in those rules. An attorney who withdrew from the State Bar of New Mexico on or after December 31, 2016, must apply for admission under another method of licensure. See Rule 24-102.2(G) NMRA.

An attorney suspended under Rule 24-102 NMRA is not required to submit an application to the board if it is that attorney's first suspension under that rule. See Rule 24-102(F)(2).

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ARTICLE 4

Investigations, Interviews, Hearings, and Appeals

15-401. Investigations.

A. **Purpose.** The board is required to conduct an investigation and otherwise inquire into and determine the character, fitness, and general qualifications of every applicant for admission.

B. **Method.** The board or its agents may obtain investigative reports, gather information regarding, and conduct investigations for, information relating to the character, fitness, and general qualifications of an applicant. Investigations and inquiries shall be informal, but shall be thorough, with the object of ascertaining the truth.

[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; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the composition of the Board of Bar Examiners and added language related to the Board of Bar Examiners' duty to investigate the general qualifications of each applicant for licensure to the bar of New Mexico.

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. Interviews.

A. **Purpose.** An interview panel may interview an applicant to assist the board in reviewing the application, making a determination about an applicant's qualifications (including character and fitness), and evaluating any items for which there are discrepancies or inadequate information.

B. **Interview panel.** The board chair, or its designee, may form an interview panel consisting of the board, a bar examiner, or a committee of the board. An interview panel may consist of one or more persons.

C. **Notice of interview.** If the board requires an interview of an applicant, it shall give notice to the applicant at least thirty (30) days in advance of the proposed interview date, or any shorter period of time as may be agreed by the board and the applicant, with copies of the notice sent to the interview panel. The notice shall:

- (1) describe the subject matter of the interview;
- (2) give the date, time, place, and method of the interview;
- (3) inform the applicant of the applicant's duty to cooperate, and to appear and participate in the interview;
- (4) inform the applicant that the interview is confidential with no observers permitted, although the applicant may elect to have counsel present during the interview; and

(5) inform the applicant that the interview panel is obligated to reach its decision based on the information it receives and that the applicant bears the burden of proof.

D. Format. An interview is not a “hearing” as described in these rules, and is generally in the format of a collaborative discussion between the interview panel and the applicant, so that the panel may obtain a full understanding of the issues identified as the subject matter of the interview, and any other items concerning the applicant’s application for which the interview panel desires additional information or explanation. An interview is confidential with no other participants permitted, although an applicant may have counsel present to observe the interview. An interview may be recorded by the board. Information gathered at an interview, and the board’s recording of an interview, shall be admissible at a hearing described in these rules. An applicant’s truthfulness, candor, and responsiveness during an interview shall be considered relevant to the applicant’s qualifications.

E. Duty to cooperate. An applicant has a duty to appear for interviews noticed by the board. The board may summarily deny admission to an applicant who fails to appear for an interview without good cause.

F. Interview reports. After an interview, the interview panel shall make a confidential written report to the board that:

(1) it recommends the applicant appears to be qualified for admission without further board action;

(2) it needs additional information, interview, action from the applicant, or combination thereof, before it can make a recommendation on the applicant’s qualifications for admission;

(3) it recommends the applicant appears to be qualified for conditional admission, and identify the reasons together with the proposed conditions for admittance; or

(4) it recommends that the applicant should appear for a hearing.

G. Board action. After completion of an interview, the board shall inform the applicant of the outcome of the interview and the next steps for the application process.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the qualifications of the members of the Board of Bar Examiners and added language related to interviews of applicants for licensure to the bar of New Mexico to assist the Board of Bar Examiners in making a determination about an applicant's qualifications.

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. Hearings.

A. **Purpose.** A hearing panel may hold a hearing to enable it to make recommendations about an applicant's qualifications, including character and fitness, and as specified in these rules. Hearings limited to requests for accommodations are addressed in Paragraph H.

B. **Hearing panel.** The board chair, or its designee, may form a hearing panel consisting of at least three persons, at least one of whom must be a bar examiner. The board chair shall designate one member of the hearing panel to serve as the presiding hearing officer.

C. **Notice of hearing.** If the board requires a hearing for an applicant, it shall give notice to the applicant at least thirty (30) days in advance of the proposed hearing date, or any shorter period of time as may be agreed by the board and the applicant, with copies of the notice sent to the hearing panel. The notice shall:

- (1) describe the subject matter of the hearing, including the items with which the board is concerned and which may lead to denial of a license to practice law;
- (2) give the date, time, place, and method of the hearing;
- (3) inform the applicant of the applicant's duty to cooperate, and to appear and participate in the hearing;
- (4) inform the applicant that the hearing is confidential with no observers permitted, but the applicant may elect to have legal counsel for the hearing; and

(5) inform the applicant that the hearing panel is obligated to reach a decision based on the information presented in the hearing and that the applicant bears the burden of proof.

D. **Representation.** The board and applicant may be represented by counsel at the hearing and in any pre- or post-hearing proceedings.

E. **Subpoenas; oaths.** The hearing panel shall have subpoena power to compel live or deposition testimony of witnesses, and the production of books, papers, and documents. The board or applicant may present a subpoena to the presiding hearing officer for issuance. The party requesting the subpoena shall be responsible for serving the subpoena. Any member of the board may administer oaths and affirmations related to the hearing.

F. **Hearing procedure and evidence.** The following procedures shall apply in a hearing held under these rules.

(1) **Burden of proof.** The applicant bears the burden of proof on the applicant's qualifications for a license to practice law, and shall put forth evidence of the applicant's qualifications so as to address the items listed in the notice of hearing.

(2) **Conduct of hearing.** The parties or their counsel may make opening arguments, present relevant evidence and witness testimony, cross-examine adverse witnesses, and make closing arguments. The hearing panel may request the parties submit proposed findings of fact and conclusions in advance of, or at the conclusion of, the hearing.

(3) **Exclusion of evidence.** Strict adherence to the Rules of Evidence is not required; however, irrelevant, immaterial, unduly repetitious and unduly prejudicial evidence shall be excluded.

(4) **Judicial notice.** Official notice may be taken of all facts of which judicial notice may be taken under the Rules of Evidence.

(5) **Evidentiary rulings.** Rulings on evidence shall be made by the presiding officer.

(6) **Pre-hearing rulings.** Rulings on any pre-hearing motions shall be made by the presiding officer.

(7) **Exclusion of witnesses.** The hearing panel may exclude witnesses from the hearing at the request of either party.

(8) **Record.** A complete record of the hearing shall be made by a court reporter or court monitor.

G. Conclusion of hearing. After a hearing, the hearing panel shall issue findings of fact and conclusions in which it determines:

- (1) the applicant is qualified and recommends the applicant be issued a license;
- (2) the applicant is not qualified and recommends the applicant be denied a license;
- (3) the applicant is qualified, but recommends the applicant only be conditionally admitted, along with the proposed conditions for admittance; or
- (4) as otherwise appropriate for the matter being heard.

The board shall then act on the panel's recommendations.

H. Procedure for hearings on denial of request for accommodation. An applicant who is adversely affected by the board's denial or modification of a request for accommodation under Rule 15-501(D)(4) NMRA shall, within five (5) business days of receiving the board's denial or modification letter, request a hearing by submitting a written request for a hearing to the board. The board chair or designee shall serve as a hearing officer, and schedule and hold an expedited hearing on the request, providing notice to the applicant at least five (5) business days before the hearing, unless otherwise agreed. Within five (5) business days after conclusion of the hearing, the hearing officer shall prepare written findings of fact and conclusions on the request for accommodations and send notice of same to the applicant.

[As amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the terms of the members of the Board of Bar Examiners and added language related to hearings for certain applicants for licensure to the bar of New Mexico.

15-404. Appeals and petitions to the Supreme Court.

A. Scope of rule. This rule governs the procedure for appealing board determinations to the Supreme Court and for filing petitions described in these rules with the Supreme Court. This rule does not create a right of appeal except as specifically permitted in these rules. Filings and service under this rule shall be in conformance with Rule 12-307 NMRA, although no extensions of time shall be allowed for various methods of service, and service on the board shall be as contemplated in Rule 15-102(BB) NMRA.

B. Appeals, other than request for accommodation. An applicant may appeal from final orders, decisions, or actions of the board, only as specified in these rules.

(1) ***Initiating an appeal.*** An appeal from a final order, decision, or action of the board may be initiated by filing a petition with the Clerk of the Supreme Court within thirty (30) days of the date of item being appealed, in which the applicant must specify how the board erred. No docketing statement is required and no docket fee shall be paid, but a copy must be served on the board. On the board's receipt of the notice of appeal, it shall prepare and file with the Clerk of the Supreme Court the record on appeal (or agreed portion thereof), and promptly serve the applicant with notice of the filing. The record on appeal shall consist of the board's file about the applicant and transcripts or recordings of hearings, although the applicant and board may agree that only a limited portion of the record is required for the issues on appeal. After the record on appeal is filed, the applicant shall have thirty (30) days from the date the record is filed to file and serve a brief-in-chief conforming to Rule 12-318 NMRA. The brief-in-chief shall cite to the record for facts and documentation presented to the board which the applicant contends were overlooked or misapprehended by the board, and must contain a verified statement of applicant as to the truth and accuracy of the statements in the petition and brief-in-chief under penalty of perjury.

(2) ***Answer to appeal; reply not allowed.*** Within forty-five (45) days after the applicant files a brief-in-chief, the board shall file and serve an answer brief conforming with Rule 12-318 NMRA. No reply brief shall be filed.

(3) ***Review.*** The standard of review for appeals filed under this rule is whether the applicant has proven that the board's decision was arbitrary, capricious, or malicious based on the record before the board. The Supreme Court shall not consider evidence not in the record, and will not consider any diagnosis or disability not previously identified in the applicant's application, even if newly diagnosed or identified.

C. Appeal of accommodation denial. An applicant who remains adversely affected after receiving findings and conclusions from a hearing conducted pursuant to Rule 15-403(H) NMRA on an accommodation request may file a petition with the Clerk of the Supreme Court within five (5) business days of the date of the findings and conclusions, and serve a copy of the petition on the board. No docketing statement is required and no docket fee shall be paid. The board shall promptly file with the Clerk of the Supreme Court the record on appeal which shall consist of the board's file about the applicant's requested accommodation, and transcripts or recordings of hearings. Within five (5) days of the record being filed, the applicant shall file with the Supreme Court a brief that succinctly identifies how the record shows the facts and documentation presented to the board supports the applicant's requested accommodation, how the requested accommodation was reasonable, and contain verification by the applicant as to the truth and accuracy of the statements in the petition and brief-in-chief under penalty of perjury. The board shall file and serve a response within five (5) business days of the filing of the applicant's brief. No reply shall be filed.

D. Petitions by board. The board may file with the Supreme Court and serve, without a filing fee, a petition as specified in these rules, showing the items specified in the rule on which the petition is based. A person who is the subject of a petition may file and serve a response within fourteen (14) days after the petition is filed. No reply shall be allowed. The board or responding party may request a hearing by so stating in their filing.

E. Oral arguments; disposition. For any appeal or petition, the Supreme Court may summarily act on the papers filed, order additional briefing, refer the matter to the board for an evidentiary hearing or expedited evidentiary hearing under Rule 15-403 NMRA, set oral argument, or order hearing before the Supreme Court. Any oral argument shall be in accordance with the Rules of Appellate Procedure. If the board is ordered to conduct an evidentiary hearing under this rule, the board shall file its findings and conclusions with the Supreme Court within seven (7) days of the later of completion of the hearing or submission to the board of any information so identified during the hearing.

[As amended by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ANNOTATIONS

The 2023 amendment, approved by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023, completely rewrote the rule, deleted language related to the Board of Bar Examiners' authority to adopt rules of procedure and standards for grading forms and added language related to the procedure for appealing the Board of Bar Examiners' determinations.

15-405. Withdrawn.

ANNOTATIONS

Withdrawals. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, 15-405 NMRA, relating to preparation of questions, was withdrawn effective December 31, 2023. For provisions of former rule, see the 2023 NMRA on *NMOneSource.com*.

15-406. Withdrawn.

ANNOTATIONS

Withdrawals. — Pursuant to Supreme Court Order No. S-1-RCR-2023-00036, 15-406 NMRA, relating to regular and special meetings, was withdrawn effective December 31, 2023. For provisions of former rule, see the 2023 NMRA on *NMOneSource.com*.

ARTICLE 5

Examinations

15-501. Examinations.

A. **Necessity.** As further specified for each method of licensure, all applicants are required to pass, or demonstrate to the board's satisfaction they have passed, examinations that test an applicant's (1) minimum competence to practice law, and (2) understanding of and familiarity with the rules of professional conduct and legal ethics.

B. **Location; timing.** The board may designate places and times for examinations described in Article 5 of these rules as it determines will be most convenient for all parties concerned. Absent exigent circumstances, an applicant awaiting examination shall be notified of the time and place of the exam at least ten (10) days before the exam.

C. **Question preparation.** The board may use the services of examination writers and examination administrators for preparation of examinations, either by arranging for the drafting services of qualified persons, including law school professors, or by using the services of the NCBE or any other appropriate state or national agency. Except for NCBE materials, the board shall not permit use of any questions prepared by a 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 applicants with their exam preparation.

D. **ADA accommodations.** For examinations administered by the board, an applicant may submit to the board a written request for reasonable testing accommodations under the Americans with Disabilities Act, utilizing forms, policies, and procedures as the board may promulgate. Requests for testing accommodations must be reasonable, not unduly burdensome, consistent with the nature and purpose of the examination, and necessitated by the applicant's disability. The board may, in whole or in part, grant, modify, or deny a request for accommodations.

(1) **Timing of request for accommodations.** An applicant requesting testing accommodations must submit to the board a request for accommodations using forms prescribed by the board. An applicant's request for accommodations must be (a) in the manner described on the request form, and (b) submitted on or before the last application deadline for the examination for which the request for accommodations is being made.

(2) **Determination on request for accommodations.** The board, or its designee, shall determine whether a request for accommodation is complete, and shall reject an incomplete request for accommodations. The board, or its designee, will evaluate a complete, timely-submitted request for accommodations and shall notify the requesting applicant of its determination no later than twenty (20) days before the date of the examination for which the accommodations are requested.

(3) **Emergency request for accommodations.** An applicant whose injury or disability arose after the deadline may submit an emergency request for accommodations along with a statement and supporting documentation explaining why the request could not have been timely submitted. The board, or its designee, will evaluate a complete emergency request for accommodations as soon as is practicable after its submission, and will notify the requesting applicant as soon as it makes a determination. The board shall deny an emergency request for accommodations which is impractical or unreasonable within the time remaining before the examination begins. While an applicant may seek hearing and subsequently appeal a decision on an emergency request for accommodation, there may not be sufficient time to reasonably complete those processes before the examination.

(4) **Hearing and appeal of decision on request for accommodations.** An applicant aggrieved by a decision on a request for accommodation may seek a hearing and appeal as described in Rule 15-403(H) NMRA and Rule 15-404(C) NMRA.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-502. Examination of minimum competence to practice law.

A. **UBE.** The examination to test an applicant's minimum competence to practice law shall be the UBE. The UBE consists of six (6) MEE questions, two (2) MPT items, and the MBE, all administered during a single examination administered over two or more consecutive days. The examination may test any subject matter identified by the NCBE as areas of law that may be tested on the UBE. Questions on the examination will be unlabeled as to subject matter and are not limited to a single subject matter.

B. **Passing score.** For all applicants, the minimum passing score on the UBE shall be two hundred sixty (260).

C. **Timing.** All components of the UBE must be taken, and a passing score received, within the same examination period.

D. **Results.** Results of the examination of minimum competence to practice law shall be as described in Rule 15-505 NMRA.

E. **Weighting; scaling.** 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 NCBE 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.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-503. Examination of professional responsibility and legal ethics.

A. **MPRE.** The examination to test an applicant's understanding of and familiarity with the rules of professional conduct and legal ethics shall be the MPRE.

B. **Passing score.** For all applicants, the minimum passing score on the MPRE shall be a scaled score of eighty (80).

C. **Timing.** An applicant shall achieve a minimum passing score on the MPRE before being recommended for admission.

D. **Results.** Results of the examination to test an applicant's understanding of and familiarity with the rules of professional conduct and legal ethics shall be reported to the applicant and the board by the NCBE.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-504. Grading and scoring.

A. **Policies and graders.** Subject to the approval of the Supreme Court, the board may adopt grading policies and standards consistent with NCBE policies for grading of the various examinations administered by the NCBE, may delegate grading responsibility to the NCBE for any examination administered by the NCBE, or may adopt grading policies and standards, and appoint graders for examinations administered by the board.

B. **Nonidentity grading.** For examinations administered by the board, every applicant shall be assigned an examination number. Grading of examinations shall be 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 another person designated by the board, until all papers have been finally graded, all numerical or percentage grades for each applicant have been compiled, all examinations eligible for regrade have been regraded, and each applicant has been determined by examination number to have either passed or failed the bar examination. This information will not be provided to exam graders during the grading process.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-505. Results.

A. **Notification.** On completion of grading of exams administered and graded by the board, and approval by the Supreme Court, the board shall notify each applicant of the results of the applicant's examination and any other information as the board may deem 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 members of the public who are interested in standards for admission.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-506. Right to inspect.

A. **Test scores; inspection.** An applicant who did not receive a passing score on an examination may inspect the examination questions and answers only as described in this rule. An applicant who passes the examination shall have no right to inspect any portion of the exam or the applicant's answers. No inspection of questions or answers of an examination administered by the NCBE shall be allowed unless authorized by the NCBE. On the NCBE's authorization to release examination information, an applicant may inspect the examination by submitting the required fee to the board, but must do so no later than sixty (60) days after an applicant is notified of the examination results. Only the following portions of an examination may be inspected:

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

B. **Examination grading.** Before the publication of the results of the UBE, the board or its designee shall review and regrade as necessary the MEE and MPT answers for any applicant whose total UBE score is six (6) points below the minimum passing score. The total UBE score after the regrade shall be the final score for that applicant. Any applicant who has not received a passing score on the UBE, but otherwise is qualified for admission may, within thirty (30) days of being notified of the UBE examination results, make written request that the board review the mathematical accuracy of the scoring of the applicant's examination. The board or its designee shall promptly review the scoring and take any action necessitated by the review. The regrade shall be conducted by a different person than the original grader. Any actual cost for review of the mathematical accuracy of the scoring shall be paid by the applicant.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-507. No hearing on or appeal of grade.

The board will not conduct a hearing to review, and no petition or appeal to the Supreme Court may be filed regarding, grades an applicant receives on exams administered under this article.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

ARTICLE 6 Board of Bar Examiners

15-601. Composition and tenure.

A. **Composition.** The board shall be composed of twelve bar examiners. The Supreme Court shall appoint each bar examiner.

B. **Term.** To ensure continuity of policy and procedures, bar examiners shall serve in staggered terms of five (5) years each, with the bar examiners divided into five classes; classes I and II shall each consist of three bar examiners, and classes III, IV, and V shall each consist of two bar examiners. The term of board service for all classes shall commence on January 1st. While a bar examiner may be reappointed by the Supreme Court for an indefinite number of terms, the Supreme Court may require rotation of the bar examiners to bring new viewpoints and promote continuing interest in the board's work. A bar examiner may resign by notifying the board chair, who shall then inform the Supreme Court. If a bar examiner vacancy occurs mid-term, then the Supreme Court shall appoint a bar examiner to serve for the remainder of the unexpired term for the vacant seat.

C. **Officers.** The board shall nominate for the Supreme Court's approval a chair and a vice-chair from the bar examiners. The board shall select a secretary-treasurer, who need not be a bar examiner. The chair shall preside at all meetings of the board and shall be responsible for communicating with the Supreme Court on behalf of the board.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-602. Qualifications and duties of a bar examiner.

A. **Attorneys and judges.** A bar examiner shall be an attorney or judge, shall have active membership in the State Bar of New Mexico, and shall not have a conditional or

limited license to practice law in the state. A bar examiner shall have an affirmative interest in legal education and requirements for admission.

B. Duties. 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. A bar examiner shall be just and impartial in recommending admission.

C. Conflicts; avoid appearances of impropriety. 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 admission. A bar examiner shall not 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. A bar examiner shall disclose to the chair any matter before the board about an applicant when that bar examiner's participation could suggest an appearance of impropriety, and the bar examiner may then be excused from participation as the chair deems appropriate.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-603. Duties of the board.

The board shall:

- A. perform the tasks identified in Rule 15-201(B) NMRA;
- B. investigate the qualifications and moral character of applicants for admission or reinstatement;
- C. prepare, arrange for, and administer examinations for admission;
- D. recommend to the Supreme Court with respect to applicants for admission;
- E. recommend to the Supreme Court with respect to reinstatement or readmission of lawyers who have for any reason withdrawn from the bar;
- F. recommend to the Supreme Court with respect to suspension, revocation, or expiration of limited licenses to practice law;
- G. discuss with applicants the purposes, policies, and procedures of the admission process and examinations;

H. recommend to the Supreme Court modifications to the list of reciprocal states based on rule changes in New Mexico and the various states, and other relevant considerations in the Supreme Court's discretion;

I. administer these rules and adopt practices and procedures not inconsistent with these rules;

J. periodically perform, engage in, or contract with others for, thorough studies of examination results and admissions processes to determine effectiveness, identify defects, and suggest improvements in the admission process; and

K. review and consider proposals to amend or change the rules.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-604. Meetings, board action, and committees.

A. **Regular meetings.** The board shall set a regular meeting schedule, with at least two meetings per year, to conduct board business. The chair may set a schedule of additional regular meetings on whatever basis deemed necessary to ensure that the board's work is accomplished. The board shall evaluate the operation of these rules, or receive a report from a rules committee, on a timely basis as needed. In the absence of the chair, the vice-chair shall preside; in the absence of both, any other bar examiner may preside, or board staff may preside, provided that any board staff temporarily chairing the board may not vote and shall not count for establishing a quorum.

B. **Special meetings.** The chair, vice-chair, or any two bar examiners, may call a special meeting of the board by giving notice to each bar examiner five (5) days in advance of proposed special meeting of the board. A meeting may be held on shorter notice if all bar examiners waive notice in writing.

C. **Executive session.** The board may meet in executive session to discuss any matter deemed confidential in these rules, to review and make decisions regarding denial of or proposed conditions for admission, and for personnel matters concerning board staff.

D. **Quorum; voting; no proxy votes.** A quorum of the board consists of a majority of the bar examiners, including the chair. A quorum includes any bar examiner present in person, by telephone, by videoconference, or by other simultaneous electronic communication. Once a quorum is present at a meeting, the departure of any bar examiner shall not terminate the quorum. The board may meet and discuss matters without a quorum present. All bar examiners, including the chair, shall have one vote. Voting by proxy is not permitted. Board staff, guests, and liaisons may participate in meetings, but may not vote.

E. **Board action in lieu of meeting by unanimous consent.** The board may take action without holding a board meeting if all members unanimously consent or vote in writing to the proposed action. Board action by unanimous consent in lieu of meeting may occur by use of electronic communications.

F. **Committees.** The chair may appoint one or more committees or panels, as deemed necessary, and appoint bar examiners to serve on them. The members of a committee or panel may include other individuals with experience and expertise the chair determines would be helpful to its work. Each committee or panel shall have at least one bar examiner serving on it, who need not be the chair of the committee or panel.

G. **Immunity from civil suit.** Members of the board, members of hearing committees, board counsel, monitors or any other person acting on their behalf and staff shall be immune from suit as provided by statute or common law for all conduct in the course of their official duties. Immunity from suit shall also extend, as provided by statute or common law, to witnesses, for their communications with the board or its counsel.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-605. Per diem and compensation.

For attending board meetings, committee meetings, and hearings and attending to board business, bar examiners, panelists, and board committee appointees shall receive mileage and per diem at the same rate as provided in the Per Diem and Mileage Act, Sections 10 8 1 to 8 NMSA 1978, for non-salaried public officers attending meetings for public officials and employees of the State of New Mexico, and other compensation for service to the board as may be approved by the Supreme Court.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-606. Board finances.

A. **General fund.** The board shall deposit application fees and costs it receives into an account designated as the board's general fund. The general fund shall be disbursed by the board in carrying out its functions, duties, and powers.

B. **IOLTA Account.** The board shall deposit funds collected as a deposit against fees and costs under Rule 15-204(C) NMRA into an IOLTA account.

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

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

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-607. Administrative assistance.

The Supreme Court shall provide the board adequate administrative and clerical assistance. Subject to approval by the Supreme Court, the board shall hire an executive director; the board may hire other staff and engage contractors as it deems appropriate.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]

15-608. 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.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00036, effective December 31, 2023.]