

**FILED**

04/18/2018

Clerk of the  
Appellate Courts

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

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

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No. ADM2017-02083

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**ORDER**

On October 18, 2017, the Tennessee Board of Law Examiners (“TBLE”) filed a petition seeking to amend Tennessee Supreme Court Rule 7 by adopting the Uniform Bar Examination (“UBE”) for testing “the knowledge and skills that every lawyer should be able to demonstrate prior to becoming licensed to practice law.” The TBLE asserted that the UBE, which is prepared by the National Conference of Bar Examiners and has been adopted in 31 jurisdictions, will assist lawyers who have multi-jurisdictional or cross-border practices, assure uniformity while still using local attorneys to grade essay and practice tasks, and result in a high quality and reliable examination. The TBLE proposed that the UBE be adopted to begin with the February 2019 bar examination in Tennessee and that the Court consider adopting a “mandatory, post-admission law component” as part of the process.

In response to the petition, the Court received and reviewed responses from the Tennessee Bar Association, the Knoxville Bar Association, the Nashville School of Law, and dozens of interested lawyers and law students. The Court expresses its appreciation for all of the responses, which overwhelmingly favored adopting the UBE in Tennessee. After due consideration, the Court hereby amends the relevant provisions of Tennessee Supreme Court Rule 7 as set out in the attachment to this Order. The Amendments to this Rule shall be effective immediately. In addition, the Court will continue to consider whether to adopt a post-admission law component and the content of such a requirement.

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

IT IS SO ORDERED.

PER CURIAM

## **Rule 7. Licensing of Attorneys.**

### **ARTICLE I. ADMISSION TO THE BAR OF TENNESSEE**

#### **Sec. 1.02. License; Certificate of Eligibility Required.**

The Supreme Court shall grant a license evidencing admission to the bar of Tennessee only upon presentation of a Certificate of Eligibility issued by the Board pursuant to section 9.01 of this Rule. The applicant must comply with Tenn. Sup. Ct. R. 6 and obtain his or her license within two years of: (a) the date of the notice that the applicant successfully passed the bar examination; or (b) the date of the notice of the Board's approval of the application for admission under section 3.05 or Article V of this Rule. All bar examination scores and investigations are invalid upon the expiration of the applicable three-year period provided in section 4.07(~~b~~c) of this Rule, except as provided in section 3.05.

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

The Board shall issue a Certificate of Eligibility pursuant to section 9.01 of this Rule only upon its determination that the applicant:

- (a) is at least 18 years of age;
- (b) has satisfied the educational requirements for admission specified by this Rule;
- (c) has passed the examination or examinations required by this Rule, or is eligible for admission without examination in Tennessee as hereinafter provided in section 3.05 or Article V;
- (d) has demonstrated the reputation and character that in the opinion of the Board indicates no reasonable basis for substantial doubts that the applicant will adhere to the standards of conduct required of attorneys in this State; and
- (e) has evidenced a commitment to serve the administration of justice in this State.

#### **Sec. 1.04. Waiver of Examination.**

If an applicant who has been admitted to practice in another state in the United States, the District of Columbia, or U.S. Territories satisfies the other requirements for admission, and demonstrates competence to practice in Tennessee by meeting the criteria specified in this Rule, the Board may waive the requirement of passing ~~an the Tennessee bar examination~~ or providing a passing Uniform Bar Examination ("UBE") score as provided in Article V.

### **ARTICLE II. EDUCATIONAL REQUIREMENTS FOR ADMISSION**

#### **Sec. 2.01. Bachelor's Degree.**

(a) To be eligible to take the examination, ~~or to be eligible for licensing without examination pursuant to Article V,~~ an applicant, prior to taking the bar examination, must have received a Bachelor's Degree or higher from a college on the approved list of the Southern Association of Colleges and Secondary Schools, or the equivalent regional accrediting association, or any accreditation agency imposing at least substantially equivalent standards. As part of the bar examination application, an applicant shall provide evidence of the degree in the form required by the Board.

(b) An applicant seeking admission by transferred UBE score pursuant to section 3.05 or without examination pursuant to Article V must have received a Bachelor's Degree or higher from a college on the approved list of the Southern Association of Colleges and Secondary Schools, or the equivalent regional accrediting association, or any accreditation agency imposing at least substantially equivalent standards prior to taking his or her first bar examination. As part of the application for admission, an applicant shall provide evidence of the degree in the form required by the Board.

(bc) The Board in its discretion may waive the requirement of a degree from an accredited undergraduate school if the applicant has graduated with a Juris Doctor Degree (hereafter "J.D. Degree") from either: (1) a law school accredited by the American Bar Association (hereafter "ABA") or (2) a Tennessee law school approved by the Board pursuant to section 2.03 of this Rule.

#### **Sec. 2.02. Legal Education and Approval of Law Schools.**

(a) ~~To be eligible to take the examination or to be eligible for licensing without examination pursuant to Article V,~~ An applicant seeking admission by examination, by transferred UBE score or without examination must have completed a course of instruction in and graduated with a J.D. Degree from a ~~regularly organized~~ law school accredited by the ABA at the time of applicant's graduation, or a Tennessee law school approved by the Board pursuant to section 2.03 of this Rule at the time of the applicant's graduation.

(b) To be eligible to take the examination, an applicant must cause to be filed as part of the application a certificate from the dean or supervising authority of the school of law in which the applicant is enrolled or from which the applicant graduated, certifying that either the school is accredited by the ABA or the school is a Tennessee law school that has been approved by the Board under section 2.03 of this Rule and that:

(1) the applicant has completed all the requirements for graduation, or

(2) the applicant will have the number of credit hours required for graduation by the date of the bar examination.

If an applicant's certificate shows that the applicant has not yet graduated as in (b)(2) above, the applicant must cause to be filed a supplemental statement by the dean or other supervising authority showing completion of all requirements for graduation by the date of the examination.

(c) An applicant seeking admission by transferred UBE score pursuant to section 3.05 or without examination pursuant to Article V shall provide evidence of the J.D. Degree as referenced in section 2.02 in the form required by the Board.

(ed) Notwithstanding the provisions of sections 2.01 and 2.02 of this Rule, an attorney who received a legal education in the United States or U.S. Territories but is not eligible for admission by virtue of not having attended a law school accredited by the ABA or a Tennessee law school approved by the Board nevertheless may be considered for admission by examination or transferred UBE score provided the attorney satisfies the following requirements:

(1) The attorney holds a J.D. Degree, which is not based on study by correspondence or other than in-person attendance, from a law school approved by an authority similar to the Tennessee Board of Law Examiners in the jurisdiction where it exists and which requires the equivalent of a three-year course of study that is the substantial equivalent of the legal education provided by approved law schools located in Tennessee. The applicant shall bear the cost of the evaluation of his/her legal education, as determined by the Board, and the applicant shall not be eligible to sit for the bar examination until the applicant's legal education is approved by the Board; and

(2) The attorney has passed a bar examination equivalent to that required by Tennessee in the state in which the law school exists; and

(3) The attorney has been primarily engaged in the active practice of law, as defined in section 5.01(c) of this Rule, in one or more states or territories of the United States, or the District of Columbia, for ~~five-three~~ of the ~~seven-five~~ years immediately preceding the date upon which the application is filed; and

(4) In evaluating the education received the Board shall consider, but not be limited to, such factors as the similarity of the curriculum taken to that offered in law schools approved by the ABA and that the school at which the applicant's legal education was received has been examined and approved by other state bar associations examining the legal qualifications of non-ABA law school graduates; and

(5) The attorney meets all other requirements contained in the Rules of the Supreme Court of Tennessee pertaining to Admission of Persons to Practice Law.

(e) No correspondence course will be accepted by the Board as any part of an applicant's legal education to meet the requirements of this Rule. Distance, on-line or other instruction that is not in person will be accepted as part of a curriculum to the extent approved by the ABA for accredited law schools.

### **ARTICLE III. APPLICATION FOR ADMISSION BY EXAMINATION SCORE**

**Sec. 3.05. ~~Reserved.~~ Admission by Transferred Uniform Bar Examination Score**

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

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

(b) An applicant who has achieved a UBE scaled score equal to or greater than the score required to be achieved by Tennessee examination applicants that has expired pursuant to section 4.07(c) may apply for admission on transferred UBE score provided the attorney has been primarily engaged in the active practice of law, as defined in section 5.01(c) of this Rule, in one or more states or territories of the United States, or the District of Columbia, for three of the five years immediately preceding the date upon which the application is filed.

(c) An applicant for admission by transferred UBE score shall:

- (1) file an application for admission on transferred UBE score, including character investigation information, in the manner established by the Board, including submission of all required documents in the appropriate format;
- (2) submit a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted; and
- (3) pay the application fee as adopted pursuant to section 11.01 of this Rule.

## ARTICLE IV. THE EXAMINATION

### Sec. 4.02. The Structure of the Examination.

The Board, in its discretion, shall determine the format and the structure of the examination, and shall include essay questions, the National Conference of Bar Examiners Multistate Bar Examination, other multiple choice questions, the National Conference of Bar Examiners Multistate Professional Responsibility Examination and such other categories of tests as the Board may consider appropriate. The Board may in its discretion use questions prepared by the National Conference of Bar Examiners for the Multistate Essay Examination and Multistate Performance Test, shall test applicants by administering the UBE prepared by the National Conference of Bar Examiners which consists of six Multistate Essay Examination questions, two Multistate Performance Test questions, and the 200 multiple choice question Multistate Bar Examination. The Board may contract with the National Conference of Bar Examiners or others to provide test materials and to grade the same.

### Sec. 4.04. The Scope of the Examination.

The examination is not designed to test the applicant's knowledge of specific law school subjects. However, familiarity with the following areas of the law subjects tested on the UBE is essential and may include, but not be limited to: Business Associations, Civil Procedure, Conflicts of Law, Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Family Law, Real Property, Secured Transactions, Torts, and Trusts and Estates.

1. Constitutional law (United States and Tennessee);-
2. Criminal law (substantive and procedural);-
3. Contracts;-
4. Torts;-
5. Property (real and personal);-
6. Evidence;-
7. Civil procedure (United States and Tennessee);-
8. Business organizations (including agency, partnerships and corporations);-
9. Commercial transactions (Articles 1, 2, and 9 of the Uniform Commercial Code);-
10. Wills and estates;-

~~11. Family law (husband and wife, parent and child, marriage and divorce, etc.);~~

~~12. Professional responsibility;~~

~~13. Restitution and remedies; and~~

~~14. Conflicts of law.~~

#### **Sec. 4.07. Grading the Examination and Score Expiration.**

(a) The Board shall continue to maintain procedures which assure that the identity of each applicant in the grading process is not known to any person having responsibility for grading or determining whether the applicant passes or fails until the grades of all applicants have been finally determined.

(b) The minimum bar examination score required for a successful examination will be adopted as a statement of policy and approved by the Supreme Court pursuant to section 12.05 of this Rule.

(c) Tennessee Bar examination scores earned in Tennessee, whether the former Tennessee bar examination or the UBE, are valid to determine eligibility for licensing for ~~two~~three years after the date grades are released; after ~~two~~three years, the scores expire. A UBE score transferred to Tennessee is valid for three years from the date grades were released in Tennessee for the exam administration for which the score was earned.

(d) In order for an applicant by examination or transferred UBE score to be determined eligible for licensing pursuant to section 9.01, a score equal to or greater than that required by Tennessee on the Multistate Professional Responsibility Examination (MPRE) must be achieved within two years of successfully completing the Tennessee bar examination or transferred UBE score; provided, however, that an applicant who:

(1) is licensed by examination in another state in the United States, the District of Columbia, or U.S. Territories,

(2) provides certification that the license is active and in good standing, and

(3) achieved a score equal to or greater than the score required by Tennessee on the MPRE two (2) or more years before successful completion of the Tennessee bar examination

may provide proof of that earlier score to satisfy the MPRE requirement. It is the responsibility of the applicant to cause MPRE score reports to be furnished to the Board. The minimum MPRE score will be adopted as a statement of policy and approved by the Supreme Court pursuant to section 12.05 of this Rule.

**ARTICLE V. PERSONS ADMITTED IN OTHER JURISDICTIONS SEEKING WAIVER OF EXAMINATION**

**Sec. 5.01. Minimum Requirements for Admission of Persons Admitted in Other Jurisdictions.**

(a) **Requirements.** An applicant who meets the requirements of (1) through (6) of this paragraph may, upon motion, be admitted to the practice of law in this jurisdiction. The applicant shall:

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

(b) **Diploma Privilege.** An applicant who was admitted and licensed to practice in another state pursuant to a “diploma privilege,” which exempts an applicant from taking a bar examination, may seek a waiver of subsection (a)(1) by filing a petition with the Board setting forth the reasons why he or she should be admitted to practice law in Tennessee. The Board shall then conduct a hearing in response to the petition, according to the guidelines set forth in section 13.03 of this Rule, for the purpose of assessing the applicant’s reputation, character, knowledge, skills and abilities. After considering the totality of the proof presented, the Board shall make a recommendation to the Supreme Court either for approval or denial of the petition or for such other action as the Board may deem appropriate. Any applicant whose petition for waiver of subsection (a)(1) is denied by the Board may file a petition for review in the Supreme Court pursuant to the procedures set forth in Article XIV.

(c) **Active Practice of Law.**

- (1) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in section 1.01 of this Rule, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:



- (A) full-time private or public practice as a licensed attorney;
- (B) teaching law full-time at a law school approved by the ABA;
- (C) service as a judicial law clerk or staff attorney; and
- (D) service as a Judge, Attorney General, Public Defender, U.S. Attorney, District Attorney, or duly registered In-House Counsel or Military Spouse.

(2) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in section 1.01 of this Rule, the “active practice of law” may be construed in the Board’s discretion as being actively engaged in other full-time employment requiring interpretation of law and application of legal knowledge if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed pursuant to a provision similar to section 10.04 or section 5.01(g) of this Rule in advance of bar admission in a state or territory of the United States or the District of Columbia be accepted toward the durational requirement. The Board shall consider such evaluative criteria as time devoted to legal work, the nature of the work, whether legal training or a law license was a prerequisite of employment, and other similar matters.

(3) For work to meet the requirement of “active practice of law,” the lawyer must have been licensed, in active status and in good standing in at least one jurisdiction at the time the work was performed, unless the work was performed pursuant to paragraph(c)(1)(B).

**(d) Unauthorized Practice of Law.** For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

**(e) Previous Tennessee Bar Examination.** An applicant who has failed a bar examination administered in this jurisdiction within five years of the date of filing an application under this Rule shall not be eligible for admission on motion.

**(f) Admission on Motion Application and Fees.** Any applicant seeking admission on motion to the practice of law in Tennessee shall:

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

(2) submit a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted; and

(3) pay the application fee as adopted pursuant to section 11.01 of this Rule.

**(g) Practice Pending Admission by Applicant Licensed in Another Jurisdiction.** A lawyer currently holding an active license to practice law in another state in the United States, the District of Columbia, or U.S. Territories and who has submitted an application for admission upon motion in compliance with ~~this~~ section 5.01 of this Rule, an application for admission on transferred UBE score in compliance with section 3.05, or application for temporary license in compliance with section 10.06, or an application for examination in compliance with section 3.03 of this Rule may provide legal services in this jurisdiction through an office or other systematic and continuous presence during the pendency of the application for admission on motion but for no more than 365 days, provided that the lawyer:

- (1) is not disbarred or suspended from practice in any jurisdiction;
- (2) has not been denied admission to practice in any jurisdiction, including Tennessee, unless the Board determines otherwise;
- (3) reasonably expects his/her application for admission to be granted;
- (4) notifies the Board of Professional Responsibility in writing within 30 days of first establishing an office or other systematic and continuous presence for the practice of law in this jurisdiction that the lawyer has done so pursuant to the authority in this section 5.01;
- (5) associates with a lawyer who is admitted to practice ~~licensed~~ and in good standing in Tennessee;
- (6) complies with Tenn. Sup. Ct. R. 8, RPC 7.1 and RPC 7.5 in all communications with the public and clients regarding the nature and scope of the lawyer's practice authority in Tennessee;
- (7) pays the fee associated with the Application to Practice Pending Admission;
- (8) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission unless the lawyer is granted such admission;
- (9) has never before practiced in Tennessee pursuant to this provision, unless the Board determines otherwise; and
- (10) notifies the Board of Professional Responsibility and the Board if the lawyer becomes the subject of a pending disciplinary investigation in any other jurisdiction at any time during the period of practice authorized under this provision.

Notwithstanding the provisions of section 12.11, the Board may disclose that an applicant is authorized to practice pursuant to this section and when such authorization terminated.

(h) **Termination of Right of Practice Pending Admission.** The right to practice pending admission established by section 5.01(g) terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law; or if the lawyer fails to timely provide the written notice required by section 5.01(g)(4). Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within 10 days, shall:

(1) cease to occupy an office or other systematic and continuous presence for the practice of law in Tennessee unless authorized to do so pursuant to another Rule;

(2) notify all clients being represented in pending matters, and opposing counsel or co-counsel, of the termination of the lawyer's authority to practice pursuant to section 5.01 of this Rule; and

(3) take all other necessary steps to protect the interests of the lawyer's clients.

~~(i) **Transitional Provision.** From January 1, 2016, and continuing through December 31, 2016, the Board is authorized to exercise its discretion in adjudicating pending applications for comity admission that have not been finally ruled upon as of the effective date (January 1, 2016) of this revised Rule. Such discretion includes waiving or altering time periods or otherwise varying the provisions for admission by comity, and the Board shall tailor such discretion toward granting the applicant's application for comity admission as long as the Board otherwise reaches the conclusion that the lawyer possesses the character and fitness to practice law in this jurisdiction. [Expired.]~~

**Sec. 5.02. Additional Considerations.** In determining whether such applicants satisfy the requirements of section 5.01 of this Rule, the Board shall consider any evidence submitted by the applicant in an effort to demonstrate that the applicant possesses the knowledge, skill and abilities basic to competence in the profession.

## **ARTICLE VI. CHARACTER AND FITNESS INVESTIGATION**

### **Sec. 6.01. Applicable Standard.**

(a) An applicant shall not be admitted if in the judgment of the Board there is reasonable doubt as to that applicant's honesty, respect for the rights of others, and adherence to and obedience to the Constitution and laws of Tennessee and the United States as to justify the conclusion that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline if engaged in by an

attorney in this State shall be considered by the Board in making its evaluation of the character of an applicant.

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

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

(a) In order to assist the Board in conducting character investigations of applicants, the Supreme Court shall appoint one or more investigating committees within each disciplinary district established under Rule 9. Each committee shall consist of not less than five (5) nor more than thirty (30) members of the Bar of this State who maintain an office for the practice of law within that district and who are in good standing; provided, however, that the District 5 committee may have up to sixty (60) members. Attorneys who teach in any capacity in any of the State's ABA accredited or state-approved law schools are ineligible to serve as members of the Investigatory Committees. The Board may recommend to the Court the creation of additional committees or the increase in membership of any committee.

(b) The members of each investigating committee shall be appointed from time to time by the Supreme Court and shall serve at the pleasure of the Court for terms of up to five (5) years. Members may be reappointed to serve a second five-year term. Members of an investigating committee may be recommended by the President or Board of Directors of the local bar association or associations in the district, the President or Board of Governors of the Tennessee Bar Association, members of the Board, or members of the investigatory committee in the district in which the vacancy exists.

(c) The Supreme Court shall select each committee chair. The chair shall be responsible for the administration of the work of the committee.

(d) The Executive Director shall provide an annual report to the Supreme Court in June listing the names of the members of each committee and the names of each committee chair, as well as a report of recommendations from the Board regarding the size of any committee.

#### **Sec. 6.03. Investigating Procedures.**

(a) Each application for admission with examination or without examination shall be referred first to a member of the Board for preliminary review for the purpose of:

- (1) detecting any deficiencies in the application; and
- (2) determining whether any additional information is needed with respect to any aspect of the application.

(b) As part of the character and fitness requirement for licensing, each applicant, other than an applicant pursuant to section 10.01 of this Rule, is required to have a current completed

background investigation conducted by the National Conference of Bar Examiners (NCBE). It is the responsibility of each applicant to make the request to the NCBE for a background investigation and pay the required fee directly to the NCBE. In the event an applicant has not been licensed within two years of submission of the original background investigation, the applicant must request a supplemental investigation at that time and every two years thereafter, until the applicant is licensed or the application is withdrawn or denied.

(c) The Executive Director shall transmit the application and the results of the background investigation, if available at the time of the interview, for each applicant for admission by examination, ~~or re-examination, or transferred UBE score who is not licensed and in good standing in at least one other U.S. jurisdiction~~ to the chair of the appropriate investigating committee. The Board in its discretion may transmit the application and results of the background investigation, if available at the time of the interview, for any applicant who is licensed and in good standing in another U.S. jurisdiction. The chair shall assign applications to committee members for review, interview and investigation.

(d) On the receipt of an application, the investigating committee member to whom the application has been assigned shall review same and such other information as may be transmitted by the Executive Director and shall conduct such investigation as appears to him or her to be appropriate. In any event, each applicant referred to a committee shall be interviewed in person by a member of that committee. In conducting such investigations, the investigating committee member may take statements from the applicant and from such other persons as may be considered appropriate.

(e) On the completion of the investigation, the investigating committee member shall report his or her findings to the Board, in the form directed by the Board, and shall recommend fully, recommend with reservations or not recommend the applicant for licensing and admission.

**Sec. 6.04. Certificate of Good Moral Character.** An applicant seeking admission to practice law in Tennessee must submit to the Board, before permission is granted to take the bar examination, a certificate from the dean or supervising authority of the law school from which the applicant graduated indicating that to the best of its knowledge and belief the candidate has demonstrated such reputation and character in the opinion of the law school that indicates no reasonable basis for substantial doubt that the applicant would adhere to the standards of conduct required of attorneys in this State and that the law school has provided full and complete information requested by the Board regarding the character and fitness of the candidate. If the applicant has been previously admitted to another jurisdiction, a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted must accompany the application to the Board. Without waiving the requirement of proof of good moral character, the Board, in its discretion and for exceptional circumstances shown by the applicant, may waive the requirement of a certificate of good standing from the highest court of each jurisdiction to which applicant has been admitted.

## **ARTICLE X. SPECIAL OR LIMITED PRACTICE**

**Sec. 10.01. Registration of In-house Counsel.**

(a) A lawyer admitted to the practice of law in another United States jurisdiction who has a continuous presence in this jurisdiction and is employed pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1) as a lawyer by an organization, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, shall file an application for registration as in-house counsel within 180 days of the commencement of employment as a lawyer or if currently so employed then within 180 days of the effective date of this Rule, by submitting to the Board the following:

- (1) A completed application in the form prescribed by the Board;
- (2) A fee in the amount set by the Board pursuant to Article XI;
- (3) Documents proving admission to practice law and current good standing in all jurisdictions in which the lawyer is admitted to practice law; and
- (4) An affidavit from an officer, director, or general counsel of the employing entity attesting to the lawyer's employment by the entity and the capacity in which the lawyer is so employed, and stating that the employment conforms to the requirements of this rule.

(b) A lawyer registered under this section shall have the rights and privileges otherwise applicable to members of the bar of this State with the following restrictions:

- (1) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and for employees, officers and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with Tenn. Sup. Ct. R. 8, RPC 1.7; and
- (2) The registered lawyer shall not:
  - (A) Except as otherwise permitted by the rules of this State, appear before a court or any other tribunal as defined in Tenn. Sup. Ct. R. 8, RPC 1.0(m), or
  - (B) Offer or provide legal services or advice to any person other than as described in paragraph (b)(1), or hold himself or herself out as being authorized to practice law in this State other than as described in paragraph (b)(1) of this section 10.01.

(c) Notwithstanding the provisions of paragraph (b) above, a lawyer registered under this section is authorized to provide pro bono legal services through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically authorized in this jurisdiction.

(d) A lawyer registered under this section shall:

- (1) Complete the registration process with the Board of Professional Responsibility within 30 days of approval of the application to register under this section;
- (2) Pay all annual fees payable by active members of the bar;
- (3) Fulfill the continuing legal education requirements that are required of active members of the bar;
- (4) Report to the Board, within 30 days, the following:
  - (A) Termination of the lawyer's employment;
  - (B) Whether or not public, any change in the lawyer's license status in another jurisdiction, including by the lawyer's resignation;
  - (C) Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction.

(e) A lawyer who is registered or who is required to register under this section shall be subject to Tenn. Sup. Ct. R. 8 (Rules of Professional Conduct) and all other laws and rules governing lawyers admitted to the active practice of law in this State. The Board of Professional Responsibility has and shall retain jurisdiction over the lawyer who is registered or required to register with respect to the conduct of the lawyer in this or another jurisdiction to the same extent as it has over lawyers generally admitted in this State.

(f) A registered lawyer's rights and privileges under this section automatically terminate when:

- (1) The lawyer's employment terminates;
- (2) The lawyer is suspended or disbarred from practice in any jurisdiction or any court or agency before which the lawyer is admitted; or
- (3) The lawyer fails to maintain active status in at least one jurisdiction; or
- (4) The lawyer fails to comply with the requirements in paragraph (d)(1) – (4) above.

Upon the occurrence of one or more of the foregoing events, the registered lawyer shall give notice in writing within 30 days to the Board and to the Board of Professional Responsibility.

(g) A registered lawyer whose registration is terminated under paragraph (f)(1) above, may be reinstated within 180 days of termination upon submission to the Board of the following:

- (1) An application for reinstatement in a form prescribed by the Board;

(2) A reinstatement fee set by the Board pursuant to Article XI; and

(3) An affidavit from the current employing entity as prescribed in paragraph (a)(4).

(h) A lawyer under this rule who fails to register within 180 days shall be:

(1) Subject to professional discipline in this jurisdiction;

(2) Ineligible for admission pursuant to Article V of this rule;

(3) Referred by the Board to the Board of Professional Responsibility; and

(4) Referred by the Board to the disciplinary authority of the jurisdiction(s) of licensure.

(i) A lawyer's rendering of service to the lawyer's employer prior to timely registration under this Rule shall not constitute the unauthorized practice of law or otherwise be treated as violating Tenn. Sup. Ct. R. 8, RPC 5.5 as long as the services are permitted under this Rule for registered lawyers and the lawyer files the application for registration under section 10.01(a) of this Rule within 180 days of the commencement of the lawyer's employment.

~~(j) A lawyer seeking to practice in this State under the authority of Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1) and who complies fully with the requirements of this Rule on or before July 1, 2016, shall not be barred from registration under this Rule, admission pursuant to Article V of this Rule, or from practicing under the authority of RPC 5.5(d)(1) solely by the fact of prior noncompliance with Tennessee law concerning licensure of in-house counsel. [expired]~~

#### **Sec. 10.04. Practice before Admission by Examination.**

##### **(a) Eligibility.**

(1) An applicant may register with the Board in order to perform the services described in paragraph (c) of this section provided the applicant:

(A) has never been licensed to practice law ~~in~~ in another State in the United States, the District of Columbia, or U.S. Territories;

(B) has submitted an application pursuant to section 3.03 or 3.05 of this Rule;

(C) meets the educational requirements of section 2.01 of this Rule;

(D) works in Tennessee under the supervision of a ~~lawyer who is licensed and in good standing in~~ lawyer who is admitted and in good standing in Tennessee ~~attorney~~; and

(E) has:



- (i) not yet had an opportunity to take the Tennessee bar examination;
- (ii) taken the examination but not yet received notification of the results of the examination; or
- (iii) taken the examination, but has not yet been admitted as a member of the Tennessee bar.

(2) An applicant is eligible for supervised practice under this section beginning with the submission of the first Application to the Bar of Tennessee by examination. The privilege to engage in supervised practice expires on the date of the admissions ceremony for successful examination applicants, the date of grade release for unsuccessful applicants, or upon issuance of an Order to Show Cause.

(3) Applicants who are unsuccessful on the examination may register for supervised practice upon submitting an application for the next available exam.

(4) In no event shall the privilege to engage in supervised practice continue for more than sixteen (16) months from the date of an applicant's first Application for Admission in any jurisdiction or from graduation from law school, whichever is shorter. The Board shall have no discretion to extend the time an applicant may engage in limited practice.

(5) An applicant who is licensed in another jurisdiction and seeking admission by examination pursuant to Article III or without examination pursuant to Article V of this Rule may practice as provided in section 5.01(g).

**(b) Registration Process.** In order to perform the services described in paragraph (c), the applicant must have submitted to the Board the NCBE application, completed the Tennessee Supplemental application process and paid the fees associated with the application. Additionally, the applicant must have registered for supervised practice according to the procedures established by the Board and paid the required fee. The applicant must include with the registration an affidavit from an attorney licensed and in good standing in Tennessee stating that the attorney agrees to undertake the supervision of the applicant in accordance with this section.

**(c) Services Permitted.** Under the supervision of a member of the bar of this State, and with the written consent of the person on whose behalf the applicant is acting, an applicant approved for supervised practice may render the following services:

(1) the applicant may counsel and advise clients, negotiate in the settlement of claims, represent clients in mediation and other non-litigation matters, and engage in the preparation and drafting of legal instruments. Any communication other than internal communications may be signed by the applicant with the accompanying designation "Tennessee Bar Applicant" but must also be signed by the supervising member of the bar.

(2) Applicant may appear in the trial courts, courts of review and administrative tribunals of this state, including court-annexed arbitration and mediation, subject to the following qualifications:

(A) Written consent to representation of the person on whose behalf the applicant is acting shall be filed in the case and brought to the attention of the judge or presiding officer.

(B) Appearances, pleadings, motions, and other documents to be filed with the court may be prepared by the applicant and may be signed with the accompanying designation "Tennessee Bar Applicant."

(C) In criminal cases in which the penalty may be imprisonment, in proceedings challenging sentences of imprisonment, and in civil or criminal contempt proceedings, the applicant may participate in pretrial, trial, and post-trial proceedings as an assistant of the supervising member of the bar, who shall be present and responsible for the conduct of the proceedings.

(D) In all other civil and criminal cases in the trial courts or administrative tribunals, the applicant may conduct all pretrial, trial, and post-trial proceedings with the supervising attorney present unless the applicant is permitted by the judge or presiding officer to participate without direct supervision.

(E) In matters before appellate courts, the applicant may prepare briefs, excerpts from the record, abstracts, and other documents. If any such filings set forth the name of the applicant as a counsel of record in addition to the supervising member of the bar, the name of the applicant must be accompanied by the designation "Tennessee Bar Applicant" but must be filed in the name of the supervising member of the bar. Upon motion by the supervising member of the bar, the applicant may request authorization to argue the matter before the appellate court but, even if the applicant is permitted to argue, the supervising member of the bar must be present and responsible for the conduct of the applicant at the hearing.

(d) **Compensation.** An applicant rendering services authorized by this section shall not request or accept any compensation from the person for whom applicant renders the services. The supervising attorney may make an appropriate charge. The applicant may be compensated as an employee of a firm, agency, clinic or other organization so long as the rate of such compensation is established independent of compensation paid for representation.

(e) Any applicant who otherwise meets all the qualifications contemplated in this section, but who is unable to make a connection or association with a practicing attorney for purposes of serving as a supervising attorney as required by this section may make application to any trial judge holding court in the county of such applicant's residence for aid in the establishment of a

supervised practice under this section. Such practice must accord strictly with the provisions of this section. No deviation will be permitted.

(f) Notwithstanding the provisions of section 12.11, the Board may disclose that an applicant is authorized to practice pursuant to this section and may disclose if and when that authorization is terminated.