

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

03/29/2019

Clerk of the  
Appellate Courts

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

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**No. ADM2019-00108**

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**ORDER**

By Orders filed January 17, 2019, and February 15, 2019, the Court solicited public comment regarding proposed amendments to Tennessee Supreme Court Rule 7. The Court received comments from the Tennessee Board of Law Examiners and several individuals. In addition, the Tennessee Board of Law Examiners received feedback and proposals submitted by the Deans, Clinic Directors, and faculty members of law schools in Tennessee with respect to sections 10.02 and 10.03. The Court appreciates these efforts and important contributions.

After due consideration, the Court hereby amends Rule 7 of the Rules of the Tennessee Supreme Court in the form set out in the attached Appendix to this Order. The Rule shall be effective on the filing date of this Order. A law school's Experiential Learning Program that was previously approved under Rule 7 remains approved, and the law school does not need to reapply for approval under section 10.02.

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

IT IS SO ORDERED.

PER CURIAM

# **APPENDIX**

## **AMENDED TENNESSEE SUPREME COURT RULE 7**

### **Document 1**

*New text indicated by underlining/Deleted text indicated by striking*

### **Document 2**

*Amended Rule 7*

# DOCUMENT 1

*[New text indicated by underlining/Deleted text indicated by striking]*

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

### **PREFACE**

The Board of Law Examiners for the State of Tennessee (the “Board”) is created as a part of the judicial branch of government by the Supreme Court of Tennessee under its inherent authority to regulate courts. The Supreme Court appoints the members of the Board and has general supervisory authority over ~~all~~ the Board’s actions. The Supreme Court controls admission to the practice of law and acts on the basis of the ~~Board’s~~Board’s Certificate of Eligibility.

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

#### **Sec. 1.01. Prerequisites to Engaging in Practice of Law or Law Business.**

No person shall engage in the “practice of law” or the “law business” in Tennessee as defined in Tenn. Code Ann. § 23-3-101 and Tenn. Sup. Ct. R. 9, § 10.3(e), except under the authority of the Supreme Court, unless the person:

(a) ~~(a)~~ has been:

(1) ~~(1)~~ admitted to the bar of the Supreme Court in accordance with Tenn. Sup. Ct. R. 6; and

(2) ~~(2)~~ issued a license by the Supreme Court in accordance with this Rule and after having been administered the oath in accordance with Tenn. Sup. Ct. R. 6 as set forth in this Rule; or

(b) ~~(b)~~ has been granted permission to engage in special or limited practice under sections ~~5.01(g)~~, 10.01, 10.02, 10.03, 10.04, ~~or~~ 10.06, or 10.07 of this Rule; or

(c) ~~(c)~~ is practicing in compliance with Tenn. Sup. Ct. R. 8, RPC 5.5(c), Tenn. Sup. Ct. R. 8, RPC 5.5(d), or Tenn. Sup. Ct. R. 19 (pro hac vice).

#### **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 under section 9.01 of this Rule. The applicant ~~must~~shall comply with Tenn. Sup. Ct. R. 6 and obtain the license on or before the first of the following to occur:

(a) ~~(a)~~ expiration of bar examination or transferred Uniform Bar Examination (“UBE”) scores as provided in sections 3.05(b) and 4.07(c); or

(b) ~~(b)~~ two years from:

~~(1)~~ ~~(1)~~ the date of the notice that the applicant successfully passed the bar examination; or  
~~(2)~~

~~(2)~~ the date of the notice of the Board's approval of the application for admission under section 3.05, ~~section 5.01 Article V~~, or section 10.06 of this Rule.

~~(c)~~ ~~(e)~~ All background investigations are invalid upon expiration of the two-year period under section 6.03. If the investigation expires after issuance of the Certificate of Eligibility but ~~prior to~~ before licensing and expiration of scores, the applicant must request a supplemental background investigation as provided in section 6.03(b) ~~).~~.

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

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

~~(a)~~ ~~(a)~~ is at least ~~18~~ eighteen years old;

~~(b)~~ ~~(b)~~ has satisfied the educational requirements for admission specified by this Rule;

~~(c)~~ ~~(e)~~ 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, ~~section 5.01 Article V~~, or section 10.06;

~~(d)~~ ~~(d)~~ has achieved a passing score on the Multistate Professional Responsibility Examination as provided in section 4.07(d);

~~(e)~~ ~~(e)~~ 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;

~~(f)~~ ~~(f)~~ has certified that he or she has read and is familiar with the Tennessee Rules of Professional Conduct;

~~(g)~~ ~~(g)~~ has completed the Tennessee Law Course as provided in section 1.07;

~~(h)~~ ~~(h)~~ has paid all fees for licensing and admission to this ~~Bar~~ Board, the Clerk of the ~~Appellate Supreme~~ Court, and the Board of Professional Responsibility; and

~~(i)~~ ~~(i)~~ 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 a U.S. Territory 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 the Tennessee bar examination or providing a passing Uniform Bar Examination ("UBE") score may be waived for as provided in Article V an applicant who has been admitted to practice in another state in the United States, the District of Columbia, or a U.S. Territory, provided that the applicant satisfies all requirements for admission without examination as specified in this Rule.~~

### **Sec. 1.05. Status of Persons Admitted.**

All persons admitted to the bar of Tennessee are by virtue of such admission: (a) officers of the courts of Tennessee, eligible for admission to practice in any state court in Tennessee, and entitled to engage in the “practice of law” or the “law business” as defined in section 1.01 of this Rule; and (b) subject to the duties and standards imposed from time to time on attorneys in this State.

**Sec. 1.06. Existing Licenses.**

Nothing in this Rule ~~shall~~will be construed as requiring the relicensing of persons holding valid licenses to practice in Tennessee as of the date of ~~its~~the adoption of this Rule.

**Sec. 1.07. Tennessee Law Course.**

~~The Tennessee Law Course is a mandatory course for applicants to the bar of Tennessee.~~ The Tennessee Law Course is intended to provide instruction in specific areas of Tennessee law not addressed by the Uniform Bar Exam.

~~(a) (a)-~~ The following applicants to the bar of Tennessee ~~Tennessee Law Course~~ must ~~be~~ successfully completed the Tennessee law course before an applicant is eligible for admission to the Tennessee bar ~~for the following types of applicants to the bar of Tennessee:~~

~~(1) (1)~~ (1) Section 3.01, Admission by Examination,

~~(2) (2)~~ (2) Section 3.05, Admission by Transferred Uniform Bar Examination Score,

~~(3) (3)~~ (3) Section 5.01, Admission Without Examination, or

~~(4) (4)~~ (4) Section 10.06, Temporary License of Spouse of Military Service member.

~~(b) (b)~~ The Supreme Court shall determine the content of the Tennessee Law Course. ~~The Board shall administer the Tennessee Law Course.~~

~~(c) (c)~~

~~(c) (c)~~ The Board shall administer the Tennessee Law Course. ~~The Supreme Court shall determine the content of the Tennessee Law Course.~~

~~(d) (d)~~

~~(d) (d)~~ (d) The fee for the Tennessee Law Course shall be included set as part of in the Schedule of Fees promulgated by the Board of Law Examiners under section 11.01 of this Rule ~~and collected by the Board~~. The fee is in addition to fees charged for the application for admission to practice law. Applicants must pay the fee to the Board before receiving access to the Tennessee Law Course.

~~(e) (e)~~

~~(e) (e)~~ (e) The Tennessee Law Course shall be a digital-exclusive course. ~~The Board shall endeavor to develop the Tennessee Law Course with reasonable regard for (1) standards compliance such that the Tennessee Law Course that shall be reasonably accessible to applicants using industry standard hardware and~~

~~software and (2) internet speed in typical use. However, t~~The applicant shall ensure is ultimately responsible for ensuring the adequacy of the ~~applicant's~~applicant's hardware, software, and internet connection.

(f)

(f) The Board shall provide applicants with instructions regarding access to the Tennessee Law Course as follows:

(1) ~~—(1)~~ Applicants seeking admission under section 3.01 (by examination) shall receive instructions upon completion of the bar examination.  
~~—(2)~~

(2) Applicants seeking admission under section 3.05 (transferred UBE score), section 5.01 (without examination) or section 10.06 (spouse of military service-member) will receive instructions upon approval of their application by the Board.

(g) ~~(g)~~ The Tennessee Law Course must be successfully completed within one year of the date that the applicant completes all other requirements to be eligible for a Tennessee law license. Any applicant who successfully completes the Tennessee Law Course but does not complete all other requirements for eligibility to obtain a law license within such one year period must repeat the Tennessee Law Course ~~prior~~ to before admission.

(h)

(h) The Tennessee Law Course is not continuing legal education, ~~and N~~no fee under Rule 21, section 8.02 shall be imposed on the Board or any applicant.

(i)

(i) No person holding a valid Tennessee license as of the effective date of this Rule shall be required to take the Tennessee Law Course.

## ARTICLE II. EDUCATIONAL REQUIREMENTS FOR ADMISSION

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

(a) Any applicant seeking admission 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 before 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. ~~(a) To be eligible to take the examination, 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) To be eligible to take the exam, an applicant shall provide evidence of the degree, earned before the examination, 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.~~

(c) ~~(e)~~ 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 ~~17.012.03~~ of this Rule, and the applicant submits a request for waiver and provides the Board satisfactory evidence that his or her undergraduate education is substantially equivalent to an undergraduate degree awarded by a regional accrediting association.

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

(a) ~~(a)~~ Any applicant seeking admission ~~by examination, by transferred UBE score or without examination~~ must have completed a course of instruction in and ~~completed a course of instruction in and~~ graduated with a J.D. Degree from a 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 ~~17.012.03~~ of this Rule at the time of the applicant's graduation.

(b) ~~(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 ~~17.012.03~~ of this Rule and that:

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

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

(c) ~~(e)~~ Any applicant seeking admission by transferred UBE score ~~pursuant to under~~ section 3.05, ~~or without examination pursuant to under section 5.01, Article V or as the spouse of a military servicemember under section 10.06~~ shall provide evidence of the J.D. Degree ~~as referenced in section 2.02~~ in the form required by the Board.

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

~~(1)~~ ~~—~~ ~~(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~~ the law school 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.

~~(A)~~ The applicant shall bear the cost of the evaluation of his ~~or~~ her legal education, as determined and as required 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~~.

~~(B)~~ ~~—~~ ~~(2)~~ 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

~~(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)~~ ~~—~~ ~~(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 three of the five years immediately preceding the date upon which the application is filed; and

~~(A)~~ ~~—~~ ~~(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

~~(4)~~ ~~—~~ ~~(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)~~ ~~(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 only to the extent approved by the ABA for accredited law schools.

### ~~Sec. 2.03. Approval of Tennessee Law Schools Not Accredited by the ABA.~~

~~—The Board may approve any law school in Tennessee seeking provisional accreditation and pending full accreditation by the ABA for the purpose of allowing its graduates to be eligible to take the Tennessee bar examination when the standards in this section are met and the Board finds the school is effectively achieving its mission and objectives.~~

~~—Tennessee Law Schools Not Accredited by the ABA. The Board will approve law schools in Tennessee pending provisional accreditation by the ABA until such time as the school is provisionally accredited. Law schools that are not provisionally accredited, do not achieve full accreditation or lose their ABA accreditation, will not be approved by the Board until a new application or similar process for provisional or renewed accreditation has begun with the ABA.~~

~~(a) Statement of Mission or Objectives. A school shall adopt a statement of its mission or objectives, which shall include a commitment to a program of legal education designed to provide its graduates with:~~

~~——— (1) An understanding of their professional responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice under the law; and~~

~~——— (2) A basic legal education through a course of study that develops an understanding of the fundamental principles of public and private law, an understanding of the nature, basis and role of the law and its institutions, and skills of legal analysis and writing, issue recognition, reasoning, problem solving, organization, and oral and written communications necessary to participate effectively in the legal profession.~~

~~(b) Organization and Administration. A school shall adopt and maintain an organizational and administrative structure that complies with the following standards:~~

~~——— (1) It shall be governed by, and its general policies shall be established by, a governing board composed of individuals who are not members of its faculty and who are dedicated to fulfilling the mission or objectives of the school.~~

~~——— (2) It shall have a dean, selected by the governing board, to whom the dean shall be accountable; and who shall be provided with the authority and support needed to carry out the responsibilities of the position.~~

~~——— (3) The dean, with the advice of the faculty or its representatives, shall formulate and administer the educational program of the school, including the course of study; methods of instruction; admission; and academic standards for retention, advancement and graduation of students; and shall recommend to the governing board the selection, retention and compensation of the faculty.~~

~~——— (4) Alumni, students and others may be involved in assisting the governing board, the dean and the faculty in developing policies and otherwise in fulfilling the mission or objectives of the school, in a participatory or advisory capacity.~~

~~——— (5) A school shall not be conducted as a commercial enterprise, and the compensation of any person shall not depend on the number of students or on the fees received.~~

~~——— (6) A law school shall foster and maintain equality of opportunity in legal education, including employment of faculty and staff, without discrimination or segregation on ground of race, color, religion, national origin, sex or disability.~~

~~(c) Faculty. A school shall establish policies with respect to its faculty consistent with the following standards:~~

~~———— (1) A law school shall have a faculty whose members possess a high level of competence and experience as may be demonstrated by education, teaching ability, judicial service, and capacity for legal research and writing.~~

~~———— (2) To be eligible for appointment to the faculty, a person must be a licensed attorney of known ability and integrity. Nothing in this section shall, however, prevent the appointment of other persons of known ability and integrity who are not licensed lawyers to instruct in interdisciplinary courses such as accounting, taxation, legal research, writing skills, and medicine for lawyers.~~

~~———— (3) A law school shall take reasonable steps to ensure the teaching effectiveness of each member of the faculty.~~

~~———— (4) A number of faculty members shall be employed sufficient to fulfill the mission or objectives of the school.~~

~~(d) Facilities. A school shall have classrooms, other physical facilities and technological capacities that are adequate for the fulfillment of its mission or objectives.~~

~~(e) Library. A school shall maintain a law library, including access to computerized research, sufficient to meet the research needs of its students and facilitate the education of its students consistent with its mission or objectives. The library shall be available to all students at reasonable hours.~~

~~(f) Program of Legal Education. A school shall maintain an educational program designed to fulfill its mission or objectives, which program shall be consistent with the following standards:~~

~~———— (1) The educational program shall be designed to qualify its graduates for admission to the bar and to prepare them to participate effectively and honorably in the legal profession.~~

~~———— (2) The course of study shall:~~

~~———— (A) include instruction in those subjects generally regarded as the core of the law school curriculum, including but not limited to the law school subjects covered on the Tennessee bar examination and listed in section 4.04 of this Rule;~~

~~———— (B) be designed to fulfill the school's mission or objectives, including those expressed in paragraph (a) of this section;~~

~~———— (C) include at least one rigorous writing experience;~~

~~————— (D) require at least the minimum standards of class hours required from time to time under the ABA standards for approval of law schools for the particular category of school;~~

~~————— (E) be based on a schedule of classes to meet the minimum standards of class hours, which schedule may include weekend classes;~~

~~————— (F) include adequate opportunities, and emphasis on, instruction in professional skills, particularly skills in written communication.~~

~~————— (3) a school shall adopt and adhere to sound standards of academic achievement, including:~~

~~————— (A) clearly stated standards for good standing, advancement and graduation; and~~

~~————— (B) termination of enrollment of a student whose inability or unwillingness to do satisfactory work is sufficiently manifest so that such student's continuation in school would inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.~~

~~(g) Admissions. A school shall adopt and adhere to admission policies consistent with the following standards:~~

~~————— (1) A school's admission policy shall be based on, and consistent with, its mission or objectives.~~

~~————— (2) To be admitted, an applicant must have:~~

~~————— (A) Received or be on course to receive a bachelor's degree or higher as provided in section 2.01 of this Rule; and~~

~~————— (B) Taken an acceptable test for the purpose of assessing the applicant's capability of satisfactorily completing the school's educational program; (the Law School Admission Test sponsored by the Law School Admission Council qualifies as an acceptable test; and the use of any other test must be approved by the Board); and~~

~~————— (C) Satisfied the minimum requirements for admission established by the governing board of the school; and~~

~~————— (D) Satisfied the dean and Admissions Committee that the applicant possesses good moral character.~~

~~(3) A law school may not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, sex or disability.~~

~~(h) Basic Consumer Information. A school shall publish basic consumer information in a fair and accurate manner, reflective of actual practice, including:~~

- ~~(1) a statement of mission or objectives;~~
- ~~(2) admission data;~~
- ~~(3) tuition, fees, living costs, financial aid, and refunds;~~
- ~~(4) enrollment data and graduation rates;~~
- ~~(5) composition and number of faculty and administrators;~~
- ~~(6) description of educational program and curricular offerings;~~
- ~~(7) library resources;~~
- ~~(8) physical facilities; and~~
- ~~(9) placement rates and bar passage data.~~

~~(i) Self Study.~~

~~(1) The dean and faculty shall develop and periodically revise a written self study, including an evaluation of the following topics:~~

- ~~(A) the continuing relevance of the school's mission or objectives;~~
- ~~(B) the effectiveness of the program of legal education;~~
- ~~(C) the appropriateness of the school's admission policies;~~
- ~~(D) the significance of the trend in rates of graduation and attrition;~~
- ~~(E) the significance of the trends in the pass/fail rate on the bar examination;~~
- ~~(F) the strengths and weaknesses of the school's policies;~~
- ~~(G) goals to improve the educational program; and~~
- ~~(H) means to accomplish unrealized goals.~~

~~(2) The self study shall be completed every seven years or earlier upon written request of the Board.~~

~~(j) Functions of Board:~~

~~(1) The Board shall determine whether such Tennessee law school has met these educational standards and is effectively achieving its mission and objectives and when such school is entitled to be approved as in good standing with the Board, subject to review by the Supreme Court under the provisions of this Rule.~~

~~(2) The Board is authorized to make inquiry to the school and respond to inquiry by the school and to adopt such additional standards as in its judgment the educational needs of the school may justify, which changes shall be subject to the Supreme Court's approval.~~

~~(3) The Board may require a school to furnish such information, including periodic reports, as it deems reasonably appropriate for carrying out its responsibilities. The Board may also require a school to furnish information known to school officials relevant to the character and fitness of its students.~~

~~(4) The Board may investigate such law schools in accordance with section 2.07 of this Rule, and such investigations shall be confidential to ensure a frank, candid exchange of information and evaluation.~~

~~(5) A law school may be granted approval and be in good standing when it establishes to the satisfaction of the Board that it is in compliance with the standards set forth herein and the Board finds the school is effectively achieving its mission and objectives.~~

~~(6) If the Board has reasonable cause to believe that a law school does not comply with the standards in section 2.03 of this Rule, and/or the school is not effectively achieving its mission and objectives, it shall inform the school of its apparent non-compliance or failure to effectively achieve its mission or objectives and follow the procedures in sections 2.09, 2.10, 2.11, 2.13 of this Rule and related sections.~~

~~Self Study:~~

~~(k) The dean and faculty shall develop and periodically revise a written self study, including an evaluation of the following topics:~~

~~the continuing relevance of the school's mission or objectives;~~

~~the appropriateness of the school's admission policies;~~

~~the significance of the trend in rates of graduation and attrition;~~

~~the significance of the trends in the pass/fail rate on the bar examination;~~

~~the strengths and weaknesses of the school's policies;~~

~~goals to improve the educational program; and~~

~~means to accomplish unrealized goals.~~

~~The self study shall be completed every seven years or earlier upon written request of the Board.~~

~~—Certification of Compliance. The dean and the chairperson of the board of directors of the law school shall certify annually in writing to the Board that the school is in compliance with these standards and is effectively achieving its mission and objectives or, if not in compliance or not effectively achieving its mission or objectives, identify areas of non-compliance or other deficiencies, as well as its intention and plan of action to attain compliance.~~

~~—(1) Tennessee Law Schools Not Accredited by the ABA. The Board will approve law schools in Tennessee pending provisional accreditation by the ABA until such time as the school is provisionally accredited. Law schools that are not provisionally accredited, do not achieve full accreditation or lose their ABA accreditation, will not be approved by the Board until a new application or similar process for provisional or renewed accreditation has begun with the ABA.~~

~~Each law school located in Tennessee shall furnish to the Board copies of all documentation, including self-study analyses and evaluation reports, prepared, completed or received in connection with such school's accreditation status with the ABA. The investigation of any law school, including all reports, data and other information provided to the Board in connection with approval of the law school's standing with the Board, shall be confidential in order to ensure a frank, candid exchange of information. Students of Tennessee law schools currently approved by this Board but not made pending ABA provisional accreditation shall not be barred from taking the Tennessee bar examination so long as the law school continues to comply with the requirements of this Rule as it may be amended.~~

#### ~~Sec. 2.04. [Reserved.]~~

#### ~~Sec. 2.05. Statement of Status.~~

~~In its catalogs or other informational material distributed to prospective students, a law school shall state whether it is accredited by the ABA or has been approved by the Board pursuant to section 2.03 of this Rule. Any law school in Tennessee, which has not been accredited by the ABA or approved by the Board and which advertises in its catalog or otherwise that it is so accredited or approved, shall not be recognized by the Board as other than a substandard school and will be so classified and disapproved.~~

#### ~~Sec. 2.06. New Law Schools in Tennessee.~~

~~Any law school located in Tennessee (whether full-time or part-time), which permits the enrollment of students without first having obtained the written approval of the Board, shall be classified as a substandard school. Its graduates shall be denied permission to take the Tennessee bar examination.~~

#### ~~Sec. 2.07. Investigation and Evaluation by Board.~~

~~The Board may investigate and evaluate any law school located in Tennessee, from time to time, with respect to the adequacy of its facilities, faculty and course of study. In addition, representatives of the Board may participate as observers in connection with law school evaluations or investigations conducted from time to time by the ABA in its accreditation process. The refusal of any such school to cooperate or participate in the conduct of such evaluation shall be reported to the Supreme Court, which may, after hearing, take such actions as the facts may justify. Each law school located in Tennessee shall furnish to the Board copies of all documentation, including self-study analyses and evaluation reports, prepared, completed or received in connection with such school's accreditation status with the ABA. The investigation of any law school, including all reports, data and other information provided to the Board in~~

~~connection with approval of the law school's standing with the Board, shall be confidential in order to ensure a frank, candid exchange of information.~~

### **Sec. 2.08. Site Evaluation of Approved Law Schools.**

~~(a) A site evaluation by the Board of a law school approved by the Board shall be conducted in the third year following the granting of approval and every seventh year thereafter. The Board may order additional site evaluations of a school when special circumstances warrant.~~

~~(b) The Board shall arrange for the site evaluation or inspection of the law school by a team of qualified and objective persons who have no conflicts of interest as defined in section 2.15 of this Rule.~~

~~(c) Before the site evaluation, the law school shall furnish to the Board and members of the site evaluation team a completed application (if the school is applying for approval), the current self-study undertaken by the dean and faculty, and any complaints that the law school is not in compliance with the standards.~~

~~(d) The Board shall schedule the site evaluation of the law school to take place during the academic year at a time when regular academic classes are being conducted. A site evaluation usually requires several days, as classes are visited, faculty quality assessed, admissions policies reviewed, records inspected, physical facilities examined, the library assessed, information reviewed, and consultations held with the chairperson of the board, officers of the institution, the dean of the law school, members of the law school faculty, professional staff, law students, and members of the legal community. In the case of a law school seeking approval, such visit shall be scheduled within three months after receipt by the Board of an application for approval.~~

~~(e) Following a site evaluation, the team shall promptly prepare a written report based upon the site evaluation. The team shall not determine compliance or non-compliance with the standards, but shall report facts and observations that will enable the Board and the Supreme Court to determine compliance. The report of the team should give as much pertinent information as feasible.~~

~~(f) The team shall promptly submit its report to the Board. After reviewing the report, the Board shall transmit the report to the chairperson and the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter transmitting the report, the Board shall include the date on which the Board will consider the report and shall advise that any response to the report must be received by the Board at least fifteen (15) days prior to the date of the meeting at which the Board will consider the report. The school shall be given at least thirty (30) days to prepare its response to the report, unless the school consents to a shorter time period. The thirty-day period shall run from the date on which the Board mailed the report to the school.~~

~~(g) Following receipt of the school's response to the site evaluation report, the Board shall forward a copy of the report with the school's response to members of the Board and the site evaluation team.~~

~~(h) The Board may not consider any additional information submitted by the school after the school's response to the report has been received by the Board, unless (1) the information is received in writing by the Board at least fifteen (15) days before the Board meeting at which the report is scheduled to be considered, or (2) for good cause shown, the president of the Board authorizes consideration of the additional information that was not received in a timely manner.~~

~~(i) Upon the completion of the procedures, the Board shall consider the law school's evaluation and determine whether the school is in compliance with the standards and is effectively achieving its mission and objectives.~~

~~(j) A request for postponement of a site evaluation will be granted only if the law school is in the process of moving to a new physical facility or if extraordinary circumstances exist which would make it impossible for the scheduled site evaluation to take place. The postponement shall not exceed one year.~~

#### **~~Sec. 2.09. Action Concerning Apparent Non-Compliance with Standards or Deficiencies in Mission.~~**

~~(a) If the Board has reasonable cause to believe that a law school does not comply with the standards in section 2.03 of this Rule or is not effectively achieving its mission or objectives, it shall inform the school of its apparent non-compliance or deficiencies and request the school to furnish by a date certain further information about the matter and about action taken to bring the school in compliance with the standards or correct the deficiencies. The school shall furnish the requested information to the Board within the time prescribed.~~

~~(b) If upon a review of the information furnished by the law school in response to the Board's request and other relevant information, the Board determines that the school has not demonstrated compliance with the standards or is not effectively achieving its mission or objectives, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on probation, removed from the list of law schools approved by the Board, or be subject to other appropriate action.~~

~~(c) If the Board finds that a law school has failed to comply with the standards or is not effectively achieving its mission or objectives by refusing to furnish information or to cooperate in a site evaluation, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on probation, removed from the list of law schools approved by the Board, or be subject to other appropriate action.~~

~~(d) The Board shall give the law school at least thirty (30) days' notice of the show cause hearing. The notice shall specify the school's apparent non-compliance with the standards or its failure to effectively achieve its mission or objectives and state the time and place of the hearing. For good cause shown, the president of the Board may grant the school additional time, not to exceed thirty (30) days. Both the notice and the request for extension of time must be in writing. The Board shall send the notice of hearing to the dean of the school by certified or registered United States mail.~~

#### **~~Sec. 2.10. Fact Finder.~~**

~~(a) The president of the Board may appoint a fact finder to elicit facts relevant to any matter before the Board.~~

~~(b) The Board shall furnish the fact finder with a copy of the most recent site evaluation report, any action letters written subsequent to the most recent site evaluation report, notice of hearing and other relevant information.~~

~~(c) Following the fact finding visit, the fact finder shall promptly prepare a written report. The fact finder shall not determine compliance or non-compliance with the standards or whether the school is effectively achieving its mission or objectives, but shall report facts and observations that will enable the Board to~~

determine compliance or deficiencies. The report of the fact finder should give as much pertinent information as feasible.

~~(d) The fact finder shall promptly submit the report to the Board. After reviewing the report, the Board shall transmit the report to the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter of transmittal of the report, the Board shall include the date on which the Board will consider the report. The Board shall further advise the school as to the date upon which their response to the report must be received by the Board, which date shall be at least fifteen (15) days prior to the date of the meeting at which the Board will consider the report. The school shall be given at least thirty (30) days to prepare its response to the report, unless the school consents to a shorter time period. The thirty day period shall run from the date on which the Board mailed the report to the school.~~

### **Sec. 2.11. Hearing on Show Cause Order.**

~~(a) The Board shall have available for review at the show cause hearing:~~

- ~~—— (1) the fact finder's report, if any;~~
- ~~—— (2) the most recent site evaluation report;~~
- ~~—— (3) any site evaluation questionnaire;~~
- ~~—— (4) any action letters written subsequent to the most recent site evaluation report, which letters direct the school to rectify non-compliance or correct deficiencies;~~
- ~~—— (5) notice of Board hearing; and~~
- ~~—— (6) other relevant information.~~

~~(b) Representatives of the law school, including legal counsel, may appear at the hearing and submit information to demonstrate that the school is currently in compliance with all of the standards and is effectively achieving its mission or objectives or to present a reliable plan for bringing the school into compliance with all of the standards and to correct deficiencies within a reasonable time.~~

~~(c) The Board may invite the fact finder, if any, and the chairperson or other member of the most recent site evaluation team to appear at the hearing. The law school shall reimburse the fact finder and site evaluation team member for reasonable and necessary expenses incurred in attending the hearing.~~

~~(d) After the hearing, the Board shall determine whether the law school is in compliance with the standards and whether it is effectively achieving its mission and objectives and, if not, it shall direct the law school to take remedial action or shall impose sanctions, as appropriate.~~

- ~~—— (1) Remedial action may be ordered pursuant to a reliable plan for bringing the school into compliance with all of the standards and to help it achieve its mission and objectives.~~
- ~~—— (2) If matters of non-compliance or deficiencies are substantial or have been persistent, then the Board may recommend to the Supreme Court that the school be subjected to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance or to correct deficiencies.~~
- ~~—— (3) If matters of noncompliance or deficiencies are substantial or have been persistent, and the school fails to present a reliable plan for bringing the school into compliance with all of the standards~~

~~or to correct deficiencies, the Board may recommend to the Supreme Court that the school be removed from the list of approved schools.~~

~~(e) If the Board determines that the law school is in compliance and has no deficiencies, it shall conclude the matter by adopting an appropriate resolution, a copy of which shall be transmitted to the dean of the school by the Board.~~

**~~Sec. 2.12. Confidentiality of Approval and Evaluation Procedures.~~**

~~The proceedings set forth in sections 2.03, 2.07, 2.08, 2.09, 2.10 and 2.11 of this Rule shall be confidential to ensure a frank, candid exchange of information.~~

**~~Sec. 2.13. Supreme Court Consideration of Board Recommendation for Imposition of Sanctions.~~**

~~(a) If the Board determines that a law school is not in compliance with the standards or has effectively failed to achieve its mission and objectives and recommends that the school be placed on probation or removed from the list of approved law schools, the Board shall notify the Supreme Court and request a hearing. The Board shall notify the dean of the school of the time and place of the Supreme Court hearing, which shall be open to the public.~~

~~(b) The Board shall file with the Supreme Court in the public record the Board's written recommendation, the fact finder's report, if any, the most recent site evaluation report and any action letters to the school written subsequent to the most recent site evaluation report.~~

~~(c) Representatives of the law school, including legal counsel, may appear at the Supreme Court hearing at which the Board's recommendations are considered. The president of the Board of Law Examiners (or his or her designee) shall present the Board's findings, conclusions and recommendations.~~

~~(d) The Supreme Court shall determine whether to affirm the Board's findings and conclusions, and whether to adopt the Board's recommendations. The Board's findings and conclusions shall be affirmed if there is a substantial basis to support them, unless the school presents new information that, in the opinion of the Supreme Court, demonstrates that the school is in compliance with the standards.~~

~~(e) The Supreme Court may direct the law school to take appropriate remedial action or subject it to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance with all of the standards.~~

~~(f) The Supreme Court shall inform the dean of the law school of the decision by court order. If the decision is adverse to the law school, the order shall provide specific reasons for the decision.~~

~~(g) If the Supreme Court imposes sanctions in the absence of a reliable plan for bringing the school into compliance with all of the standards or to correct deficiencies, the Board shall monitor the steps taken by the school to come into compliance. If the Court imposes sanctions pursuant to a reliable plan for bringing the school into compliance with the standards and/or to correct deficiencies, the Board shall monitor the steps taken by the school for meeting its plan. At any time that the school is not making progress toward compliance with all of the standards or to correct deficiencies, or at any time that the school is not meeting the obligations of its plan, or if at the end of a period of time set by the Court for coming into compliance the school has not achieved compliance with all of the standards or corrected all deficiencies, the Board shall forward a recommendation that the school be removed from the list of approved schools. This recommendation shall be heard by the Court under the procedures of this section 2.13 of this Rule.~~

~~but the only issue for Court consideration will be whether the school has met the terms of its plan or is in compliance with all of the standards or has corrected deficiencies:~~

~~(h) At any time that the school presents information on which the Board concludes that the school is in full compliance with the standards or has corrected its deficiencies, the Board shall recommend to the Supreme Court that the school be taken off probation. This recommendation will be heard by the Court under the procedures of this section 2.13 of this Rule.~~

#### ~~**Sec. 2.14. Maximum Period for Compliance with Remedial or Probationary Requirements.**~~

~~Upon communication to a law school of a final decision that it is not in compliance with the standards or has failed to effectively achieve its mission or objectives and informing it that it has been ordered to take remedial action or has been placed on probation, the school shall have a period as set by the Supreme Court to come into compliance. The period may not exceed two (2) years unless such time is extended by the Supreme Court, as the case may be, for good cause shown.~~

#### ~~**Sec. 2.15. Conflicts of Interest.**~~

~~Members of the Board and any site evaluation team, as well as any fact finders appointed under the provisions of Article II, should avoid any conflict of interest or perceived conflict of interest arising because a person has an "associational interest" in the law school or the law school program under review by the Board or the Supreme Court. Alumni, faculty and directors of the school under review are deemed to have an associational interest in the school and should recuse themselves from the process of review. Former faculty and board members who have terminated their relationship with the school less than five (5) years prior to the site inspection, evaluation or review process are also deemed to have an associational interest in the school and should recuse themselves from the process of review.~~

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

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

~~The Board shall cause a uniform application process to be completed by all applicants for admission. The application process shall require the submission of such information as the Board deems necessary or appropriate for the determination of the eligibility of applicants for admission pursuant to the criteria and standards set forth in this Rule.~~

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

- (1) meets the educational requirements imposed under sections 2.01 and 2.02 of this Rule;
- (2) possesses the character and fitness to practice law in this jurisdiction;
- (3) is a member in good standing in all jurisdictions in which the applicant is admitted, if any;
- (4) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction; and
- (5) has not engaged in the unauthorized practice of law in this or any other jurisdiction.

(b) An applicant for admission by examination shall:

- (1) file an application for admission by examination in the manner established by the Board and within the time limits prescribed by this Rule;

(2) submit a certificate of admission from the highest court of each jurisdiction in which the applicant is admitted;

(3) submit a certificate of good standing from each jurisdiction in which the applicant is admitted;  
and

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

**Sec. 3.02. ~~Reserved.~~ Obligation to Amend.**

~~Sec. 3.~~ Until an applicant is admitted to the Tennessee bar, or the application is denied by the Board or voluntarily withdrawn, the applicant is under a continuing obligation to update responses to any of the information requested in the application process. Whenever there is an addition or a change to the information previously provided to the Board, the applicant must amend his or her application by filing an amendment or supplemental application as prescribed by the Board. Applications that have been on file for two years or more must be supplemented every two years until such time as the Applicant is admitted, has been denied admission, or has withdrawn the application for admission.

**Sec. 3.03. Date for Filing Application for Examination or Reexamination.**

The application process to take the examination shall begin on March 1 for the July examination and October 1 for the February examination and shall be completed no later than ~~May 20~~ for taking the July examination and ~~December 20~~ for taking the February examination. In order for the Board to have sufficient time to determine each applicant's eligibility to sit for the bar examination, all documentation required to be submitted to the Board to complete the application process, including submitting the documents required for the background investigation required in section 6.03(b) of this Rule, must be submitted on or before the deadline, and all fees must be paid in full on or before the deadline. Original documents that must be mailed to the Board must be received on or before the deadline. Applicants who have not completed the application process by the deadline are ineligible to sit for the examination. The only recourse for failure to complete the application process is to reapply for the next examination. The Board shall list the items necessary for a complete application in the Board Policies and Procedures.

~~[Amended **Sec. 3.04.** by order entered April 18, 1985; by order entered June 22, 1988; by order filed August 23, 1993, and entered nunc pro tunc effective October 19, 1992; and by order filed December 21, 2015 and effective March 1, 2016.]~~

**Expiration of Application for Admission on Exam Score.**

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

(1) admission and issuance of a license;

(2) withdrawal of the application by the applicant;

(3) denial of a license under Section 9.05;

(4) thirty days after the entry of the final order denying the application in whole or in part on the failure of the applicant to demonstrate good moral character, due respect for the law, or fitness to

practice law, absent a petition under section 14.01 and then upon resolution of the petition by the Supreme Court;

(5) thirty days after the entry of the final order denying a transferred UBE score for failure to meet eligibility requirements, absent a petition under section 14.01 and then upon resolution of the petition by the Supreme Court;

(6) expiration of exam or UBE scores;

(7) six months after the last communication from the Board, following completion of the background investigation, and which remains unanswered by the applicant for admission by transferred UBE score; or

(8) three years after the last submitted application for examination or re-examination.

(b) To withdraw an application, applicant shall submit a notice of withdrawal of application and affirmatively state that the applicant is no longer seeking admission in Tennessee.

~~Sec. 3.04. [Reserved.]~~

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

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

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

(2) has requested transfer of the score from the jurisdiction where the score was achieved or from the National Conference of Bar Examiners directly to the Tennessee Board of Law Examiners;

(3) meets the educational requirements pursuant to sections 2.01 and 2.02;

~~—(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).~~

(4) ~~—(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;~~ is a member in good standing in all jurisdictions in which applicant is currently admitted;

(5) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(6) possesses the character and fitness to practice law in this jurisdiction; and

(7) has not engaged in the unauthorized practice of law in this or any other jurisdiction.

~~—has not engaged in the unauthorized practice of law in this or any other jurisdiction.~~

~~—(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) ~~(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), but is not more than five years from the date grades were released in Tennessee for the exam administration for which the score was earned, may apply for admission on transferred UBE score provided the attorney is licensed in another jurisdiction in the United States and 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: —

(c) —~~(1)~~

(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;

submit a certificate of admission from the highest court of each jurisdiction to which the applicant has been admitted;

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

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

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

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

### **Sec. 3.06. [Reserved.] Applications by Persons Admitted in Other Jurisdictions Seeking Waiver of Examination.**

~~Applications for admission by persons admitted in other jurisdictions seeking waiver of examination may be filed at any time in accordance with Article V of this Rule. In addition to the information required by the uniform application process, such applicants shall furnish such additional information as may be required by the Board to enable the Board to determine the applicant's eligibility for such admission.~~

### **Sec. 3.07. Additional Information.**

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

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

~~(2)~~ ~~—~~ ~~(2)~~ As to the applicant's character;

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

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

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

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

~~(c)~~ ~~Until an applicant is admitted to the Tennessee bar, or the application is denied by the Board or voluntarily withdrawn, the applicant is under a continuing obligation to update responses to any of the information requested in the application process. Whenever there is an addition or a change to the information previously provided to the Board, the applicant must amend his or her application by filing an amendment or supplemental application as prescribed by the Board. Applications that have been on file for two years or more must be supplemented every two years until such time as the Applicant is admitted, has been denied admission, or has withdrawn the application for admission.~~

### ~~Sec. 3.~~ ~~Sec. 3.08. Duty of Candor and Failure or Refusal to Furnish Information.~~

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

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

### ~~Sec. 3.09. False Information.~~

~~(a) The giving of false information or the making of false statements on the application or to the Board shall be sufficient cause for the Board to refuse to allow such applicant to take the examination or to be admitted.~~

~~(b) If the Executive Director or the Board has reason to believe that any person who has been admitted gave false information or made false statements to the Board, the basis for such belief shall be reported to Disciplinary Counsel of the Board of Professional Responsibility.~~

### ~~Sec. 3.~~ ~~1008. [Reserved.]~~

### ~~Sec. 3.09. [Reserved.]~~

### Sec. 3.10. No Discretion to Waive Filing Dates.

Neither the Executive Director nor the Board shall have discretion to waive or extend the dates for filing applications to take the examination specified in section 3.03 of this Rule. An applicant aggrieved by an action of the Board denying an application ~~pursuant to this Article~~ under section 3.03 shall not be entitled to petition the Supreme Court for a review of said action.

### **Sec. 3.114. Applicants Requiring Non-Standard Testing Accommodations.**

The bar examination shall be administered to all eligible applicants in a manner that does not discriminate against applicants with non-standard testing needs. An applicant who is otherwise eligible to take the Tennessee bar examination may request a modification of the manner in which the examination is administered if such applicant is unable to take the examination under normal testing conditions. The Board shall adopt a policy regarding applicants requiring non-standard testing accommodations pursuant to section 12.05 of this Rule. An applicant requesting non-standard testing accommodations shall complete and submit the documents prescribed by the Board by the application deadline set forth in section 3.03 of this Rule, except when the disability first occurs after the filing deadline. Because the forms and procedures are detailed, requiring the applicant to attach statements from law school officials and treating professionals, any applicant requesting non-standard testing conditions is encouraged to request, complete, and submit the application for admission by examination and the necessary request for non-standard testing and related forms to the Board as early as possible to permit an evaluation of the request. To the extent practicable, any accommodations requested shall be consistent with the security and integrity of the examination. The Board may transmit the application for non-standard testing or refer the applicant to an appropriate professional selected by the Board for assessment and recommendations regarding the accommodation to grant. By submitting a request for non-standard testing, the applicant agrees to the release of the application to an appropriate professional and agrees to appear for assessment, if requested to do so by the Board.

## **ARTICLE IV. THE EXAMINATION**

### **Sec. 4.01. The Purpose of the Examination.**

The purpose of the examination is to enable applicants to demonstrate to the Board that they possess the knowledge, skills and abilities basic to competence in the profession, ~~which are subject to testing.~~

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

The Board 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.

### **Sec. 4.03. The Dates and Places of Giving the Examination.**

The examination shall be given in February and July of each year at any one or more of the following places: Memphis, Nashville, Chattanooga and Knoxville, provided an examination is held at least once a year in each of the three grand divisions. The Court, in its discretion, may substitute another location in the same grand division for a city named in the preceding sentence.

### **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 subjects tested on the UBE is essential and~~ may include, but not ~~be~~ limited to, the following subjects: 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.

### **Sec. 4.05. Re-examination.**

~~In case of failure on examination, the Board may, in its discretion, allow the applicant to take another examination upon completion of the application process herein provided and the payment of the requisite fee.~~

An applicant who is unsuccessful on the examination may apply for re-examination by completing the application process under section 3.01 and paying the required fee. After the deadline for completion of the application process, the Board, in its discretion, will determine whether an applicant who has failed the bar examination will be permitted to take another examination.

#### **Sec. 4.06. Effect of Taking Examination on Eligibility for Admission.**

The fact that an applicant is allowed to take the examination shall not preclude further inquiries, investigation or proceedings with respect to the other criteria for admission under this Rule.

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

~~(a) (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) (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) (c)~~-Bar examination scores earned in Tennessee, whether by means of the former Tennessee bar examination or the UBE, are valid to determine eligibility for licensing for three years after the date grades are released. ~~The scores expire;~~ after 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 unless the UBE score can be used for admission under section 3.05(b). A UBE score that was earned five or more years from the date grades were released in Tennessee for the exam administration for which the score was earned is not valid for admission to Tennessee.

~~(d) (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 earning a qualifying~~transferred~~ UBE score; provided, however, that an applicant who:

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

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

~~(3) (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 Without Examination of Persons Admitted in Other Jurisdictions.

(a) ~~(a)~~ **Requirements.**—An applicant who meets the requirements of (1) through ~~(6)~~(7) of this paragraph may, ~~upon motion,~~ be admitted to the practice of law in this jurisdiction, without examination (comity). The applicant shall:

(1) ~~—~~ ~~(1)~~ meet the educational requirements imposed ~~by~~ under sections 2.01 and 2.02 of this Rule;

(2) ~~—~~ ~~(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) ~~—~~ ~~(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) ~~—~~ ~~(4)~~ establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

(5) ~~—~~ ~~(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) ~~—~~ ~~(6)~~ establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

(7) submit an application under paragraph (e) of this section before establishing an office or other systemic and continuous presence in this jurisdiction for the practice of law pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(b)(1).

(b) ~~(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, and who has not been admitted by examination or transferred UBE score in any other state in the United States, the District of Columbia, or a U.S. Territory in which the applicant is in good standing, may seek a waiver of subsection (a)(1) by filing a petition with the Board as provided in section 13.02, setting forth the reasons why ~~he or she~~ the applicant should be admitted to practice law in Tennessee. The petition shall include information upon which the Board can assess the applicant’s reputation, character, knowledge, skills and abilities. 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 section 14.01 ~~Article XIV.~~

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

~~(1)~~ ~~(1)~~ For the purposes of this ~~R~~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)~~ ~~(A)~~ full-time private or public practice as a licensed attorney;

~~(B)~~ ~~(B)~~ teaching law full-time at a law school approved by the ABA;

~~(C)~~ ~~(C)~~ service as a judicial law clerk or staff attorney; and

~~(D)~~ ~~(D)~~ service as a Judge, Attorney General, Public Defender, U.S. Attorney, District Attorney, ~~or~~ duly registered In-House Counsel or Military Spouse.

~~(2)~~ ~~(2)~~ For the purposes of this ~~R~~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 ~~10.075.01(e)~~ 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)~~ ~~(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) (d) Unauthorized Practice of Law.~~ For purposes of this ~~R~~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.~~

~~(e) (f) Admission on Motion Without Examination Application and Fees.~~ Any applicant seeking admission ~~without examination on motion~~ to the practice of law in Tennessee shall:

~~(1)~~ ~~(1)~~ file an application for admission ~~without examination on motion~~, including character investigation information, in a manner established by the Board, including all required supporting documents;

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

~~(3) Submit a certificate of good standing from each jurisdiction to which applicant has been admitted;~~  
and

(4) pay the application fee as adopted under section 11.01 of this Rule.

(f) An applicant under this section who establishes an office or other systemic and continuous presence in this jurisdiction for the practice of law shall register for practice pending admission under section 10.07 unless the practice of law meets an exception under Tenn. Sup. Ct. R. 8, RPC 5.5.

~~—————(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 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 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.~~

~~(1) (i) [Expired.]~~

**Sec. 5.02. Additional Considerations.**— In determining whether ~~such applicants satisfy~~ an applicant satisfies 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.

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

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

(1) admission and issuance of a license;

(2) withdrawal of the application by the applicant;

(3) denial of a license under Section 9.05;

(4) thirty days after the entry of an order denying the application in whole or in part for failure of the applicant to demonstrate good moral character, due respect for the law, or fitness to practice law, absent a petition under Section 14.01 and then upon resolution of the petition by the Supreme Court;

(5) thirty days after the entry of the final order denying the application for admission without examination (comity) for failure to meet eligibility requirements absent a petition under Section 14.01 and then upon resolution of the petition by the Supreme Court; or

(6) six months after the last communication from the Board, after completion of the background investigation, which remains unanswered by the applicant.

(b) To withdraw an application, an applicant shall submit a notice of withdrawal of application and affirmatively state that the applicant is no longer seeking admission in Tennessee.

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

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

(a) ~~(a)~~— An applicant shall not be admitted if ~~in the judgment of~~ the Board ~~finds~~ 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~~ and ~~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) (b)~~ The Board may adopt statements of policy to implement the application of the foregoing standard.

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

~~(a) (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.~~ a sufficient number of members so that each member has a reasonable number of interviews each year. The Board will adopt a policy establishing the reasonable number of interviews per member as well as the number of members for each committee. Attorneys who teach in any capacity in any of the State's ABA accredited or state-approved law schools are ineligible to serve as members of the Investigatory Committees. The Board may recommend to the Court the creation of additional committees or the increase in membership of any committee.

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

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

~~(b) (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) (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,

re-examination, or transferred UBE score who is not licensed and in good standing in at least one other ~~U.S.~~-jurisdiction in the United States 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 in the United States. The chair shall assign applications to committee members for review, interview and investigation.

~~(d) (d) On the receipt of an application, t~~The investigating committee member to whom the application has been assigned shall review ~~same the application~~ 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, e~~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) (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. Duty of Candor and Failure or Refusal to Furnish Information.**

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

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

#### **Sec. 6.05. False Information.**

(a) The giving of false information or the making of false statements on the application or to the Board shall be sufficient cause for the Board to refuse to allow such applicant to take the examination or to be admitted.

(b) The Executive Director, the Board, or any individual member who has reason to believe that any person who has been admitted may have given false information or made false statements to the Board, may report the information to Disciplinary Counsel of the Board of Professional Responsibility.

#### **Sec. 6.06. Certificate of Good Moral Character.**

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

- (1) execute an appropriate release form permitting school officials from each law school applicant attended to furnish information to the Board relevant to the character and fitness of the applicant; and
- (2) cause to be submitted to the Board a certificate from the dean or supervising authority of the law school from which the applicant graduated and from each law school applicant attended indicating

that to the best of its knowledge and belief the candidate 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 applicant.

(b) Applicants Licensed in Another Jurisdiction.

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

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. The Board shall not waive the requirement for a certificate of good standing for the highest court of each jurisdiction to which an applicant has been admitted for an applicant under section 10.01.

~~**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 VII. FOREIGN-EDUCATED APPLICANTS**

### **Sec. 7.01. Eligibility to Take Examination.**

(a) (a)-An applicant who has completed a course of study in and graduated from a law school in a foreign jurisdiction, which law school was then recognized and approved by the competent accrediting agency of such jurisdiction, may qualify, in the discretion of the Board, to take the bar examination or for admission by transferred UBE score under section 3.05, provided that the applicant shall satisfy the Board that his or her undergraduate education and legal education were substantially equivalent to the requirements of sections 2.01 and 2.02 of this Rule. The applicant shall submit a comprehensive evaluation that includes a course-by-course evaluation, determination of equivalency, plus authentication of transcripts (~~herein~~ "Foreign-Education Report") from a Credential Evaluation Service that is a member of the National Association of Credential Evaluation Services to enable the Board to determine the applicant's eligibility for such admission.

(b) (b)-In the alternative, an applicant who has completed a course of study in and graduated from a law school in a foreign jurisdiction, which law school was then recognized and approved by the competent

accrediting agency of such jurisdiction, may qualify, in the discretion of the Board, to take the bar examination or for admission by transferred UBE score under section 3.05, provided that the applicant shall satisfy the Board that the applicant:

(1) ~~(i)~~ has been awarded, by a law school fully accredited by the ABA or a Tennessee law school approved by the Board under section 17.012.03 of the Rule, and LL.M. Degree in the United ~~State~~States in a degree program that meets the following requirements:

(A) ~~(1)~~ The degree program certifies to the Board, on such form prescribed by the Board, that the foreign-educated lawyer received his or her LL.M. degree from a law school that is accredited by the ABA or is a Tennessee law school approved by the Board ~~pursuant to~~under section 17.012.03 of this Rule;

(B) ~~(2)~~ The degree program prepares students for admission to the Bar and for effective and responsible participation in the ~~United States~~-legal profession in the United States; and

(C) ~~(3)~~ The courses for the LL.M. for the Practice of Law in the United States were taught in English and in the United States or its territories and the applicant attended the courses on site at the ABA-accredited or Tennessee approved law school. The ~~L~~-LL.M. program may be full or part-time but, if part-time, the applicant must have completed the LL.M. program within thirty-six months: and

(2) ~~(ii)~~ has been admitted to practice in a foreign jurisdiction and is in good standing at the bar of the foreign jurisdiction, as evidenced by a certificate from the highest court or agency of such foreign jurisdiction having authority over admission to the practice of law, and has engaged in the active practice of law in the foreign jurisdiction, as defined in section 5.01(c) of this Rule, for at least five of the eight years ~~prior to~~before applying to take the Tennessee bar.

### **Sec. 7.02. Additional Information from Applicants Licensed in a Foreign Country.**

Any applicant licensed to practice in a foreign country desiring admission in Tennessee shall be required to pass the examination and shall supplement the application with the following documents:

(a) ~~(a)~~ a certified copy of the record or license of the court or agency which admitted the applicant to practice law in such country; and

(b) ~~(b)~~ at least 3~~three~~ letters from attorneys or judges in such foreign country certifying that the applicant is in good standing at that bar, or was in good standing at that bar when the applicant left that foreign country.

## **ARTICLE VIII. COMMITMENT TO SERVE THE ADMINISTRATION OF JUSTICE IN TENNESSEE**

### **Sec. 8.01. ~~Applicable Standard.~~ Evidence of Commitment to Administration of Justice.**

The requisite commitment to serve the administration of justice in Tennessee subject to the duties and standards imposed on attorneys in this State shall be evidenced by a statement by ~~each~~the applicant ~~before~~ admission by examination, ~~or admission by comity~~transferred UBE score, without examination, or temporary admission under section 10.06, that the applicant agrees to abide by the duties and standards imposed from time to time on attorneys in this State.

### **Sec. 8.02. [Reserved.]**

**Sec. 8.03. [Reserved.]**

**ARTICLE IX. ISSUANCE OF LICENSE—EFFECTIVE DATE OF ADMISSION**

**Sec. 9.01. Certificate of Board.**

(a) ~~(a)~~ Upon the completion of all requirements for licensing, ~~including the payment of all required fees as provided in section 1.03,~~ the Board, acting through the Executive Director, shall certify to the Supreme Court that an applicant is eligible for admission and issue to the applicant a “Certificate of Eligibility for Admission” ~~(the “Certificate of Eligibility”)~~. The Board shall promptly notify the Clerk of the Supreme Court and the Board of Professional Responsibility of the issuance of the Certificate of Eligibility.

(b) ~~(b)~~ The Certificate of Eligibility shall be valid for ~~90~~ninety days from the date of issuance. ~~The Board, for good cause shown and subject~~Subject to the time limit imposed by section 1.02 of this Rule, ~~the Board~~ may grant the applicant a reasonable, one-time extension of the time within which to complete the licensure process, including compliance with Tenn. Sup. Ct. R. 6, if the applicant shows to the satisfaction of the Board that he or she is unable to complete the process within the ~~90~~ninety-day period.

**Sec. 9.02. Issuance of License.**

(a) ~~(a)~~ On the basis of the Certificate of Eligibility, and upon the successful applicant’s compliance with Tenn. Sup. Ct. R. 6, the Supreme Court shall issue a license admitting the successful applicant to the bar of Tennessee. However, the Board may revoke the Certificate of Eligibility if at any time ~~prior to~~before the administering of the oath of admission; ~~the Board receives notice of any event that would have changed the Board’s decision to approve an applicant for licensing,~~ ~~the Board, in its discretion, may revoke the Certificate of Eligibility.~~

(b) ~~(b)~~ The license shall be in such form as may be approved by the Supreme Court. Each such license shall be signed by the members of the Board and the members of the Court.

**Sec. 9.03. Effective Date of Admission.**

An applicant shall not be considered admitted to the bar of Tennessee until issuance of a license by the Supreme Court ~~and~~ upon compliance with Tenn. Sup. Ct. R. 6.

**Sec. 9.04. Duty of Applicant to Inform Board of Subsequent Events.**

If at any time ~~before~~prior to the issuance of a license ~~to~~ an applicant ~~he or she~~ becomes aware of any fact or circumstance which might indicate that such applicant is not entitled to admission, ~~such~~the applicant shall promptly advise the Board of such fact or circumstances as provided in section 3.02.

**Sec. 9.05. Disapproval by the Supreme Court.**

At any time ~~before~~prior to the issuance of a license to an applicant, the Supreme Court may for good cause disapprove the issuance of such license. On such disapproval, the Court shall enter an order stating the grounds for such disapproval and may refer the matter to the Board for such further action as the ~~Supreme~~ Court may deem appropriate.

**Sec. 9.06. Replacement License.**

For good cause shown, the Board may recommend to the Supreme Court the issuance of a replacement license to any person who has previously been licensed to practice law in Tennessee.

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

If the decision of the Board to deny an application is based, in whole or in part, on the failure of the applicant to demonstrate good moral character, due respect for the law, or fitness to practice law, the applicant may not reapply for admission within a period of ~~thirty-six (36) months~~ three years after the issuance of the order denying the application.

## ARTICLE X. SPECIAL OR LIMITED PRACTICE

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

~~(a) (a)~~ A lawyer who is admitted to the practice of law in another ~~United States~~ jurisdiction ~~who has a continuous presence in this jurisdiction and/or is a foreign lawyer who~~ 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, and who has a systematic and continuous presence in this jurisdiction pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1), shall ~~file an application for registration~~ register 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) ——— (1)~~ A completed application in the form prescribed by the Board;
- ~~(2) ——— (2)~~ A fee in the amount set by the Board ~~pursuant to Article XI~~ under section 11.01;
- ~~(3) ——— (3)~~ Documents proving admission to practice law and current good standing in all United States and foreign jurisdictions in which the lawyer is admitted to practice law. If the jurisdiction is foreign and the documents are not in English, the lawyer shall submit an English translation and satisfactory proof of the accuracy of the translation; and
- ~~(4) ——— (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)~~ For purposes of this Rule, a "foreign lawyer" is a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority. Upon recommendation of the Board, the Supreme Court may allow a foreign lawyer lawfully practicing as in-house counsel in a foreign jurisdiction who does not meet the above requirements to register as an in-house counsel after consideration of other criteria, including the lawyer's legal education, references, and experience.

~~(b)~~ A registered 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) ——— (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 the ~~if~~ registered lawyer's work for the entity and only to the extent consistent with Tenn. Sup. Ct. R. 8, RPC 1.7; and
- ~~(2) ——— (2)~~ The registered lawyer shall not:

~~(A)~~ ~~(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)~~ ~~(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.~~; and

~~(C)~~ ~~(e)~~ If a foreign lawyer, provide advice on the law of this or another jurisdiction of the United States except upon the basis of advice from a lawyer who is duly licensed and authorized to provide such advice.

~~(c)~~ Notwithstanding the provisions of paragraph (b)(2)(A) and (B), above, a registered lawyer ~~registered~~ under this section, other than a foreign lawyer, 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)~~ ~~(d)~~ A registered lawyer ~~registered~~ under this section shall:

~~(1)~~ ~~(1)~~ Complete the registration process with the Board of Professional Responsibility within ~~30~~thirty days of approval of the application to register under this section;

~~(2)~~ ~~(2)~~ Pay all annual fees payable by active members of the bar;

~~(3)~~ ~~(3)~~ Fulfill the continuing legal education requirements that are required of active members of the bar; and

~~(4)~~ ~~(4)~~ Report to the Board, within ~~30~~thirty days, the following:

~~(A)~~ ~~(A)~~ Termination of the lawyer's employment;

~~(B)~~ ~~(B)~~ Whether or not public, any change in the lawyer's license status in another jurisdiction, including by the lawyer's resignation; and

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

~~(1)~~ ~~(1)~~ The lawyer's employment terminates;

~~(2)~~ ~~(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)~~ ~~(3)~~ The lawyer fails to maintain active status in at least one jurisdiction; or

~~(4)~~ ~~(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 written notice ~~in writing~~ within ~~30~~thirty days to the Board and to the Board of Professional Responsibility.

(g) ~~(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) ~~(1)~~ An application for reinstatement in a form prescribed by the Board;
- (2) ~~(2)~~ A reinstatement fee set by the Board pursuant to section 11.01 ~~Article XI~~; and
- (3) ~~(3)~~ An affidavit from the current employing entity as prescribed in paragraph (a)(4).

(h) ~~(h)~~ A lawyer under this Rule who fails to register within 180 days of commencement of employment shall be:

- (1) ~~(1)~~ Permitted to register under this section as provided in paragraph (a), above but will be required to pay a late registration fee as provided in the fee schedule established under section 11.01;
- (2) Subject to professional discipline in this jurisdiction;
- (3) ~~(2)~~ Ineligible for admission pursuant to section 5.01 ~~Article V~~ of this Rule;
- (4) ~~(3)~~ Referred by the Board to the Board of Professional Responsibility; and
- (5) Referred by the Board to the disciplinary authority of the jurisdiction(s) of licensure.

~~(1) (4) Referred by the Board to the disciplinary authority of the jurisdiction(s) of licensure.~~

(i) ~~(i)~~ A lawyer's ~~rendering of~~ service to the lawyer's employer ~~prior to~~before 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. The protection of this section applies only to lawyers who submit an application to register under this section within 180 days of commencement of practice in Tennessee.

(j) ~~(j) [Expired.]~~ A lawyer who is eligible to register under this section but who submits an application for admission without examination under section 5.01, by examination under section 3.01, or by transferred UBE score under section 3.05, must register to practice pending admission under section 10.07 or also register as in-house counsel. The protections of paragraph (i) do not apply for admission under other provisions of this Rule.

(k) Amnesty. A foreign lawyer who has been employed as a lawyer in an organization in Tennessee for more than 180 days at the time of enactment of amended section 10.01 and who complies fully with the requirements of this Rule on or before September 30, 2019, shall not be barred from registration under this Rule or from practicing under the authority of Tenn. Code Ann. § 23-3-103 and RPC 5.5(d)(1) solely by the fact of prior noncompliance with Tennessee law concerning licensure of in-house counsel.

## **Sec. 10.02. Approval of Experiential Learning Programs and Attorneys in Experiential Learning and Related Law School Programs.**

(a) Experiential Learning Programs. For the purpose of this section and section 10.03 herein, Experiential Learning Program means an academic program administered by a law school through which a law student may enroll for academic credit in a law clinic or field placement course.

(1) A law clinic offered through an Experiential Learning Program provides substantial lawyering experience that involves advising or representing one or more actual clients or serving as a third-party neutral, and includes the following:

(A) direct supervision of the student's performance by a law school faculty member;

(B) opportunities for performance, feedback from a faculty member, and self-evaluation; and

(C) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection.

(2) A field placement course offered through an Experiential Learning Program provides substantial lawyering experience that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise, and includes the following:

(A) direct supervision of the student's performance by a faculty member or field placement site supervisor;

(B) opportunities for performance, feedback from either a faculty member or a field placement site supervisor, and self-evaluation;

(C) a written understanding among the student, faculty member, and a person in authority at the field placement that describes both the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and the respective roles of faculty and any field placement site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student's academic performance;

(D) a method for selecting, training, evaluating and communicating with field placement site supervisors, including regular contact between the faculty and field placement site supervisors through in-person visits or other methods of communication that will assure the quality of the student educational experience;

(E) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection;

(F) evaluation of each student's educational achievement by a faculty member; and

(G) sufficient control of the student experience to ensure that the requirements set forth in section 10.02(a)(2)(A)-(F) are met.

(b) Approval of Experiential Learning Programs. The Board shall review a law school's Experiential Learning Program as the basis for a recommendation to the Supreme Court. Approval of the Experiential Learning Program is a prerequisite for the approval of law students who are practicing under section 10.03 in an experiential earning setting. The criteria that serve as a basis for approval shall be:

(1) that the law school is approved under section 17.01 of this Rule;

(2) that if the law school has an in-house legal clinic which directly represents clients, that the program has either an attorney licensed to practice and in good standing in Tennessee or an attorney approved for limited practice as provided in paragraph (d), below, who directs the clinic and who is employed by or associated with the law school; and

(3) that the law school's Experiential Learning Program is otherwise operated in a manner consistent with the requirements of this Rule.

(c) The Supreme Court must approve a law school's Experiential Learning Program, based on a recommendation from the Board, before any law student may practice under section 10.03 in an experiential learning setting. Certification of an Experiential Learning Program may be withdrawn by the Supreme Court upon recommendation of the Board if the program ceases to meet the foregoing criteria.

(d) Attorneys in Experiential Learning Law School Programs. An attorney who is employed by or associated with an ABA-accredited or Tennessee-Approved Law School as faculty for the Experiential Learning Program may be admitted to practice on a limited basis before the courts of this State on behalf of the Experiential Learning Program. The attorney must establish to the satisfaction of the Board that the attorney:

(1) is a member of a court of last resort of another state, a U.S. Territory or the District of Columbia;

(2) submits a certificate from the court of last resort referenced in (d)(1) certifying that the attorney is a member in good standing at the bar of that court;

(3) has not been denied admission to practice in any jurisdiction, including Tennessee;

(4) submits a statement signed by the dean of the law school where the attorney is employed or associated in a verifying employment; and

(5) has paid all required fees.

(e) The Supreme Court, upon the recommendation of the Board that the attorney satisfies all the requirements of paragraph (d), shall enter an order authorizing the attorney to practice in connection with an approved Experiential Learning Program. Upon the entry of the Court's order, the Board shall provide the attorney with a certificate of admission.

(f) Admission to practice under this section shall cease upon the first of the following to occur:

(1) after two years from the date of admission under this section, except in the discretion of the Supreme Court in special situations for good cause shown, provided that attorneys who wish to continue to practice in this State must seek admission under sections 3.01 (by examination), 3.05 (by transferred UBE score) or 5.01 (without examination) of this Rule so that they are eligible for licensing before the expiration of the two-year period. Time in practice pursuant to this section will count as "active practice of law" for purposes of admission pursuant to section 3.05(b) or 5.01; or

(2) cessation of the attorney's employment by or association with the law school, notice of which will be provided to the Board by the law school dean within ten days of the attorney's cessation of employment or association with the law school.

(g) Attorneys admitted to practice under this section are subject to the Rules of Professional Conduct and may be disciplined as provided for in Tenn. Sup. Ct. R. 9.

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

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

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

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

(2) the term “Experiential Learning Program” shall incorporate the definition in section 10.02(a);

(3) the term “director” refers to the director of the law school’s Experiential Learning Program that has been approved by the board under section 10.02(b);

(4) the term “provide legal services” is to be construed broadly, so as to allow a law student who is admitted under this section to provide any and all services that could be provided by a licensed attorney, subject to supervision as provided in this Rule;

(5) the term “person or entity financially unable to afford counsel” includes all persons whom any court could deem eligible for the appointment of counsel, as well as persons and entities unable to reasonably secure legal counsel for the subject matter of the representation, or who can otherwise demonstrate to the satisfaction of the director that they cannot reasonably afford counsel; and

(6) the term “governmental agency or agencies” refers to any state, county, municipal or federal government agency, department or entity located in Tennessee.

**(c) Qualified law student.** In order to perform the activities outlined in section 10.03(g), a qualified law student is a student enrolled in an approved law school, except that the student is not required to be enrolled during a summer term or when the school is not in session, certified under section 10.03(d), and approved under section 10.03(e).

**(d) Certification.** The qualified law student shall:

(1) be certified by the dean of the law student’s law school or the director

(A) as having satisfactorily completed not less than one-half of the required curriculum for graduation, computed on an hourly basis;

(B) as being in academic good standing at the law school; and

(C) as meeting any other requirements the law school places on certification under this Rule; and

(2) certify in writing that he or she has read, is familiar with, and will abide by Tennessee Supreme Court Rules 8 and 9.

**(e) Approval by the Supreme Court.**

(1) The dean of the law student’s law school or the director shall file a request for approval of a qualified law student with the Clerk of the Supreme Court of Tennessee in Nashville on forms and in the format required by the Supreme Court.

(2) Upon a showing that the law student is qualified under the provisions of this Rule, the Supreme Court shall issue an order approving the law student to practice.

(3) Upon the entry of the order approving a law student to practice under this Rule, the Board shall provide the student with a certificate of admission.

**(f) Duration of Law Student Practice.**

(1) **Eligibility.** A law student's eligibility to provide service under this Rule terminates upon the earlier of:

(A) expiration of the approval by the Supreme Court;

(B) graduation from law school;

(C) receipt by the Clerk of the Supreme Court of the notice set forth in paragraph (f)(3), below that one of the following has occurred:

(i) cessation of law school enrollment before graduation;

(ii) completion of the experiential learning placement that is the basis for the law student's eligibility; or

(iii) upon written notice from the dean of the law student's law school or the director that the law student no longer meets the eligibility requirements under this Rule.

(2) **Short-term Permission to Engage in Law Student Practice.** Qualified law students whose approval to practice has expired under paragraph (f)(1) may participate in a short-term pro bono event as an approved qualified law student, provided that:

(A) the qualified law student is approved by the director for the short-term pro bono event;

(B) the qualified law student is supervised by an attorney approved by the director;

(C) the short-term pro bono event is sponsored by the law school; and

(D) the pro bono event is held on consecutive days and does not exceed ten days.

(3) **Notice Required.** Notice of an event of termination of a qualified law student's eligibility under paragraph (f)(1)(C), above shall be promptly provided by the dean of the qualified law student's law school or the director by sending notice to the Clerk of the Supreme Court in Nashville and the Executive Director of the Tennessee Board of Law Examiners.

**(g) Activities.**

(1) An approved qualified law student may provide legal services on behalf of any person or entity financially unable to afford counsel or on behalf a governmental agency through:

(A) a law school clinical course;

(B) governmental agencies as defined in paragraph (b)(6);

(C) Office of the Attorney General and Reporter, District Public Defender or District Attorney General;

(D) any program funded in whole or in part by Legal Services Corporation; or

(E) a non-profit organization that, as part of its mission, provides legal services to persons or entities financially unable to afford counsel.

(2) Any pleadings, briefs, abstracts or other documents prepared by a qualified law student acting pursuant to this Rule must contain the name and signature of the qualified law student who participated in drafting it with the accompanying designation, "Qualified Law Student Approved under Tenn. Sup. Ct. R. 7, Sec. 10.03" but must also be signed by the supervising attorney (the "supervising attorney") as defined in paragraph (h), below.

(3) The rules of law and evidence relating to privileged communications between attorney and client shall govern communications made or received by qualified law students and their clients.

**(h) Supervision.**

(1) The qualified law student shall be under the immediate and personal supervision of an attorney who meets the requirements of paragraph (3), below. If the supervising attorney is not teaching in a law school clinic, the attorney must be approved in writing by the dean or director.

(2) It is the responsibility of the supervising attorney to ensure that the student is properly supervised and instructed, including compliance with Tenn. Sup. Ct. R. 8, RPC 5.3, and be present for administrative or adjudicatory proceedings; however, it is not necessary that the licensed attorney be personally present when the student engages in other activities such as interviewing, investigation, drafting and negotiation.

(3) The supervising attorney must:

(A) be a lawyer licensed and in good standing in Tennessee;

(B) have practiced for a minimum of three years;

(C) assume professional responsibility for the direct and immediate supervision for the professional work of the qualified law student; and

(D) be a full-time employee of an entity identified in paragraph (g)(1)(A)-(E), above, and supervise the qualified law student in connection to that employment.

**(i) Disciplinary Complaints.**

(1) In the event a disciplinary complaint is filed based on a qualified law student's participation under these rules, the authority with whom such complaint is filed shall immediately report the same to the dean of the student's law school and the Board of Law Examiners. Upon receipt of notice of a complaint, the dean or director shall provide the Board of Professional Responsibility the name of the supervising attorney for the law student against whom the complaint is filed.

(2) By operation of this Rule, a disciplinary complaint against a qualified law student constitutes a complaint against the supervising attorney. The Board of Professional Responsibility shall have jurisdiction over the complaint against both the student and the supervising attorney and, in the discretion of the Board of Professional Responsibility, may refer the complaint against the student to the Office of the Attorney General and Reporter, the Board of Law Examiners, or the law school.

**(j) Compensation.** This Rule does not preclude compensation of a qualified law student when consistent with the law school's academic policies. However, in no event shall the qualified law student be

employed or compensated directly by a client for services rendered.

**Sec. 10.02. Attorneys in Clinical and Related Law School Programs.**

~~— The Board shall approve a law school's clinical program and shall certify such approval to the Supreme Court of the State of Tennessee as a prerequisite for the approval of law students who are practicing under this section in a clinical setting. The criteria for approval shall be:~~

~~— that if the law school has an in-house legal clinic which directly represents clients, that the program has a full-time faculty member as director, who is an attorney licensed to practice law in Tennessee; and~~

~~— that the law school clinical program is otherwise operated in a manner consistent with the requirements of this Rule.~~

~~Certification of approval of such law school clinical program may be withdrawn by the Board if the same ceases to meet the foregoing criteria.~~

~~— (a) An attorney who is enrolled or employed in a clinical program in an approved Tennessee law school or who, after graduation from an approved law school, is employed by or associated with an organized legal services program operated by an approved Tennessee law school providing legal assistance to indigents in civil or criminal matters, and who is a member of a court of last resort of another state (the term "state" including Territories and the District of Columbia) shall be admitted to practice before the courts of this State in all causes in which that attorney is associated with a legal clinic operated in conjunction with an approved law school. Admission to practice under this Rule shall be limited to the above causes and shall become effective upon filing with the Board:~~

~~— (1) A certificate of any court of last resort certifying that the attorney is a member in good standing at the bar of that court; and~~

~~— (2) A statement signed by the Dean of the law school that the attorney is enrolled or employed in a clinical program in an approved Tennessee law school.~~

~~— (b) When the above requirements are met to the satisfaction of the Board, it shall grant admission to practice to the applicant and shall certify such by letter to the applicant.~~

~~(c) Admission to practice under this section shall cease to be effective whenever the attorney ceases to be enrolled in or associated with such program. When an attorney admitted under this section ceases to be so enrolled or associated, a statement to that effect shall be filed with the Board by a representative of the law school or legal services program. In no event shall admission to practice under this Rule remain in effect longer than 2 years for any individual admitted under this Rule, except in the discretion of the Supreme Court in special situations for good cause shown. Attorneys who wish to continue to practice in this State must seek admission under Article III (by examination) or Article V (without examination) of this Rule so that they are eligible for licensing prior to the expiration of the two-year period. Time in practice pursuant to this section will count as "active practice of law" for purposes of admission pursuant to Article V (without examination) of this Rule.~~

~~— (d) Attorneys admitted to practice under this section may be suspended from practice in the manner now or hereafter provided by Tenn. Sup. Ct. R. 9 for the suspension or disbarment of attorneys.~~

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

~~(a) Any law student who has successfully completed one half of the legal studies required for graduation from any school of law from which a graduate is eligible under this Rule to take the Tennessee bar examination may, with the written approval of the Supreme Court of Tennessee, provide legal services to, and/or may appear in any municipal, county, or state court on behalf of, any person or entity financially unable to afford counsel or on behalf of the State of Tennessee or of any municipal or county government; provided, however, that the law student is participating in a law school clinical program, furnishing assistance through a legal aid program, or serving as an assistant to a District Attorney, Public Defender, the State's Attorney General, the general counsel of any State agency, or a county or municipal legal director's office, and that the law student is under the immediate and personal supervision of a member of the law school's faculty, a licensed legal aid attorney, a District Attorney General or designated Assistant District Attorney General, a District Public Defender or designated Assistant District Public Defender, the Attorney General of Tennessee or any assistant in his or her office, the general counsel of any State agency or any staff attorney in his or her office, or the director of a county or municipal legal office or designated staff attorney.~~

~~—(b) Before any student shall be eligible to provide legal services and/or appear in court under this section, the dean of the approved law school or the director of the law school clinical program shall file with the Supreme Court of Tennessee for its approval a list of students who are eligible for certification under this section and certify to the Supreme Court that such students meet the requirements of this section. Upon written approval by the Supreme Court of Tennessee of such students so selected and certified, such approved students shall be and are thereby authorized to provide legal services and/or appear in any municipal, county or State court on behalf of any person or entity financially unable to afford counsel, the State of Tennessee, or any municipality or county in the State of Tennessee in a manner consistent with the requirements of this section.~~

~~—(c) The Board shall approve a law school's clinical program and shall certify such approval to the Supreme Court of the State of Tennessee as a prerequisite for the approval of law students who are practicing under this section in a clinical setting. The criteria for approval shall be:~~

~~—————(1) that the law school itself is approved under the foregoing sections of this Rule;~~

~~—(2) that if the law school has an in-house legal clinic which directly represents clients, that the program has a full-time faculty member as director, who is an attorney licensed to practice law in Tennessee; and~~

~~—(3) that the law school clinical program is otherwise operated in a manner consistent with the requirements of this Rule.~~

~~Certification of approval of such law school clinical program may be withdrawn by the Board if the same ceases to meet the foregoing criteria.~~

~~(d) In the case of students working in a legal aid office, a Public Defender's Office, District Attorney's office, the office of the Attorney General of Tennessee, the office of the general counsel of any State agency, or the office of a municipal or county legal director, it shall be the responsibility of the director of clinical education or the dean of the law school to transmit to the legal aid office, Public Defender's Office, District Attorney's office, office of the Attorney General of Tennessee, office of the general~~

~~counsel of any State agency, or the office of the municipal or county legal director the names of the students who are certified under this section.~~

~~(e) The written approval of such students by the Supreme Court of Tennessee shall be and remain in force and effect until the student graduates from law school or ceases to be enrolled in the law school.~~

### **Explanatory Comments.**

~~—(1) The purpose of this section is educational; consequently, its focus is on providing opportunities for students to further their legal studies through properly supervised experiential education. Interpretation of this section should be in accordance with its educational goal.~~

~~—(2) The term “approved law school” refers to any law school in the state of Tennessee that has been accredited by the ABA or any law school in the state of Tennessee approved under section 2.03 of this Rule.~~

~~—(3) In order to provide consistency between three year and four year law school programs, section 10.03 allows for certification of a student who has completed at least half of his or her law school studies. At a four year law school, a student is eligible for certification under this section after successful completion of two years of law school, while at a three year law school, a student is eligible after successful completion of three semesters.~~

~~—(4) The term “provide legal services” is to be construed broadly, so as to allow a law student who is admitted under this section to provide any and all services that could be provided by a licensed attorney. Students admitted under this section may also appear in capacities such as guardian ad litem where the person whose interests are represented would qualify for appointed counsel.~~

~~—(5) Students shall be personally and directly supervised by a clinical faculty member or legal aid lawyer, public defender, district attorney, assistant Attorney General, staff attorney for a State agency or staff attorney at a metropolitan legal office when appearing in court or tribunal; however, it is not necessary that the licensed attorney be personally present when the student engages in other activities such as interviewing, investigation and negotiation. It is, however, the responsibility of the licensed attorney to ensure that the student is properly supervised and instructed, including compliance with Tenn. Sup. Ct. R. 8, RPC 5.3.~~

~~—(6) “Person or entity financially unable to afford counsel” includes all persons who would be termed “indigent” by a legal aid provider, all persons whom any court deems eligible for the appointment of counsel, as well as persons and organizations who have unsuccessfully attempted to secure legal counsel or who can otherwise demonstrate to the satisfaction of the clinic director that they cannot reasonably afford counsel. The term also encompasses any organization which is composed of a majority of persons who meet the federal definition of “indigency” as well as any not for profit organization the purpose of which is to assist “indigent” persons.~~

~~—(7) When the dean or director of clinical education certifies to the court that a student has met the conditions for admission under this section, the dean or director is certifying that the student is in good standing and has successfully completed sufficient credit hours to satisfy the minimum requirements for the second half of law school. A student will be deemed to have successfully completed the requisite amount of credits when he or she has been deemed to have passed (rather than simply have completed) sufficient courses.~~

~~(8) A law school clinical program includes a live-client clinic within the law school, an externship program operated by the law school—regardless whether it is a part of the legal clinic—or any other law school credit-bearing activity that involves the representation of clients.~~

~~—(9) A student may be certified under this section and represent clients under the provisions of this section when working at a legal aid office, district attorney’s office, public defender’s office, office of the Attorney General of Tennessee, office of the general counsel of any State agency or the office of the director of a municipal or county law department whether or not the student is receiving law school credit for that work. It is the responsibility of the dean or clinic director at the school at which the student is enrolled to ensure that the supervision provided by the legal aid office, public defender, district attorney, Attorney General, general counsel of a State agency or municipal or county law department or office is adequate under the section.~~

~~(10) The terms “director of a municipal or county law office” or “director of a municipal or county law department” presume an office within the county or municipality which represents the county or municipality. For such an office to be recognized under this section, there must be at least one attorney in that office whose full-time employment is as the attorney for the municipality or county.~~

**Explanatory Comment [2008].**

~~Subsection 10.03(a) is amended so that, to be eligible to provide legal services under this section, a law student is no longer required to attend a law school located in the state of Tennessee. Rather the amendment extends the provisions of this section to students enrolled in any law school from which a graduate would be eligible to take the Tennessee bar examination.~~

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

**(a) ~~(a)~~ Eligibility.**

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

(B) ~~(B)~~ has submitted an application pursuant to section 3.03~~1~~ or 3.05 of this Rule;

(C) ~~(C)~~ meets the educational requirements of section 2.01 and 2.02 of this Rule;

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

(E) ~~(E)~~ has:

(i) ~~(i)~~ not yet had an opportunity to take the Tennessee bar examination;

(ii) ~~(ii)~~ taken the examination but not yet received notification of the results of the examination; or

~~(iii)~~ ~~\_\_\_\_\_~~ ~~(iii)~~ taken the examination or submitted a UBE score transfer application, but has not yet been admitted as a member of the Tennessee bar.

~~(2)~~ ~~\_\_\_\_\_~~ ~~(2)~~ An applicant is eligible for supervised practice under this section beginning with the submission of the first Application to the Bar of Tennessee or the graduation from law school, whichever is later ~~by examination~~.

~~(3)~~ Applicants registered for supervised practice who are unsuccessful on the examination and who submit a re-examination application for the next available exam within ten days of the release of examination results may continue to practice under supervision subject to the time limits in paragraph

~~(4)~~ The privilege to engage in supervised practice expires for applicants who are unsuccessful on the examination and do not submit a re-examination application within ten days of notification of examination results. 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.

~~(4)~~ ~~\_\_\_\_\_~~ ~~(3)~~ The privilege to engage in supervised practice expires: upon admission of eligible examination or UBE score transfer applicants; as provided in paragraph (3) for unsuccessful examinees; upon admission in any other state, the District of Columbia, or U.S. Territory; or upon issuance of an order to show cause. Applicants who are unsuccessful on the examination may register for supervised practice upon submitting an application for the next available exam. In no event shall the privilege to engage in supervised practice continue for more than sixteen months from the date an applicant graduated from law school.

~~(5)~~ ~~\_\_\_\_\_~~ ~~(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.

~~(6)~~ ~~\_\_\_\_\_~~ ~~(5)~~ An applicant who is licensed in another jurisdiction and seeking admission ~~by examination under sections 3.01, 3.05, 5.01, or 10.06 pursuant to Article III or without examination pursuant to Article V~~ of this Rule may practice pending admission as provided in section ~~10.07~~ 5.01(g).

~~(b)~~ ~~(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)~~ ~~(c)~~ **Supervision.**

(1) The applicant shall be under the immediate and personal supervision of an attorney who meets the requirements of paragraph (3), below.

(2) It is the responsibility of the supervising attorney to ensure that the applicant is properly supervised and instructed including compliance with Tenn. Sup. Ct. R. 8, RPC 5.3, and be present as provided in paragraph (d)(2), below; however, it is not necessary that the supervising attorney be

present when the applicant engages in activities such as interviewing, investigation, drafting, and negotiation.

(3) The supervising attorney must:

(A) be a lawyer licensed and in good standing in Tennessee;

(B) have practiced for a minimum of three years; and

(C) assume professional responsibility for the direct and immediate supervision for the professional work of the applicant.

(d) Services Permitted.— Under the supervision of the supervising attorney~~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) ——— ~~(1) the a~~ 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 ssupervising attorney~~member of the bar~~.

(2) ——— ~~(2) A~~ 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) ——— ~~(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) ——— ~~(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) ——— ~~(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 ssupervising attorney~~member of the bar~~, who shall be present and responsible for the conduct of the proceedings.

(D) ——— ~~(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 sSupervising aAttorney present unless the applicant is permitted by the judge or presiding officer to participate without direct supervision.

(E) ——— ~~(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 ssupervising attorney~~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 ssupervising attorney~~member of the bar~~. Upon motion by the ssupervising attorney~~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 ~~s~~supervising attorney~~member of the bar~~ must be present and is responsible for the conduct of the applicant at the hearing.

(e) ~~(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 ~~s~~supervising ~~a~~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.

(f) Aid in Establishing Supervised Practice. ~~(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 ~~s~~Supervising ~~a~~Attorney as required by this section, ~~may make application~~ apply 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.

(g) Disciplinary Complaints.

(1) In the event a disciplinary complaint is filed in a case in which an applicant has been permitted to practice under this section, the authority with whom such complaint is filed shall immediately report the complaint to the Board. Upon receipt of a notice of a complaint, the Board shall provide the Board of Professional Responsibility the name of the supervising attorney for the applicant.

(2) By operation of this Rule, a disciplinary complaint against an applicant permitted to practice under this section constitutes a complaint against the supervising attorney. The Board of Professional Responsibility shall have jurisdiction over the complaint against both the applicant and the supervising attorney and may refer the complaint against the applicant to the Office of the Attorney General and Reporter or the Board.

(h) Board Permitted to Disclose. ~~(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.

**Sec. 10.05. Conditional Admission.**

An applicant whose previous conduct or behavior would or might result in a denial of admission may be conditionally admitted to the practice of law upon a showing of sufficient rehabilitation and/or mitigating circumstances. The Board shall recommend relevant conditions relative to the conduct or the cause of such conduct with which the applicant must comply during the period of conditional admission.

(a) ~~(a)~~ Conditions.—The Board may recommend that an applicant's admission be conditioned on the applicant's complying with conditions that are designed to detect behavior that could render the applicant unfit to practice law and to protect the clients and the public, such as submitting to alcohol, drug, or mental health treatment; medical, psychological, or psychiatric care; participation in group therapy or support; random chemical screening; office practice or debt management counseling; and monitoring, supervision, mentoring or other conditions deemed appropriate by the Board. The conditions shall be tailored to detect recurrence of the conduct or behavior which could render an applicant unfit to practice law or pose a risk to clients or the public and to encourage continued abstinence, treatment, or other

support. The conditions should be established on the basis of clinical or other appropriate evaluations, take into consideration the recommendations of qualified professionals, when appropriate, and protect the privacy interests of the conditionally admitted lawyer to professional treatment records to the extent possible. The terms shall be set forth in a confidential order (the “Conditional Admission Order”). The Conditional Admission Order shall be made a part of the conditionally admitted lawyer’s application file and shall remain confidential, except as provided in this and any other applicable rules. The Board shall issue the Temporary Certificate of Eligibility for Admission pursuant to section 9.01 of this Rule upon completion of the registration process after issuance of the Conditional Admission Order. The Board shall have no further authority ~~over the~~ once a conditionally admitted lawyer ~~once such lawyer obtains a is~~ admitted ~~license~~ to practice law in Tennessee.

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

**(c) ~~(c)~~ Length of Conditional Admission.** - The conditional admission period shall be set in the Conditional Admission Order, but shall not exceed sixty ~~(60)~~ months, unless notification of substantial noncompliance with the Conditional Admission Order has been received by the Board of Professional Responsibility or a complaint of unprofessional conduct has been made against the conditionally admitted lawyer with the Board of Professional Responsibility or any other lawyer disciplinary authority.

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

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

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

automatically extend the conditional admission until disposition of the matter by the Board of Professional Responsibility and any resulting appeals.

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

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

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

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

**(k) ~~(k)~~ Disciplinary Complaints.**—The provisions of this section shall not affect the authority of the Board of Professional Responsibility, pursuant to Tenn. Sup. Ct. R. 9, to investigate a complaint filed against a conditionally admitted lawyer by a person or entity other than the Monitoring Authority, to recommend a disposition of such complaint pursuant to ~~Tenn. Sup. Ct. R. 9, § 8.1,~~ or to initiate a formal disciplinary proceeding as to such complaint, pursuant to Tenn. Sup. Ct. R. 9, § ~~158.2~~.

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

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

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

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

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

(4) ~~(4)~~ has achieved a passing score on the Multistate Professional Responsibility Examination (“MPRE”) as it is established in Tennessee at the time of application;

(5) ~~(5)~~ is currently an active member in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every such jurisdiction without any pending disciplinary actions;

(6) ~~(6)~~ is not currently subject to lawyer discipline in any other jurisdiction;

(7) ~~(7)~~ possesses the moral character and fitness required of all applicants for admission and licensing in Tennessee~~this State~~;

(8) ~~(8)~~ is physically residing in Tennessee or Fort Campbell, Kentucky, due to the servicemember’s military orders;

(9) ~~(9)~~ has never failed the Tennessee bar examination;

(10) ~~(10)~~ has certifieds that the applicant has read and is familiar with the Tennessee Rules of Professional Conduct; and

(11) ~~(11)~~ has paid such fees as may be set by the Board.

**(b) ~~(b)~~ Application Requirements.**—Any applicant seeking a temporary license under this section 10.06 to practice law in Tennessee shall:

(1) ~~(1)~~ file an application for Temporary License for Servicemember’s Spouse and an application for character investigation, including all required supporting documents, in the manner established by the Board;

(2) ~~(2)~~ submit a copy of the applicant’s Military Spouse Dependent Identification and documentation evidencing a spousal relationship with the servicemember;

(3) ~~(3)~~ provide a copy of the servicemember’s military orders to a military installation in Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember’s command verifying that the requirement in Paragraph~~section~~ 10.06(a)(8) ~~of this section~~ is met;

(4) ~~(4)~~ submit certificate(s) of good standing from the highest court of each state to which the applicant has been admitted and disciplinary history(ies) to demonstrate satisfaction of the requirements of paragraph~~section~~ 10.06-(a)(5) ~~of this section 10.06~~;

(5) ~~(5)~~ pay the fee established pursuant to section 11.01 of this Rule; and

(6) ~~(6)~~ comply with the provision~~provisions~~ of section 1.07 of this Rule.

**(c) ~~(c)~~ Issuance, Renewal and Subsequent Application.**

(1) ~~—(1)~~ Issuance. Upon approval and certification by the Board, the applicant for temporary license shall, upon registration and payment of applicable fees and taking the oath of admission as set forth in sections 9.01 and 9.02 of this Rule, become a member of the Tennessee bar. An attorney temporarily licensed pursuant to this section shall be subject to the same membership obligations, including payment of fees and continuing legal education requirements, as other active members of the Tennessee bar, and all legal services provided in Tennessee by a lawyer licensed and admitted pursuant to this section shall be deemed the practice of law and shall subject the attorney to all rules governing the practice of law in Tennessee, including the Tennessee Rules of Professional Conduct. The original term of the license is two years.

(2) ~~—(2)~~ Duration and Renewal.

(A) ~~—(A)~~ Persons who hold a temporary license under this provision may apply for subsequent one-year extensions to their license upon filing ~~of~~ an application for extension with the Board. The application for extension must include sworn verification that the temporarily licensed attorney continues to meet all of the qualifications for temporary license as set forth in paragraphs (a), (b) and (c) of this section, and include the required fee for the application. A ~~R~~ ~~requests~~ for an extension must be submitted to the Board at least one month ~~prior to~~ before the expiration of the temporary license. A ~~R~~ ~~requests~~ for an extension must be approved by both the Board and the Supreme Court to be effective.

(B) ~~—(B)~~ When the active duty servicemember is assigned to an unaccompanied or remote follow-on assignment and the temporarily licensed attorney continues to physically reside in Tennessee or ~~Fort~~ Campbell, Kentucky, the temporary license may be renewed until the active duty servicemember's ~~that~~ unaccompanied or remote assignment ends, provided that the attorney spouse complies with the other requirements for renewal.

(C) ~~—(C)~~ Subsequent Applications. A temporarily licensed attorney who wishes to become a permanent member of the bar of Tennessee may apply for admission under sections 3.01, 3.05, or 5.01 ~~Article III (by examination) or Article V (without examination)~~ of this Rule for the standard application fee minus the application fee paid to the Board for the application for temporary license, not including any fees for requests for extension or background investigation fees. The requirement for a background investigation will be waived if the application for admission is submitted within two years of the original Application for Temporary License.

(d) ~~(d)~~ **Termination.**

(1) ~~(1)~~ Event of Termination. An attorney's temporary license to practice law pursuant to this section shall immediately terminate and the attorney shall immediately cease all activities under this section upon the occurrence of any of the following:

(A) ~~—(A)~~ the spouse's discharge, separation or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the State of Tennessee or Fort Campbell, Kentucky, except as provided in section 10.06(c)(2)(~~AB~~);

(B) ~~—(B)~~ failure of the temporarily licensed attorney to meet any licensing requirements applicable to all active attorneys possessing a license to practice law in this State, including failure to submit a timely application to renew the temporary license;

~~(C)~~ ~~(C)~~ the attorney no longer physically residing within the State of Tennessee or at Fort Campbell, Kentucky;

~~(D)~~ ~~(D)~~ the request of the temporarily licensed attorney;

~~(E)~~ ~~(E)~~ the issuance to the temporary attorney of a Tennessee license under [sections 3.01, 3.05, or 5.01](#) ~~Article III (by examination) or Article V (without examination)~~ of this Rule;

~~(F)~~ ~~(F)~~ the temporarily licensed attorney receiving a failing score on the Tennessee bar examination; or

~~(G)~~ ~~(G)~~ the suspension, disbarment or other action affecting the temporarily licensed attorney's good standing with the bar of Tennessee or any other jurisdiction in the United States in which the temporarily licensed attorney is licensed.

(2) ~~(2)~~ Notices Required.

~~(A)~~ ~~(A)~~ An attorney temporarily licensed under this section shall provide written notice to the Board and the Board of Professional Responsibility of any Event of Termination within thirty ~~(30)~~ days of the occurrence thereof;

~~(B)~~ ~~(B)~~ Within thirty ~~(30)~~ days of the occurrence of any Event of Termination, the temporarily licensed attorney shall:

~~(i)~~ ~~(i)~~ provide written notice to all his or her clients that he or she can no longer represent such clients and shall furnish proof to the Board and the Board of Professional Responsibility within forty-five ~~(45)~~ days of such notification; and

~~(ii)~~ ~~(ii)~~ file in each matter pending before any court or tribunal in this State a notice that the attorney will no longer be involved in the matter, which shall include such other attorney licensed to practice law in Tennessee selected by the client, as counsel in the place of the temporarily licensed attorney.

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

(a) A lawyer who is licensed to practice law and in good standing in another state in the United States, the District of Columbia, or a U.S. Territory and who has submitted an application for admission under section 3.01, 3.05, 5.01, or 10.06 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 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 or her application for admission to be granted;

(4) notifies the Board of Professional Responsibility in writing within thirty 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) associates with a lawyer who is admitted to practice 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) submits an Application to Register for Practice Pending Admission under this section in the form provided by the Board;

(8) pays the fee associated with the Application to Register for Practice Pending Admission;

(9) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission unless the lawyer is granted such admission;

(10) has never before practiced in Tennessee pursuant to this provision, unless the Board determines otherwise; and

(11) 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.

(b) Notwithstanding the provisions of section 12.11, the Board may disclose that an applicant is authorized to practice under this section and when such authorization terminates.

(c) **Termination of Right of Practice Pending Admission.** The right to practice pending admission under this section terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law; or if the lawyer fails to timely provide the written notice required by section 10.07(a)(4). Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within ten days, 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 the authority in this section; and

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

(d) **Change in Associated Attorney.**

(1) If the lawyer with whom the applicant has associated under paragraph (a)(5) of this section or the applicant wish to terminate the association, the lawyer with whom the applicant has associated and the applicant shall file notice with the Board and the Board of Professional Responsibility severing the association.

(2) The applicant may continue to practice pending admission if, within ten days of providing the notice required in paragraph (1), the applicant:

(A) associates with another lawyer under paragraph (a)(5);

(B) provides notice of the association to the Board of Professional Responsibility;

(C) submits an Application to Register for Practice Pending Admission under paragraph (a)(7); and

(D) pays the fee associated with the application to re-register for practice pending admission.

(3) If the applicant does not associate with another lawyer within ten days of providing notice as required under paragraph (1), the applicant's permission to practice pending admission terminates, and the applicant must comply with the requirements of paragraph (d)(2) of this section.

## **ARTICLE XI. FEES**

### **Sec. 11.01. Schedule of Fees.**

The Board shall adopt, from time to time, a schedule of fees to be paid by applicants. No fee shall be charged without the approval of the Supreme Court.

### **Sec. 11.02. Payment Mandatory.**

No step in the admissions process may be taken except upon the payment of the fees required for that step. No license will be issued until all fees due from the applicant have been paid.

### **Sec. 11.03. Refunds.**

Fees are non-transferable and non-refundable, except that the fee for examination or re-examination may be refunded in part as provided in the schedule of fees adopted by the Board and approved by the Supreme Court, as provided in section 11.01 of ~~this rule~~this Rule.

## **ARTICLE XII. ORGANIZATION AND POWERS OF BOARD**

### **Sec. 12.01. Composition of Board and Term.**

The Board shall consist of five attorneys licensed to practice law in this State and in good standing. The Board members shall be appointed to three-year terms by the Supreme Court. No member who has served three successive three-year terms shall be eligible for reappointment to the Board until three years after the termination of the most recent term.

### **Sec. 12.02. Officers and Allocation of Responsibilities.**

The officers of the Board shall consist of a President, a Vice President and a Secretary-Treasurer. The Board may, however, allocate responsibilities not requiring formal action, as it deems appropriate, on an informal basis.

### **Sec. 12.03. Official Seal.**

The Board shall use a seal of office containing the following words: "STATE OF TENNESSEE BOARD OF LAW EXAMINERS."

### **Sec. 12.04. Formal Actions; Quorum.**

(a) ~~(a)~~ Denial of an application to take the bar examination, or denial of a license, or the adoption of Board policies and rules shall be taken only on formal action concurred in by at least three members of the Board, expressed in an order.

(b) ~~(b)~~ Three ~~(3)~~ members of the Board shall constitute a quorum.

(c) ~~(c)~~ Preliminary approval to take the bar examination may be given and any other informal action may be taken by any member of the Board.

### **Sec. 12.05. Policy and Procedure of the Board.**

~~(a) (a)~~ The Board shall have the power to adopt such statements of policy and procedure as it may deem necessary or expedient, not inconsistent with the rules of the Supreme Court. Upon adoption by the Board, the Executive Director shall provide a copy of the policy or procedure to the Court for approval.

~~(b) (b)~~ All such statements of policy and procedure shall be maintained by the Executive Director as the Board's Statement of Policy and Procedure and shall be open to public inspection. The Board shall take reasonably appropriate steps to ensure that applicants are given the opportunity to become familiar with the Board's Statement of Policy and Procedure, as well as with this Rule.

#### **Sec. 12.06. Docket of Proceedings.**

The Executive Director shall maintain a docket of all proceedings before the Board in which formal action of the Board is taken, or in which a hearing is held with respect to any application for admission.

#### **Sec. 12.07. Appointment and Duties of Executive Director.**

The Supreme Court shall appoint an Executive Director of the Board, who shall serve at the pleasure of the Supreme Court. Following his or her appointment, the Executive Director shall report to the Board, which shall conduct regular performance evaluations of the Executive Director and report such evaluations to the Supreme Court. The Executive Director shall be responsible for all administrative duties in the enforcement of this Rule, including, but not limited to, investigation of the character of applicants, investigation of schools, preliminary review of applications, making arrangements for the giving of examinations, keeping books, records and files, and such other responsibilities as may be delegated or directed by the Board.

#### **Sec. 12.08. ~~Administrative~~ ~~Secretarial~~ Assistance.**

The Executive Director may employ such full or part-time ~~secretarial~~ ~~administrative~~ and other office assistance as he or she may deem appropriate.

#### **Sec. 12.09. Assistants to the Board.**

The Supreme Court may appoint attorneys licensed to practice law in this State and in good standing to assist in the preparation and grading of examination questions, and to perform such other duties in the enforcement of this Rule as the Board may from time to time direct. The assistants shall serve staggered terms of five ~~(5)~~ years and may be reappointed to serve a second five-year term, provided that shorter terms may be designated initially by the Court where necessary to observe the above rotation practices.

#### **Sec. 12.10. Salaries.**

~~Subject to budgetary limitations, the~~ ~~The~~ Board shall fix the salary of the Executive Director, ~~of attorney assistants,~~ and of the employees of the Board, ~~subject to budgetary limitations and approval of the Court.~~

#### **Sec. 12.11. Confidentiality of Board Records and Files.**

~~(a) Applications~~ Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity including any person, firm, or institution to the Board or their members, employees, or agents, applications for admission, examination papers and grades, and all investigative records of the Board, including, but not limited to, correspondence and/or electronic transmissions to and from the Board, its members and staff, minutes of Board meetings and its deliberations and all documents, communications and proceedings prepared in connection with evaluations or investigations of law schools under sections ~~2.03,~~ 17.01, 17.02, 17.03, 17.04, 17.05, 17.06,

~~17.07, and 17.10~~ ~~2.07, 2.08, 2.09, 2.10, 2.11, 2.12, and 2.15~~ of this Rule, whether in paper or electronic form, shall be ~~treated as~~ confidential and shall not be open to inspection ~~by members of the public~~ without written application to and authorization by an appropriate order of the Supreme Court.

(b) The Board is authorized to release information which would otherwise be confidential to disciplinary or law enforcement agencies of any jurisdiction, the Tennessee Lawyer Assistance Program, and to the Board of Professional Responsibility upon written request. The Board may release information that is otherwise confidential as follows:

(1) to the National Conference of Bar Examiners and to the bar admissions authority of any jurisdiction in the United States where the applicant has made a written request, provided a signed and notarized authorization and release, and the receiving authority has agreed not to give the information to the applicant; and

(2) to any other party upon written application to and authorization by an order of the Tennessee Supreme Court.

(c) Statistical information not identified with any particular applicant and information relating to whether and when an applicant has been admitted may be released to any person. ~~The Board is authorized to release information which would otherwise be confidential to the licensing, disciplinary or law enforcement agencies of any jurisdiction, the Tennessee Lawyer Assistance Program, the Board of Professional Responsibility, and to the National Conference of Bar Examiners.~~

(d) Notwithstanding the provisions above, completion of an Application to the Bar of Tennessee constitutes Applicant's permission allowing the Board to release Applicant's name, address and email address to Bar and professional legal associations in Tennessee, as approved by the Board, and, for applications for admission by examination, Applicant's name and exam result to the law school from which Applicant graduated.

#### **Sec. 12.12. No Power to Waive or Modify Rule of the Supreme Court.**

Except as expressly provided in this Rule, the Board has no power to waive or modify any provision of this Rule.

#### **Sec. 12.13. Subpoena Power.**

The Board and each member of the Board ~~thereof~~ are vested with the power to issue subpoenas for witnesses, to compel their attendance, and to compel the production of books, records and documents, to administer oaths to witnesses and to compel witnesses to give testimony under oath, and to have and exercise all other power and authority conferred by the laws of this State and the rules of the Supreme Court upon Commissioners or upon Special Masters of this Court. ~~Said~~ subpoenas shall in each instance be attested by the Clerk or a deputy clerk of this Court. Subpoenas shall be issued and enforced in accordance with the provisions of Title 24, Tenn. Code Ann., as in the case of Commissioners authorized to take depositions.

#### **Sec. 12.14. Counsel for Board.**

(a) ~~(a)~~ The Board is authorized to request any of the attorney assistants to the Board to act as counsel, or to request the State or any local bar association to furnish counsel, to assist the Board in investigations, preparation for hearings, or the conduct of hearings.

(b) ~~(b)~~ The Attorney General shall represent the Board in any proceedings in court, including the review of Board actions in the Supreme Court.

### **Sec. 12.15. Immunity.**

(a) ~~(a)~~ Members of the Board, District Committee Members, the Executive Director, Assistants and employees of the Board shall be immune from civil suit in the course of their official duties.

(b) ~~(b)~~ Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm or institution, without malice, to the Board, or to its members, employees or agents, are privileged, and civil suits for damages predicated thereon may not be instituted.

(c) ~~(c)~~ The immunity granted in this section ~~12.15~~ shall not be construed to limit any other form of immunity available to any covered person.

## **ARTICLE XIII. FORMAL PROCEEDINGS BEFORE THE BOARD**

### **Sec. 13.01. Show Cause Orders.**

(a) Grounds for Issuance of Show Cause Order. If the Board finds, from the information furnished it or from investigations made under its authority, that-:

(1) grounds for doubt exist as to whether an applicant-;

(A) meets the ~~criteria~~ applicable standard for character and ~~standards~~ fitness under section 6.01 or

(B) has adhered to the duty of candor under section 6.04; or

(2) sufficient evidence has been provided ~~in this Rule,~~ to the Board that the applicant provided false information or refused to provide information requested by the Board or its investigators, staff, or agents.

the Board shall issue an order requiring the applicant to show cause why the applicant should not be denied admission or the opportunity to take the examination as the Board may determine. Any such show cause order shall state the grounds thereof ~~and,~~ shall afford the applicant an opportunity to reply thereto within a period designated therein. ~~Any such,~~ and shall set the date, time and place of the hearing.

(b) Response to Show Cause Order. The applicant's reply to the Show Cause Order shall be in writing, under oath, and may include such additional affidavits or other documents as the applicant may choose to furnish.

(c) Resolution of Show Cause Before Hearing. If the Board determines that any such reply is ~~not~~ sufficient to satisfy the concerns of the Board, the Board shall enter an order resolving the Show Cause Order and notify the applicant ~~and afford him or her the opportunity to be heard in accordance with the procedures provided in this Rule.~~ of the resolution and cancellation of the hearing.

(d) The Board or the Executive Director, ~~however,~~ may contact the applicant in order to secure an informal resolution of the matter before resorting to the formal procedures herein provided, but no such informal disposition shall be made without the consent of the applicant.

(e) Denial due to Failure to Meet Eligibility Requirements. If the Board finds that an applicant does not meet the requirements for the type of admission the applicant is seeking, the Board shall deny admission of the applicant and issue an order that specifies grounds for the denial of the application for admission. Applicant is not entitled to a hearing before a denial for failure to meet eligibility requirements. An applicant who disagrees with the Board decision may petition the Board under section 13.02.

### **Sec. 13.02. Petitions to Board.**

#### **~~Sec. 13.02. Petitions to Board.~~**

(a) ~~(a)~~ Any person who is aggrieved by any action of the Board involving or arising from the enforcement of this Rule, ~~(other than failure to pass the bar examination~~ or a determination that an applicant has not completed the application process for an examination), may petition the Board for such relief as is within the jurisdiction of the Board to grant.

(b) ~~(b)~~ Any such petition must:

(1) ~~(1)~~ Be in writing, under oath;

(2) ~~(2)~~ Be filed with the Executive Director within ~~30~~thirty days after notice of such action by the Board; and

(3) ~~(3)~~ Must state with reasonable particularity the relief which is sought and the grounds therefor.

(c) ~~(c)~~ Any such petition may:

(1) ~~(1)~~ Be accompanied by such affidavits and other documentary evidence as the petitioner may deem appropriate;

(2) ~~(2)~~ ~~May b~~Be supported by a Memorandum of Law setting forth pertinent authorities and arguments; and

(3) ~~(3)~~ May ask the Board to set the matter for hearing.

(d) ~~(d)~~ The Board may order a hearing of any such petition on its own initiative.

### **Sec. 13.03. Hearings Before the Board.**

(a) ~~(a)~~ The Executive Director shall serve notice on the petitioner or the respondent to a show cause order and any other interested parties fixing the time and place of the hearing and indicating the matters to be heard.

(b) ~~(b)~~ The petitioner or respondent and any other person made a party to the proceeding shall have the right to be represented by counsel and to present evidence and argument with respect to the matters in issue.

(c) ~~(c)~~ The burden of proof shall be upon the petitioner, or the respondent in the case of a show cause order.

(d) ~~(d)~~ Any person having a direct interest in the matters in issue in any proceeding may, upon written motion, be allowed to intervene and become a party of record.

~~(e) (e)~~ The Board shall not be bound by the rules of evidence applicable in a court, but it may admit and give probative effect to any evidence which in the judgment of the Board possesses such probative value as would entitle it to be accepted by reasonably prudent persons in the conduct of their affairs. The Board, however, shall give effect to the rules of privilege recognized by law. The Board may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

~~(f) (f)~~ All evidence, including records and documents in the possession of the Board of which it desires to avail itself, shall be offered and made a part of the record, and no factual information shall be considered by the Board which is not made part of the record.

~~(g) (g)~~ Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

~~(h) (h)~~ The Board may take notice of judicially cognizable facts and, in addition, may take notice of general or technical facts within its specialized knowledge.

~~(i) (i)~~ The Board may cause subpoenas to be issued for such witnesses as any party may in good faith and for good cause shown request in writing.

~~(j) (j)~~ The Executive Director shall arrange for the presence of a court reporter to transcribe any oral hearing. The per diem charge of such reporter shall be paid by the party requesting the hearing, or, in the case of a show cause order, by the Board. In its discretion, the Board may waive the presence of a reporter and use an electronic or similar recording device. At the direction of the Board, or at the request of any party, a transcription of the hearing shall be made, and the transcription shall be incorporated in the record, if made. The party requesting the transcription shall bear the cost thereof. If the Board elects to transcribe the proceedings, any party shall be provided copies thereof upon payment to the Board of a reasonable compensatory charge.

~~(k) (k)~~ At the direction of the Board and by agreement of the parties, all or part of a hearing may be conducted by telephone, or other electronic means, if each party has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

~~(l) (l)~~ Any member of the Board may hold hearings when authorized by the Board to do so, but any decision shall be made by a majority of the Board. Any member participating in the decision without being present for the hearing shall read the transcript of the proceedings and the entire record before the Board.

#### **Sec. 13.04. Default.**

~~(a) (a)~~ If a party fails to respond to a show cause order, the Board ~~may~~shall hold that party in default, serve a notice of default on that party, and after the period stated in that notice, enter an order taking such action as the Board deems appropriate.

~~(b) (b)~~ If a party fails to appear at a hearing, the Board ~~may hold that party in default, serve a notice of default on the party, and after the period stated in that notice, dismiss the petition, or, in the case of a hearing set by the Board on its own initiative, enter an order taking such action as the Board deems appropriate.~~

~~(b) (c)~~ ~~When a party fails to respond to a show cause order, or fails to appear at a hearing, the Board may, at its election,~~shall proceed with the hearing in the absence of that party.

(c) ~~(d)~~ A party who has been held in default under paragraph (a), above, may file a petition for setting aside that default within ~~15~~fifteen days after the entry of an order based on that default, which petition shall state with particularity the grounds thereof.

#### **Sec. 13.05. Costs.**

The Board may require payment of or security for the costs and expenses of any hearing before the Board, in such a manner as it deems reasonably compensatory.

#### **Sec. 13.06. Decisions of Board.**

The Board's decision on any hearing before it shall be made in writing and a copy thereof shall be mailed or ~~delivered~~mailed to all parties of record.

#### **Sec. 13.07. Informal Disposition.**

Unless precluded by law or by this Rule, informal disposition may be had of any matter before the Board by stipulation, agreed settlement, or consent order.

#### **Sec. 13.08. Motions and Other Matters Preliminary to Hearing.**

(a) ~~(a)~~ Any party who desires to raise any matter preliminary to the hearing or to obtain any order from the Board ~~prior to~~before the hearing shall do so by motion, which shall be made in writing, shall state with reasonable particularity the grounds therefor, and shall set forth the relief or order sought.

(b) ~~(b)~~ Any member of the Board may dispose of any motion, subject to the right of review by the entire Board.

### **ARTICLE XIV. REVIEW OF BOARD DECISIONS**

#### **Sec. 14.01. Petition for Review.**

Any person aggrieved by any action of the Board may petition the Supreme Court for a review thereof as under the common law writ of certiorari, unless otherwise expressly precluded from doing so under this Rule. A petition filed under this section shall be made under oath or on affirmation and shall state that it is the first application for the writ. ~~See~~ Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106. On the grant of the writ, the Executive Director shall certify and forward to the Clerk of the Supreme Court a complete record of the proceedings before the Board in that matter. Any such petition must be filed within ~~sixty~~60 days after entry of the order of the Board. The Board shall have ~~thirty~~30 days after filing of any such petition within which to file a response.

#### **Sec. 14.02. Costs.**

The Supreme Court may make such orders as it may consider appropriate with respect to the payment of or security for costs and other expenses of hearings before the Court.

#### **Sec. 14.03. Exhaustion of Board Remedies.**

The Supreme Court will entertain no application or petition from any person who may be affected directly or indirectly by this Rule unless that person has first exhausted his remedy before the Board.

#### **Sec. 14.04. No Review of Failure to Pass Bar Examination.**

The only remedy afforded for a grievance for failure to pass the bar examination shall be the right to re-examination as herein provided.

## ARTICLE XV. SURRENDER OF LAW LICENSE

### Sec. 15.01. Surrender of Law License.

(a) An attorney licensed to practice in Tennessee may petition the Supreme Court to accept the surrender of his or her license to practice law.

(b) The petition shall be filed in the office of the Clerk of the Supreme Court in Nashville. The petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary Counsel of the Board of Professional Responsibility, the Executive Director, and the Executive Director of the Commission on Continuing Legal Education and Specialization.

(c) The petition shall state under oath:

(1) the reason(s) for the requested surrender;

(2) whether disbarment, suspension, disciplinary, or other administrative action of any nature is in effect or pending as to the petitioner;

(3) whether there is a potential grievance, complaint, disciplinary or administrative action of any nature in any jurisdiction which may likely be filed against the petitioner;

(4) whether the attorney is currently on probation, under criminal charge(s), or under investigation for criminal charge(s), of any nature in any jurisdiction.

(d) The Supreme Court may decline to consider any petition during the pendency of any of the matters described herein above.

(e) The attorney shall attach the law license to the petition or shall attach an affidavit fully explaining why the license is not attached.

~~The attorney shall attach the law license to the petition or shall attach an affidavit fully explaining why the license is not attached.~~

~~The petition shall be filed in the office of the Clerk of the Supreme Court in Nashville. The petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary Counsel of the Board of Professional Responsibility, the Executive Director, and the Executive Director of the Commission on Continuing Legal Education and Specialization.~~

~~The petition shall state under oath:~~

~~—(a) the reason(s) for the requested surrender;~~

~~—(b) whether disbarment, suspension, disciplinary, or other administrative action of any nature is in effect or pending as to the petitioner;~~

~~—(c) whether there is a potential grievance, complaint, disciplinary or administrative action of any nature in any jurisdiction which may likely be filed against the petitioner;~~

~~(d) whether the attorney is currently on probation, under criminal charge(s), or under investigation for criminal charge(s), of any nature in any jurisdiction.~~

~~The Supreme Court may decline to consider any petition during the pendency of any of the matters described herein above.~~

~~The attorney shall attach the law license to the petition or shall attach an affidavit fully explaining why the license is not attached.~~

**Sec. 15.02. Supreme Court Decision.** Upon consideration of the petition, the Supreme Court may grant the petition or deny it. If the Supreme Court grants the petition, the order accepting the surrender shall state the date the surrender shall take effect. The Clerk of the Supreme Court shall mail a copy of the order to the surrendering attorney, the Board of Professional Responsibility, the Board, and the Commission on Continuing Legal Education and Specialization.

**Sec. 15.03. Effect of Order Accepting Surrender of License.** As of the effective date of the order accepting surrender, the attorney shall have no license to practice law in this state. After the effective date of the order, this license shall not be reinstated, and the attorney may not be licensed to practice law in Tennessee until he or she applies for a law license in Tennessee and meets the requirements of this Rule.

## **ARTICLE XVI. REINSTATEMENT OF LAW LICENSE**

**Sec. 16.01.**~~-~~In accordance with Tenn. Sup. Ct. R. 9, § 30, and R. 21, § 7, an attorney who has been suspended, disbarred or assumed inactive status and who wishes to take the bar examination to establish proof of competency and learning in the law must first petition for reinstatement pursuant to Tenn. Sup. Ct. R. 9, § 30 and/or file an application for reinstatement pursuant to Tenn. Sup. Ct. R. 21, § 7. If the Supreme Court orders the applicant's successful completion of the bar exam, then the applicant must apply for examination as provided in section 3.03~~1~~ of this Rule, and attach to the application a disclosure that the application is being submitted pursuant to this section~~-16.01~~.

**Sec. 16.02.**~~-~~ Applicant's bar examination scores will not be posted but will be released directly to the applicant.

**Sec. 16.03.**~~-~~ Submitting an application to take the bar examination constitutes the applicant's permission to allow the Board to release the results of the bar examination and the background investigation directly to the Board of Professional Responsibility.

## **ARTICLE XVII. TENNESSEE-APPROVED LAW SCHOOLS**

### **Sec. 17.01. Tennessee Law Schools.**

(a) Tennessee-Approved Law Schools Not Seeking ABA Accreditation. Tennessee law schools that are not ABA-accredited or seeking ABA accreditation and that are currently approved by this Board and such approval is not subject to obtaining full ABA accreditation ("Tennessee-Approved Law School") shall remain approved so long as the school continues to comply with the requirements of this Rule as it may be amended and any standards adopted by the Board and approved by the Supreme Court.

(b) Law Schools in Tennessee Seeking ABA-Accreditation.

(1) The Board may recommend approval to the Supreme Court of any law school in Tennessee for the purpose of allowing its graduates to be eligible for admission in Tennessee if the law school is seeking provisional accreditation, and pending full accreditation by the ABA. The Supreme Court shall certify or deny the Board's recommendation to approve the law school by written order.

(2) The recommendation of the Board to the Supreme Court shall be subject to a site evaluation as provided in section 17.03. Until the ABA grants such provisional accreditation, the law school shall be considered a Tennessee-Approved Law School, as provided herein.

(3) Law schools in Tennessee that are seeking provisional accreditation from the ABA but that are not yet provisionally approved are subject to all of the requirements of a Tennessee-Approved Law School.

(4) Graduates of law schools provisionally or fully accredited by the ABA (“ABA Law School”) are eligible to seek admission in Tennessee.

(c) Law Schools Seeking Approval of Substantial Change. Whether or not physically located in Tennessee, if an ABA Law School requests approval of a substantial change from the ABA for purposes of opening a law school branch in Tennessee or moving an ABA Law School to Tennessee, the branch or relocated law school shall be treated as a new law school in Tennessee seeking ABA accreditation as provided in paragraph (b), above.

(d) Graduates of Tennessee-Approved Law Schools. Graduates of Tennessee-Approved Law Schools are eligible to seek admission in Tennessee.

(e) Notices from the ABA Regarding Compliance with Standards or Status of Accreditation.

(1) Reporting Requirements for ABA Law Schools in Tennessee. Upon receipt of notice from the ABA that an ABA-accredited law school located in Tennessee is out of compliance with the ABA standards or that the accreditation status of the law school has changed, the law school shall furnish to the Board copies of the notice and such documentation as the Board may request, including self-study analyses and evaluation reports, prepared, completed or received in connection with such school’s accreditation status with the ABA. All documentation provided to the Board shall be confidential in order to ensure a frank, candid exchange of information.

(2) ABA Law Schools that are not approved for provisional accreditation by the ABA, do not achieve full accreditation or lose their ABA accreditation will not be recommended for approval to the Supreme Court by the Board until a new application or similar process for provisional or renewed accreditation has been initiated with the ABA, subject to a site evaluation as provided in section 17.03, below.

(f) Statement of Accreditation or Approval Status.

(1) In its catalogs or other informational material distributed to prospective students, a law school shall state whether it is accredited by the ABA or has been approved by the Board pursuant to section 17.01 of this Rule.

(2) Any law school in Tennessee that falsely advertises in its catalog or otherwise that it has been accredited by the ABA or approved by the Board shall be recognized by the Board as a substandard school and will be so classified and disapproved. Students of a substandard school shall not be eligible for admission in Tennessee.

(g) Substandard Law Schools.

(1) Any law school located in or seeking to locate in Tennessee (whether offering a full-time or part-time curriculum), which permits the enrollment of students without first having obtained the written

approval of the Supreme Court as provided in section 17.01, shall be classified as a substandard school.

(2) Any ABA-Accredited Law School or Tennessee-Approved Law School that loses its accreditation or provisional approval and does not seek reinstatement of such accreditation or provisional approval shall be classified as a substandard school.

(3) Graduates at law schools that are not ABA-accredited or Tennessee-Approved shall be barred from admission in Tennessee unless the student meets the requirements of section 2.02(d) or section 7.01 of this Rule.

### **17.02 Functions of the Board in Review and Regulation of Tennessee-Approved Law Schools.**

(a) For any Tennessee-Approved Law School as defined in section 17.01:

(1) the Board shall determine whether the law school is effectively achieving its mission and objectives, which includes meeting educational standards similar to those defined in the ABA Standards and any standards adopted by this Board. Upon determination by the Board that the law school has met the required standards, the Board shall recommend provisional or continued approval of the law school to the Supreme Court;

(2) the Board is authorized to make inquiry to the school and respond to inquiry by the school and to adopt such additional standards as in its judgment the educational needs of the school may justify, subject to the Supreme Court's approval;

(3) if the Board has reasonable cause to believe that a law school does not comply with the standards in section 17.02(a)(1) of this Rule, and/or the school is not effectively achieving its mission and objectives, it shall inform the school of its apparent noncompliance or failure to effectively achieve its mission or objectives and follow the procedures in sections 17.03 through 17.10 of this Rule; and

(4) the Board is authorized to:

(A) require a school to furnish such information, including periodic reports, as it deems reasonably appropriate for carrying out the Board's responsibilities; and

(B) investigate a law school in accordance with section 17.03 of this Rule, provided that such investigation shall be confidential to ensure a frank, candid exchange of information and evaluation.

(b) Self-Study.

(1) The dean and faculty of a Tennessee-Approved Law School shall develop and periodically revise a written self-study, including an evaluation of the following topics:

(A) the continuing relevance of the school's mission or objectives;

(B) the effectiveness of the program of legal education;

(C) the appropriateness of the school's admission policies;

(D) the significance of the trend in rates of graduation and attrition;

(E) the significance of the trends in the pass/fail rate on the bar examination;

(F) the strengths and weaknesses of the school's policies;

(G) goals to improve the educational program; and

(H) means to accomplish unrealized goals.

(2) The self-study shall be completed every seven years or earlier upon written request of the Board.

(3) Certification of Compliance. The dean and the chairperson of the board of directors of the law school shall certify annually in writing to the Board that the school is effectively achieving its mission and objectives or, if not effectively achieving its mission or objectives, identify areas of noncompliance or other deficiencies, as well as its intention and plan of action to attain compliance.

(c) Investigation and Evaluation by the Board. The Board may visit, investigate, and/or evaluate a Tennessee-Approved Law School, from time to time, with respect to the adequacy of its facilities, faculty, and course of study. The refusal of any such school to cooperate or participate in the conduct of such evaluation shall be reported to the Supreme Court, which may, after hearing, take such actions as the facts may justify.

### **Sec. 17.03. Site Evaluation of Tennessee-Approved Law Schools.**

(a) A site evaluation by the Board shall be conducted before approval of any law school in Tennessee.

(b) For a Tennessee-Approved Law School, a site evaluation by the Board shall be conducted in the third year following the granting of approval and every seventh year thereafter. The Board may order additional site evaluations of a school when special circumstances warrant.

(c) The Board shall arrange for the site evaluation or inspection of the law school by a team of qualified and objective persons who have no conflicts of interest as defined in section 17.10 of this Rule. The cost of the site evaluation or inspection, including the fees of any consultants engaged as part of the Board's site evaluation team, shall be paid by the law school.

(d) Before the site evaluation, the law school shall furnish to the Board and members of the site evaluation team:

(1) For a law school seeking provisional accreditation from the ABA or approval of a substantial change as provided in section 17.01(b), the completed application submitted to the ABA;

(2) the current self-study undertaken by the dean and faculty; and

(3) any complaints that the law school is not in compliance with the standards in section 17.02(a)(1).

(e) The Board shall schedule the site evaluation of the law school to take place during the academic year at a time when regular academic classes are being conducted. A site evaluation usually requires several days, as classes are visited, faculty quality assessed, admissions policies reviewed, records inspected, physical facilities examined, the library assessed, information reviewed, and consultations held with the chairperson of the board of directors of the law school, officers of the institution, the dean of the law school, members of the law school faculty, professional staff, law students, and members of the legal community. In the case of a law school seeking approval, such visit shall be scheduled within three months after receipt by the Board of an application for approval.

(f) Following a site evaluation, the team shall promptly prepare a written report based upon the site evaluation. The team shall not determine compliance or noncompliance with the standards, but shall

report facts and observations that will enable the Board and the Supreme Court to determine compliance. The report of the team should give as much pertinent information as feasible.

(g) The team shall promptly submit its report to the Board. After reviewing the report, the Board shall transmit the report to the chairperson of the board of directors of the law school and the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter transmitting the report, the Board shall advise that any response to the report must be received by a specified date at least thirty days from the date the Board mailed the report to the school, unless the school consents to a shorter time period.

(h) Following receipt of the school's response to the site evaluation report, the Board shall forward a copy of the report with the school's response to members of the Board and the site evaluation team.

(i) The Board may not consider any additional information submitted by the school after the school's response to the report has been received by the Board, unless

(1) the information is received in writing by the Board at least fifteen days before the Board meeting at which the report is scheduled to be considered, or

(2) for good cause shown, the president of the Board authorizes consideration of the additional information that was not received in a timely manner.

(j) Upon the completion of the procedures, the Board shall consider the law school's evaluation and determine whether the school is in compliance with the standards and is effectively achieving its mission and objectives.

(k) A request for postponement of a site evaluation will be granted only if the law school is in the process of moving to a new physical facility or if extraordinary circumstances exist which would make it impossible for the scheduled site evaluation to take place. The postponement shall not exceed one year.

#### **Sec. 17.04. Action Concerning Apparent Noncompliance with Standards or Deficiencies in Mission.**

(a) If the Board has reasonable cause to believe that a Tennessee-Approved Law School has not complied with the standards in section 17.02(a)(1) of this Rule or is not effectively achieving its mission or objectives, the Board shall inform the school it is not in compliance and request the school to furnish by a date certain further information about the matter and about action taken to bring the school in compliance with the standards or correct the deficiencies. The school shall furnish the requested information to the Board within the time prescribed.

(b) If upon a review of the information furnished by the law school in response to the Board's request and other relevant information, the Board determines that the school has not demonstrated compliance with the standards or is not effectively achieving its mission or objectives, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on probation, removed from the list of law schools approved by the Board or be subject to other appropriate action.

(c) If the Board finds that a law school has failed to comply with the standards or is not effectively achieving its mission or objectives by refusing to furnish information or to cooperate in a site evaluation, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on

probation, removed from the list of law schools approved by the Board or be subject to other appropriate action.

(d) The Board shall give the law school at least thirty days' notice of the show cause hearing. The notice shall specify the school's apparent noncompliance with the standards or its failure to effectively achieve its mission or objectives and state the time and place of the hearing. For good cause shown, the president of the Board may grant the school additional time, not to exceed thirty days. Both the notice and the request for extension of time must be in writing. The Board shall send the notice of hearing to the dean of the school by certified or registered U.S. mail.

#### **Sec. 17.05. Fact Finder.**

(a) The president of the Board may appoint a fact finder to elicit facts relevant to any matter before the Board. The fees of the fact finder and any reasonable and necessary expenses incurred shall be paid by the law school.

(b) The Board shall furnish the fact finder with a copy of the most recent site evaluation report, any action letters written subsequent to the most recent site evaluation report, notice of hearing, and other relevant information.

(c) Following the fact finding visit, the fact finder shall promptly prepare a written report. The fact finder shall not determine compliance or noncompliance with the standards or whether the school is effectively achieving its mission or objectives, but shall report facts and observations that will enable the Board to determine compliance or deficiencies. The report of the fact finder should give as much pertinent information as feasible.

(d) The fact finder shall promptly submit the report to the Board. After reviewing the report, the Board shall transmit the report to the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter of transmittal of the report, the Board shall include the date on which the Board will consider the report. The Board shall further advise the school as to the date upon which their response to the report must be received by the Board, which date shall be at least fifteen days before the date of the meeting at which the Board will consider the report. The school shall be given at least thirty days to prepare its response to the report, unless the school consents to a shorter time period. The thirty-day period shall run from the date on which the Board mailed the report to the school.

#### **Sec. 17.06. Hearing on Show Cause Order.**

(a) The Board shall have available for review at the show cause hearing:

- (1) the fact finder's report, if any;
- (2) the most recent site evaluation report;
- (3) any site evaluation questionnaire;
- (4) any action letters written subsequent to the most recent site evaluation report, which letters direct the school to rectify noncompliance or correct deficiencies;
- (5) notice of the Board hearing; and
- (6) other relevant information.

(b) Representatives of the law school, including legal counsel, may appear at the hearing and submit information to demonstrate that the school is currently in compliance with all of the standards and is effectively achieving its mission or objectives or to present a reliable plan for bringing the school into compliance with all of the standards and to correct deficiencies within a reasonable time.

(c) The Board may invite the fact finder, if any, and the chairperson of the board of directors of the law school or other member of the most recent site evaluation team to appear at the hearing. The law school shall reimburse the fact finder and site evaluation team member for reasonable and necessary expenses incurred in attending the hearing.

(d) After the hearing, the Board shall determine whether the law school is in compliance with the standards and whether it is effectively achieving its mission and objectives and, if not, it shall direct the law school to take remedial action or shall impose sanctions, as appropriate.

(1) Remedial action may be ordered pursuant to a reliable plan for bringing the school into compliance with all of the standards and to help it achieve its mission and objectives.

(2) If matters of noncompliance or deficiencies are substantial or have been persistent, then the Board may recommend to the Supreme Court that the school be subjected to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance or to correct deficiencies.

(3) If matters of noncompliance or deficiencies are substantial or have been persistent, and the school fails to present a reliable plan for bringing the school into compliance with all of the standards or to correct deficiencies, the Board may recommend to the Supreme Court that the school be removed from the list of approved schools.

(e) If the Board determines that the law school is in compliance and has no deficiencies, it shall conclude the matter by adopting an appropriate resolution, a copy of which shall be transmitted to the dean of the school by the Board.

#### **Sec. 17.07. Confidentiality of Approval and Evaluation Procedures.**

The proceedings set forth in sections 17.02, 17.03, 17.04, 17.05, and 17.06 of this Rule shall be confidential to ensure a frank, candid exchange of information.

#### **Sec. 17.08. Supreme Court Consideration of Board Recommendation for Imposition of Sanctions.**

(a) If the Board determines that a Tennessee-Approved Law School is not in compliance with the standards or has effectively failed to achieve its mission and objectives and recommends that the school be placed on probation or removed from the list of Tennessee-Approved Law Schools, the Board shall notify the Supreme Court and request a hearing. The Board shall notify the dean of the school of the time and place of the Supreme Court hearing, which shall be open to the public.

(b) The Board shall file with the Supreme Court in the public record the Board's written recommendation, the fact finder's report, if any, the most recent site evaluation report, and any action letters to the school written subsequent to the most recent site evaluation report.

(c) Representatives of the law school, including legal counsel, may appear at the Supreme Court hearing at which the Board's recommendations are considered. The president of the Board (or his or her designee) shall present the Board's findings, conclusions, and recommendations.

(d) The Supreme Court shall determine whether to affirm the Board's findings and conclusions, and whether to adopt the Board's recommendations. The Board's findings and conclusions shall be affirmed if there is substantial and material evidence to support them, unless the school presents new information that demonstrates to the Supreme Court that the school is in compliance with the standards.

(e) The Supreme Court may direct the law school to take appropriate remedial action or subject it to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance with all of the standards.

(f) The Supreme Court shall render its decision by written order. If the decision is adverse to the law school, the order shall provide reasons for the decision.

(g) If the Supreme Court imposes sanctions in the absence of a reliable plan for bringing the school into compliance with all of the standards or to correct deficiencies, the Board shall monitor the steps taken by the school to come into compliance. If the Court imposes sanctions pursuant to a reliable plan for bringing the school into compliance with the standards or to correct deficiencies, the Board shall monitor the steps taken by the school for meeting its plan. At any time that the school is not making progress toward compliance with all of the standards or to correct deficiencies, or at any time that the school is not meeting the obligations of its plan, or if at the end of a period of time set by the Court for coming into compliance the school has not achieved compliance with all of the standards or corrected all deficiencies, the Board shall forward a recommendation that the school be removed from the list of approved schools. This recommendation shall be heard by the Court under the procedures of section 17.08 of this Rule but the only issue for Court consideration will be whether the school has met the terms of its plan or is in compliance with all of the standards or has corrected deficiencies.

(h) At any time that the school presents information on which the Board concludes that the school is in full compliance with the standards or has corrected its deficiencies, the Board shall recommend to the Supreme Court that the school be taken off probation. This recommendation will be heard by the Court under the procedures of section 17.08 of this Rule.

#### **Sec. 17.09. Maximum Period for Compliance with Remedial or Probationary Requirements.**

Upon communication to a law school of a final decision that it is not in compliance with the standards or has failed to effectively achieve its mission or objectives and informing it that it has been ordered to take remedial action or has been placed on probation, the school shall have a period as set by the Supreme Court to come into compliance. The period may not exceed two years unless such time is extended by the Supreme Court for good cause shown.

#### **Sec. 17.10. Conflicts of Interest.**

Members of the Board and any site evaluation team, as well as any fact finders appointed under the provisions of sections 17.03 and 17.05, should avoid any conflict of interest or perceived conflict of interest arising because a person has an "associational interest" in the law school or the law school program under review by the Board or the Supreme Court. Alumni, faculty, and directors of the school under review are deemed to have an associational interest in the school and should recuse themselves from the process of review. Former faculty and board members who have terminated their relationship with the school less than five years before to the site inspection, evaluation, or review process are also deemed to have an associational interest in the school and should recuse themselves from the process of review.

[As amended by order December 21, 2015 and effective January 1, 2016, Rule 7 replaced in its ~~entirely~~[entirety](#), with the exception of Section 3.03 (by order on December 21, 2015 effective March 1, 2016); as amended by order December 1, 2016 effective December 1, 2016; as amended by order May 31, 2017 effective May 31, 2017; as amended by order August 30, 2017 effective November 27, 2017; as amended by order January 26, 2018 effective January 26, 2018; as amended by order April 18, 2018 effective April 18, 2018; and as amended by order October 16, 2018~~;~~

[effective October 16, 2018, with the exception of Section 1.07 \(by order on October 16, 2018 effective January 1, 2019\).\]](#)

## **DOCUMENT 2**

### ***[Amended Rule 7]***

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

##### **PREFACE**

The Board of Law Examiners for the State of Tennessee (the “Board”) is created as a part of the judicial branch of government by the Supreme Court of Tennessee under its inherent authority to regulate courts. The Supreme Court appoints the members of the Board and has general supervisory authority over the Board’s actions. The Supreme Court controls admission to the practice of law and acts on the basis of the Board’s Certificate of Eligibility.

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

###### **Sec. 1.01. Prerequisites to Engaging in Practice of Law or Law Business.**

No person shall engage in the “practice of law” or the “law business” in Tennessee as defined in Tenn. Code Ann. § 23-3-101 and Tenn. Sup. Ct. R. 9, § 10.3(e), except under the authority of the Supreme Court, unless the person:

(a) has been:

- (1) admitted to the bar of the Supreme Court in accordance with Tenn. Sup. Ct. R. 6; and
- (2) issued a license by the Supreme Court in accordance with this Rule and after having been administered the oath in accordance with Tenn. Sup. Ct. R. 6 as set forth in this Rule; or

(b) has been granted permission to engage in special or limited practice under sections 10.01, 10.02, 10.03, 10.04, 10.06, or 10.07 of this Rule; or

(c) is practicing in compliance with Tenn. Sup. Ct. R. 8, RPC 5.5(c), Tenn. Sup. Ct. R. 8, RPC 5.5(d), or Tenn. Sup. Ct. R. 19 (pro hac vice).

###### **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 under section 9.01 of this Rule. The applicant shall comply with Tenn. Sup. Ct. R. 6 and obtain the license on or before the first of the following to occur:

(a) expiration of bar examination or transferred Uniform Bar Examination (“UBE”) scores as provided in sections 3.05(b) and 4.07(c); or

(b) two years from:

- (1) the date of the notice that the applicant successfully passed the bar examination; or

(2) the date of the notice of the Board's approval of the application for admission under section 3.05, section 5.01, or section 10.06 of this Rule.

(c) All background investigations are invalid upon expiration of the two-year period under section 6.03. If the investigation expires after issuance of the Certificate of Eligibility but before licensing and expiration of scores, the applicant must request a supplemental background investigation as provided in section 6.03(b).

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

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

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

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

The requirement to pass the Tennessee bar examination or provide a passing UBE score may be waived for an applicant who has been admitted to practice in another state in the United States, the District of Columbia, or a U.S. Territory, provided that the applicant satisfies all requirements for admission without examination as specified in this Rule.

### **Sec. 1.05. Status of Persons Admitted.**

All persons admitted to the bar of Tennessee are by virtue of such admission: (a) officers of the courts of Tennessee, eligible for admission to practice in any state court in Tennessee, and entitled to engage in the "practice of law" or the "law business" as defined in section 1.01 of this Rule; and (b) subject to the duties and standards imposed from time to time on attorneys in this State.

### **Sec. 1.06. Existing Licenses.**

Nothing in this Rule shall be construed as requiring the relicensing of persons holding valid licenses to practice in Tennessee as of the date of the adoption of this Rule.

**Sec. 1.07. Tennessee Law Course.**

The Tennessee Law Course is intended to provide instruction in specific areas of Tennessee law not addressed by the Uniform Bar Exam.

(a) The following applicants to the bar of Tennessee must successfully complete the Tennessee law course before an applicant is eligible for admission to the Tennessee bar:

- (1) Section 3.01, Admission by Examination,
- (2) Section 3.05, Admission by Transferred Uniform Bar Examination Score,
- (3) Section 5.01, Admission Without Examination, or
- (4) Section 10.06, Temporary License of Spouse of Military Service member.

(b) The Supreme Court shall determine the content of the Tennessee Law Course.

(c) The Board shall administer the Tennessee Law Course.

(d) The fee for the Tennessee Law Course shall be included in the Schedule of Fees promulgated by the Board of Law Examiners under section 11.01 of this Rule. The fee is in addition to fees charged for the application for admission to practice law. Applicants must pay the fee to the Board before receiving access to the Tennessee Law Course.

(e) The Tennessee Law Course shall be a digital-exclusive course that shall be reasonably accessible to applicants. The applicant shall ensure the adequacy of the applicant's hardware, software, and internet connection.

(f) The Board shall provide applicants with instructions regarding access to the Tennessee Law Course as follows:

- (1) Applicants seeking admission under section 3.01 (by examination) shall receive instructions upon completion of the bar examination.
- (2) Applicants seeking admission under section 3.05 (transferred UBE score), section 5.01 (without examination) or section 10.06 (spouse of military servicemember) will receive instructions upon approval of their application by the Board.

(g) The Tennessee Law Course must be successfully completed within one year of the date that the applicant completes all other requirements to be eligible for a Tennessee law license. Any applicant who successfully completes the Tennessee Law Course but does not complete all other requirements for eligibility to obtain a law license within such one year period must repeat the Tennessee Law Course before admission.

(h) The Tennessee Law Course is not continuing legal education. No fee under Rule 21, section 8.02 shall be imposed on the Board or any applicant.

(i) No person holding a valid Tennessee license as of the effective date of this Rule shall be required to take the Tennessee Law Course.

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

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

(a) Any applicant seeking admission 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 before 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.

(b) To be eligible to take the exam, an applicant shall provide evidence of the degree, earned before the examination, in the form required by the Board.

(c) 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 ("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 17.01 of this Rule, and the applicant submits a request for waiver and provides the Board satisfactory evidence that his or her undergraduate education is substantially equivalent to an undergraduate degree awarded by a regional accrediting association.

### **Sec. 2.02. Legal Education Degree Requirements.**

(a) Any applicant seeking admission must have completed a course of instruction in and graduated with a J.D. Degree from a 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 17.01 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 17.01 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.

(c) Any applicant seeking admission by transferred UBE score under section 3.05, without examination under section 5.01, or as the spouse of a military servicemember under section 10.06 shall provide evidence of the J.D. Degree in the form required by the Board.

(d) An attorney who received a legal education in the United States or a U.S. Territory but is ineligible for admission because the law school attended was not accredited by the ABA or was a Tennessee law school not approved by the Board may be considered for admission by examination or transferred UBE score provided the attorney satisfies the following educational, licensing, and practice requirements:

- (1) The attorney holds a J.D. Degree, which is based on in-person attendance, from a law school approved by an authority similar to the Tennessee Board of Law Examiners in the jurisdiction where

the law school 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.

(A) The applicant shall bear the cost of the evaluation of his or her legal education, as determined and as required 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.

(B) 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

(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 three of the five years immediately preceding the date upon which the application is filed; and

(4) 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 only to the extent approved by the ABA for accredited law schools.

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

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

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

(1) meets the educational requirements imposed under sections 2.01 and 2.02 of this Rule;

(2) possesses the character and fitness to practice law in this jurisdiction;

(3) is a member in good standing in all jurisdictions in which the applicant is admitted, if any;

(4) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction; and

(5) has not engaged in the unauthorized practice of law in this or any other jurisdiction.

(b) An applicant for admission by examination shall:

(1) file an application for admission by examination in the manner established by the Board and within the time limits prescribed by this Rule;

(2) submit a certificate of admission from the highest court of each jurisdiction in which the applicant is admitted;

(3) submit a certificate of good standing from each jurisdiction in which the applicant is admitted; and

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

**Sec. 3.02. Obligation to Amend.**

Until an applicant is admitted to the Tennessee bar, or the application is denied by the Board or voluntarily withdrawn, the applicant is under a continuing obligation to update responses to any of the information requested in the application process. Whenever there is an addition or a change to the information previously provided to the Board, the applicant must amend his or her application by filing an amendment or supplemental application as prescribed by the Board. Applications that have been on file for two years or more must be supplemented every two years until such time as the Applicant is admitted, has been denied admission, or has withdrawn the application for admission.

**Sec. 3.03. Date for Filing Application for Examination or Reexamination.**

The application process to take the examination shall begin on March 1 for the July examination and October 1 for the February examination and shall be completed no later than May 20 for taking the July examination and December 20 for taking the February examination. In order for the Board to have sufficient time to determine each applicant's eligibility to sit for the bar examination, all documentation required to be submitted to the Board to complete the application process, including submitting the documents required for the background investigation required in section 6.03(b) of this Rule, must be submitted on or before the deadline, and all fees must be paid in full on or before the deadline. Original documents that must be mailed to the Board must be received on or before the deadline. Applicants who have not completed the application process by the deadline are ineligible to sit for the examination. The only recourse for failure to complete the application process is to reapply for the next examination. The Board shall list the items necessary for a complete application in the Board Policies and Procedures.

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

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

(1) admission and issuance of a license;

(2) withdrawal of the application by the applicant;

(3) denial of a license under Section 9.05;

(4) thirty days after the entry of the final order denying the application in whole or in part on the failure of the applicant to demonstrate good moral character, due respect for the law, or fitness to practice law, absent a petition under section 14.01 and then upon resolution of the petition by the Supreme Court;

(5) thirty days after the entry of the final order denying a transferred UBE score for failure to meet eligibility requirements, absent a petition under section 14.01 and then upon resolution of the petition by the Supreme Court;

(6) expiration of exam or UBE scores;

(7) six months after the last communication from the Board, following completion of the background investigation, and which remains unanswered by the applicant for admission by transferred UBE score; or

(8) three years after the last submitted application for examination or re-examination.

(b) To withdraw an application, applicant shall submit a notice of withdrawal of application and affirmatively state that the applicant is no longer seeking admission in Tennessee.

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

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

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

(2) has requested transfer of the score from the jurisdiction where the score was achieved or from the National Conference of Bar Examiners directly to the Tennessee Board of Law Examiners;

(3) meets the educational requirements pursuant to sections 2.01 and 2.02;

(4) is a member in good standing in all jurisdictions in which applicant is currently admitted;

(5) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(6) possesses the character and fitness to practice law in this jurisdiction; and

(7) 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), but is not more than five years from the date grades were released in Tennessee for the exam administration for which the score was earned, may apply for admission on transferred UBE score provided the attorney is licensed in another jurisdiction in the United States and 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 admission from the highest court of each jurisdiction to which the applicant has been admitted;

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

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

**Sec. 3.06. [Reserved.]**

**Sec. 3.07. Additional Information.**

- (a) The Board or any individual member may request any applicant to furnish additional information:
- (1) To supplement or explain answers to any question on the application;
  - (2) As to the applicant's character;
  - (3) As to the educational qualifications of the applicant, including information with respect to schools attended by the applicant;
  - (4) As to the experience of the applicant; and
  - (5) As to such other matters as may be considered germane to the provisions of this Rule.
- (b) The Board or any individual member, as part of the character investigation of an applicant, may request an applicant to submit to a drug test. Failure or refusal to submit to the drug test shall be sufficient cause for the Board to refuse such applicant a license.

**Sec. 3.08. [Reserved.]**

**Sec. 3.09. [Reserved.]**

**Sec. 3.10. No Discretion to Waive Filing Dates.**

Neither the Executive Director nor the Board shall have discretion to waive or extend the dates for filing applications to take the examination specified in section 3.03 of this Rule. An applicant aggrieved by an action of the Board denying an application under section 3.03 shall not be entitled to petition the Supreme Court for a review of said action.

**Sec. 3.11. Applicants Requiring Non-Standard Testing Accommodations.**

The bar examination shall be administered to all eligible applicants in a manner that does not discriminate against applicants with non-standard testing needs. An applicant who is otherwise eligible to take the Tennessee bar examination may request a modification of the manner in which the examination is administered if such applicant is unable to take the examination under normal testing conditions. The Board shall adopt a policy regarding applicants requiring non-standard testing accommodations pursuant to section 12.05 of this Rule. An applicant requesting non-standard testing accommodations shall complete and submit the documents prescribed by the Board by the application deadline set forth in section 3.03 of this Rule, except when the disability first occurs after the filing deadline. Because the forms and procedures are detailed, requiring the applicant to attach statements from law school officials and treating professionals, any applicant requesting non-standard testing conditions is encouraged to request, complete, and submit the application for admission by examination and the necessary request for non-standard testing and related forms to the Board as early as possible to permit an evaluation of the request. To the extent practicable, any accommodations requested shall be consistent with the security and integrity of the examination. The Board may transmit the application for non-standard testing or refer the applicant to an appropriate professional selected by the Board for assessment and recommendations regarding the accommodation to grant. By submitting a request for non-standard testing, the applicant agrees to the release of the application to an appropriate professional and agrees to appear for assessment, if requested to do so by the Board.

## **ARTICLE IV. THE EXAMINATION**

### **Sec. 4.01. The Purpose of the Examination.**

The purpose of the examination is to enable applicants to demonstrate to the Board that they possess the knowledge, skills and abilities basic to competence in the profession.

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

The Board 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.

### **Sec. 4.03. The Dates and Places of Giving the Examination.**

The examination shall be given in February and July of each year at any one or more of the following places: Memphis, Nashville, Chattanooga and Knoxville, provided an examination is held at least once a year in each of the three grand divisions. The Court, in its discretion, may substitute another location in the same grand division for a city named in the preceding sentence.

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

The examination may include, but not be limited to, the following subjects: 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.

### **Sec. 4.05. Re-examination.**

An applicant who is unsuccessful on the examination may apply for re-examination by completing the application process under section 3.01 and paying the required fee. After the deadline for completion of the application process, the Board, in its discretion, will determine whether an applicant who has failed the bar examination will be permitted to take another examination.

### **Sec. 4.06. Effect of Taking Examination on Eligibility for Admission.**

The fact that an applicant is allowed to take the examination shall not preclude further inquiries, investigation or proceedings with respect to the other criteria for admission under this Rule.

### **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) Bar examination scores earned in Tennessee, whether by means of the former Tennessee bar examination or the UBE, are valid to determine eligibility for licensing for three years after the date grades are released. The scores expire after three years. 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 unless the UBE score can be used for admission under section 3.05(b). A UBE score

that was earned five or more years from the date grades were released in Tennessee for the exam administration for which the score was earned is not valid for admission to Tennessee.

(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 earning a qualifying 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 a U.S. Territory;
- (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 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 Without Examination of Persons Admitted in Other Jurisdictions.**

- (a) **Requirements.** An applicant who meets the requirements of (1) through (7) of this paragraph may be admitted to the practice of law in this jurisdiction without examination (comity). The applicant shall:
- (1) meet the educational requirements imposed under sections 2.01 and 2.02 of this Rule;
  - (2) have been admitted by bar examination to practice law in one or more states or territories of the United States, or the District of Columbia;
  - (3) have been primarily engaged in the active practice of law, as defined below, in one or more states or territories of the United States, or the District of Columbia, for five of the seven years immediately preceding the date upon which the application is filed;
  - (4) establish that the applicant is currently a member in good standing in all jurisdictions where admitted;
  - (5) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
  - (6) establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and
  - (7) submit an application under paragraph (e) of this section before establishing an office or other systemic and continuous presence in this jurisdiction for the practice of law pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(b)(1).

(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, and who has not been admitted by examination or transferred UBE score in any other state in the United States, the District of Columbia, or a U.S. Territory in which the applicant is in good standing, may seek a waiver of subsection (a)(1) by filing a petition with the Board as provided in section 13.02, setting forth the reasons why the applicant should be admitted to practice law in Tennessee. The petition shall include information upon which the Board can assess the applicant’s reputation, character, knowledge, skills and abilities. 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. 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 section 14.01.

(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, 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 10.07 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) **Admission Without Examination Application and Fees.** Any applicant seeking admission without examination to the practice of law in Tennessee shall:

- (1) file an application for admission without examination, including character investigation information, in a manner established by the Board, including all required supporting documents;
- (2) submit a certificate of admission from the highest court of each jurisdiction to which applicant has been admitted;
- (3) Submit a certificate of good standing from each jurisdiction to which applicant has been admitted; and
- (4) pay the application fee as adopted under section 11.01 of this Rule.

(f) An applicant under this section who establishes an office or other systemic and continuous presence in this jurisdiction for the practice of law shall register for practice pending admission under section 10.07 unless the practice of law meets an exception under Tenn. Sup. Ct. R. 8, RPC 5.5.

**Sec. 5.02. Additional Considerations.** In determining whether an applicant satisfies 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.

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

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

(b) To withdraw an application, an applicant shall submit a notice of withdrawal of application and affirmatively state that the applicant is no longer seeking admission in Tennessee.

**ARTICLE VI. CHARACTER AND FITNESS INVESTIGATION**

**Sec. 6.01. Applicable Standard.**

(a) An applicant shall not be admitted if the Board finds 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 and concludes that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline

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

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

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

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

(b) The members of each investigatory committee shall be appointed from time to time by the Supreme Court and shall serve at the pleasure of the Court for terms of up to five years. Members may be reappointed to serve a second five-year term. Members of an investigatory 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, re-examination, or transferred UBE score who is not licensed and in good standing in at least one other jurisdiction in the

United States to the chair of the appropriate investigating committee. The Board 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 jurisdiction in the United States. The chair shall assign applications to committee members for review, interview and investigation.

(d) The investigating committee member to whom the application has been assigned shall review the application and such other information as may be transmitted by the Executive Director and shall conduct such investigation as appears to be appropriate. 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. Duty of Candor and Failure or Refusal to Furnish Information.**

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

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

#### **Sec. 6.05. False Information.**

(a) The giving of false information or the making of false statements on the application or to the Board shall be sufficient cause for the Board to refuse to allow such applicant to take the examination or to be admitted.

(b) The Executive Director, the Board, or any individual member who has reason to believe that any person who has been admitted may have given false information or made false statements to the Board, may report the information to Disciplinary Counsel of the Board of Professional Responsibility.

#### **Sec. 6.06. Certificate of Good Moral Character.**

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

- (1) execute an appropriate release form permitting school officials from each law school applicant attended to furnish information to the Board relevant to the character and fitness of the applicant; and
- (2) cause to be submitted to the Board a certificate from the dean or supervising authority of the law school from which the applicant graduated and from each law school applicant attended indicating that to the best of its knowledge and belief the candidate 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 applicant.

(b) Applicants Licensed in Another Jurisdiction.

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

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. The Board shall not waive the requirement for a certificate of good standing for the highest court of each jurisdiction to which an applicant has been admitted for an applicant under section 10.01.

## **ARTICLE VII. FOREIGN-EDUCATED APPLICANTS**

### **Sec. 7.01. Eligibility to Take Examination.**

(a) An applicant who has completed a course of study in and graduated from a law school in a foreign jurisdiction, which law school was then recognized and approved by the competent accrediting agency of such jurisdiction, may qualify, in the discretion of the Board, to take the bar examination or for admission by transferred UBE score under section 3.05, provided that the applicant shall satisfy the Board that his or her undergraduate education and legal education were substantially equivalent to the requirements of sections 2.01 and 2.02 of this Rule. The applicant shall submit a comprehensive evaluation that includes a course-by-course evaluation, determination of equivalency, plus authentication of transcripts (“Foreign-Education Report”) from a Credential Evaluation Service that is a member of the National Association of Credential Evaluation Services to enable the Board to determine the applicant’s eligibility for such admission.

(b) In the alternative, an applicant who has completed a course of study in and graduated from a law school in a foreign jurisdiction, which law school was then recognized and approved by the competent accrediting agency of such jurisdiction, may qualify, in the discretion of the Board, to take the bar examination or for admission by transferred UBE score under section 3.05, provided that the applicant shall satisfy the Board that the applicant:

(1) has been awarded, by a law school fully accredited by the ABA or a Tennessee law school approved by the Board under section 17.01 of the Rule, an LL.M. Degree in the United States in a degree program that meets the following requirements:

(A) The degree program certifies to the Board, on such form prescribed by the Board, that the foreign-educated lawyer received his or her LL.M. degree from a law school that is accredited by the ABA or is a Tennessee law school approved by the Board under section 17.01 of this Rule;

(B) The degree program prepares students for admission to the Bar and for effective and responsible participation in the legal profession in the United States; and

(C) The courses for the LL.M. for the Practice of Law in the United States were taught in English and in the United States or its territories and the applicant attended the courses on site at the ABA-accredited or Tennessee approved law school. The LL.M. program may be full or part-time

but, if part-time, the applicant must have completed the LL.M. program within thirty-six months:  
and

(2) has been admitted to practice in a foreign jurisdiction and is in good standing at the bar of the foreign jurisdiction, as evidenced by a certificate from the highest court or agency of such foreign jurisdiction having authority over admission to the practice of law, and has engaged in the active practice of law in the foreign jurisdiction, as defined in section 5.01(c) of this Rule, for at least five of the eight years before applying to take the Tennessee bar.

#### **Sec. 7.02. Additional Information from Applicants Licensed in a Foreign Country.**

Any applicant licensed to practice in a foreign country desiring admission in Tennessee shall be required to pass the examination and shall supplement the application with the following documents:

- (a) a certified copy of the record or license of the court or agency which admitted the applicant to practice law in such country; and
- (b) at least three letters from attorneys or judges in such foreign country certifying that the applicant is in good standing at that bar, or was in good standing at that bar when the applicant left that foreign country.

### **ARTICLE VIII. COMMITMENT TO SERVE THE ADMINISTRATION OF JUSTICE IN TENNESSEE**

#### **Sec. 8.01. Evidence of Commitment to Administration of Justice.**

The requisite commitment to serve the administration of justice in Tennessee subject to the duties and standards imposed on attorneys in this State shall be evidenced by a statement by each applicant for admission by examination, transferred UBE score, without examination, or temporary admission under section 10.06, that the applicant agrees to abide by the duties and standards imposed from time to time on attorneys in this State.

#### **Sec. 8.02. [Reserved.]**

#### **Sec. 8.03. [Reserved.]**

### **ARTICLE IX. ISSUANCE OF LICENSE—EFFECTIVE DATE OF ADMISSION**

#### **Sec. 9.01. Certificate of Board.**

(a) Upon the completion of all requirements for licensing as provided in section 1.03, the Board, acting through the Executive Director, shall certify to the Supreme Court that an applicant is eligible for admission and issue to the applicant a “Certificate of Eligibility for Admission” (“Certificate of Eligibility”). The Board shall promptly notify the Clerk of the Supreme Court and the Board of Professional Responsibility of the issuance of the Certificate of Eligibility.

(b) The Certificate of Eligibility shall be valid for ninety days from the date of issuance. Subject to the time limit imposed by section 1.02 of this Rule, the Board may grant the applicant a reasonable, one-time extension of the time within which to complete the licensure process, including compliance with Tenn. Sup. Ct. R. 6, if the applicant shows to the satisfaction of the Board that he or she is unable to complete the process within the ninety-day period.

#### **Sec. 9.02. Issuance of License.**

(a) On the basis of the Certificate of Eligibility, and upon the successful applicant's compliance with Tenn. Sup. Ct. R. 6, the Supreme Court shall issue a license admitting the successful applicant to the bar of Tennessee. However, the Board may revoke the Certificate of Eligibility if at any time before the administering of the oath of admission the Board receives notice of any event that would have changed the Board's decision to approve an applicant for licensing.

(b) The license shall be in such form as may be approved by the Supreme Court. Each such license shall be signed by the members of the Board and the members of the Court.

#### **Sec. 9.03. Effective Date of Admission.**

An applicant shall not be considered admitted to the bar of Tennessee until issuance of a license by the Supreme Court upon compliance with Tenn. Sup. Ct. R. 6.

#### **Sec. 9.04. Duty of Applicant to Inform Board of Subsequent Events.**

If at any time before the issuance of a license an applicant becomes aware of any fact or circumstance which might indicate that such applicant is not entitled to admission, the applicant shall promptly advise the Board of such fact or circumstance as provided in section 3.02.

#### **Sec. 9.05. Disapproval by the Supreme Court.**

At any time before the issuance of a license to an applicant, the Supreme Court may for good cause disapprove the issuance of such license. On such disapproval, the Court shall enter an order stating the grounds for such disapproval and may refer the matter to the Board for such further action as the Court may deem appropriate.

#### **Sec. 9.06. Replacement License.**

For good cause shown, the Board may recommend to the Supreme Court the issuance of a replacement license to any person who has previously been licensed to practice law in Tennessee.

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

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

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

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

(a) A lawyer who is admitted to the practice of law in another U.S. jurisdiction or is a foreign lawyer who is employed 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, and who has a systematic and continuous presence in this jurisdiction pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1), shall register as in-house counsel within 180 days of the commencement of employment as a lawyer 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 under section 11.01;

(3) Documents proving admission to practice law and current good standing in all United States and foreign jurisdictions in which the lawyer is admitted to practice law. If the jurisdiction is foreign and the documents are not in English, the lawyer shall submit an English translation and satisfactory proof of the accuracy of the translation; 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.

For purposes of this Rule, a "foreign lawyer" is a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority. Upon recommendation of the Board, the Supreme Court may allow a foreign lawyer lawfully practicing as in-house counsel in a foreign jurisdiction who does not meet the above requirements to register as an in-house counsel after consideration of other criteria, including the lawyer's legal education, references, and experience.

(b) A registered lawyer 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 the registered lawyer's 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);

(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); and

(C) If a foreign lawyer, provide advice on the law of this or another jurisdiction of the United States except upon the basis of advice from a lawyer who is duly licensed and authorized to provide such advice.

(c) Notwithstanding the provisions of paragraph (b)(2)(A) and (B), above, a registered lawyer under this section, other than a foreign lawyer, 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 registered lawyer under this section shall:

(1) Complete the registration process with the Board of Professional Responsibility within thirty 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; and

(4) Report to the Board, within thirty 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; and

(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;

(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 written notice within thirty 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 section 11.01; 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 of commencement of employment shall be:

(1) Permitted to register under this section as provided in paragraph (a), above but will be required to pay a late registration fee as provided in the fee schedule established under section 11.01;

(2) Subject to professional discipline in this jurisdiction;

(3) Ineligible for admission pursuant to section 5.01 of this Rule;

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

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

(i) A lawyer's service to the lawyer's employer before 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. The protection of this section applies only to lawyers who submit an application to register under this section within 180 days of commencement of practice in Tennessee.

(j) A lawyer who is eligible to register under this section but who submits an application for admission without examination under section 5.01, by examination under section 3.01, or by transferred UBE score under section 3.05, must register to practice pending admission under section 10.07 or also register as in-house counsel. The protections of paragraph (i) do not apply for admission under other provisions of this Rule.

(k) Amnesty. A foreign lawyer who has been employed as a lawyer in an organization in Tennessee for more than 180 days at the time of enactment of amended section 10.01 and who complies fully with the requirements of this Rule on or before September 30, 2019, shall not be barred from registration under this Rule or from practicing under the authority of Tenn. Code Ann. § 23-3-103 and RPC 5.5(d)(1) solely by the fact of prior noncompliance with Tennessee law concerning licensure of in-house counsel.

#### **Sec. 10.02. Approval of Experiential Learning Programs and Attorneys in Experiential Learning and Related Law School Programs.**

(a) Experiential Learning Programs. For the purpose of this section and section 10.03 herein, Experiential Learning Program means an academic program administered by a law school through which a law student may enroll for academic credit in a law clinic or field placement course.

(1) A law clinic offered through an Experiential Learning Program provides substantial lawyering experience that involves advising or representing one or more actual clients or serving as a third-party neutral, and includes the following:

- (A) direct supervision of the student's performance by a law school faculty member;
- (B) opportunities for performance, feedback from a faculty member, and self-evaluation; and
- (C) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection.

(2) A field placement course offered through an Experiential Learning Program provides substantial lawyering experience that is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise, and includes the following:

- (A) direct supervision of the student's performance by a faculty member or field placement site supervisor;
- (B) opportunities for performance, feedback from either a faculty member or a field placement site supervisor, and self-evaluation;
- (C) a written understanding among the student, faculty member, and a person in authority at the field placement that describes both the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and the respective roles of faculty and any field

placement site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student's academic performance;

(D) a method for selecting, training, evaluating and communicating with field placement site supervisors, including regular contact between the faculty and field placement site supervisors through in-person visits or other methods of communication that will assure the quality of the student educational experience;

(E) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection;

(F) evaluation of each student's educational achievement by a faculty member; and

(G) sufficient control of the student experience to ensure that the requirements set forth in section 10.02(a)(2)(A)-(F) are met.

(b) Approval of Experiential Learning Programs. The Board shall review a law school's Experiential Learning Program as the basis for a recommendation to the Supreme Court. Approval of the Experiential Learning Program is a prerequisite for the approval of law students who are practicing under section 10.03 in an experiential learning setting. The criteria that serve as a basis for approval shall be:

(1) that the law school is approved under section 17.01 of this Rule;

(2) that if the law school has an in-house legal clinic which directly represents clients, that the program has either an attorney licensed to practice and in good standing in Tennessee or an attorney approved for limited practice as provided in paragraph (d), below, who directs the clinic and who is employed by or associated with the law school; and

(3) that the law school's Experiential Learning Program is otherwise operated in a manner consistent with the requirements of this Rule.

(c) The Supreme Court must approve a law school's Experiential Learning Program, based on a recommendation from the Board, before any law student may practice under section 10.03 in an experiential learning setting. Certification of an Experiential Learning Program may be withdrawn by the Supreme Court upon recommendation of the Board if the program ceases to meet the foregoing criteria.

(d) Attorneys in Experiential Learning Law School Programs. An attorney who is employed by or associated with an ABA-accredited or Tennessee-Approved Law School as faculty for the Experiential Learning Program may be admitted to practice on a limited basis before the courts of this State on behalf of the Experiential Learning Program. The attorney must establish to the satisfaction of the Board that the attorney:

(1) is a member of a court of last resort of another state, a U.S. Territory or the District of Columbia;

(2) submits a certificate from the court of last resort referenced in (d)(1) certifying that the attorney is a member in good standing at the bar of that court;

(3) has not been denied admission to practice in any jurisdiction, including Tennessee;

(4) submits a statement signed by the dean of the law school where the attorney is employed or associated in a verifying employment; and

(5) has paid all required fees.

(e) The Supreme Court, upon the recommendation of the Board that the attorney satisfies all the requirements of paragraph (d), shall enter an order authorizing the attorney to practice in connection with an approved Experiential Learning Program. Upon the entry of the Court's order, the Board shall provide the attorney with a certificate of admission.

(f) Admission to practice under this section shall cease upon the first of the following to occur:

(1) after two years from the date of admission under this section, except in the discretion of the Supreme Court in special situations for good cause shown, provided that attorneys who wish to continue to practice in this State must seek admission under sections 3.01 (by examination), 3.05 (by transferred UBE score) or 5.01 (without examination) of this Rule so that they are eligible for licensing before the expiration of the two-year period. Time in practice pursuant to this section will count as "active practice of law" for purposes of admission pursuant to section 3.05(b) or 5.01; or

(2) cessation of the attorney's employment by or association with the law school, notice of which will be provided to the Board by the law school dean within ten days of the attorney's cessation of employment or association with the law school.

(g) Attorneys admitted to practice under this section are subject to the Rules of Professional Conduct and may be disciplined as provided for in Tenn. Sup. Ct. R. 9.

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

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

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

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

(2) the term "Experiential Learning Program" shall incorporate the definition in section 10.02(a);

(3) the term "director" refers to the director of the law school's Experiential Learning Program that has been approved by the board under section 10.02(b);

(4) the term "provide legal services" is to be construed broadly, so as to allow a law student who is admitted under this section to provide any and all services that could be provided by a licensed attorney, subject to supervision as provided in this Rule;

(5) the term "person or entity financially unable to afford counsel" includes all persons whom any court could deem eligible for the appointment of counsel, as well as persons and entities unable to reasonably secure legal counsel for the subject matter of the representation, or who can otherwise demonstrate to the satisfaction of the director that they cannot reasonably afford counsel; and

(6) the term "governmental agency or agencies" refers to any state, county, municipal or federal government agency, department or entity located in Tennessee.

(c) **Qualified law student.** In order to perform the activities outlined in section 10.03(g), a qualified law student is a student enrolled in an approved law school, except that the student is not required to be enrolled during a summer term or when the school is not in session, certified under section 10.03(d), and approved under section 10.03(e).

(d) **Certification.** The qualified law student shall:

(1) be certified by the dean of the law student's law school or the director

(A) as having satisfactorily completed not less than one-half of the required curriculum for graduation, computed on an hourly basis;

(B) as being in academic good standing at the law school; and

(C) as meeting any other requirements the law school places on certification under this Rule; and

(2) certify in writing that he or she has read, is familiar with, and will abide by Tennessee Supreme Court Rules 8 and 9.

(e) **Approval by the Supreme Court.**

(1) The dean of the law student's law school or the director shall file a request for approval of a qualified law student with the Clerk of the Supreme Court of Tennessee in Nashville on forms and in the format required by the Supreme Court.

(2) Upon a showing that the law student is qualified under the provisions of this Rule, the Supreme Court shall issue an order approving the law student to practice.

(3) Upon the entry of the order approving a law student to practice under this Rule, the Board shall provide the student with a certificate of admission.

(f) **Duration of Law Student Practice.**

(1) **Eligibility.** A law student's eligibility to provide service under this Rule terminates upon the earlier of:

(A) expiration of the approval by the Supreme Court;

(B) graduation from law school;

(C) receipt by the Clerk of the Supreme Court of the notice set forth in paragraph (f)(3), below that one of the following has occurred:

(i) cessation of law school enrollment before graduation;

(ii) completion of the experiential learning placement that is the basis for the law student's eligibility; or

(iii) upon written notice from the dean of the law student's law school or the director that the law student no longer meets the eligibility requirements under this Rule.

(2) **Short-term Permission to Engage in Law Student Practice.** Qualified law students whose approval to practice has expired under paragraph (f)(1) may participate in a short-term pro bono event as an approved qualified law student, provided that:

(A) the qualified law student is approved by the director for the short-term pro bono event;

(B) the qualified law student is supervised by an attorney approved by the director;

(C) the short-term pro bono event is sponsored by the law school; and

(D) the pro bono event is held on consecutive days and does not exceed ten days.

(3) **Notice Required.** Notice of an event of termination of a qualified law student's eligibility under paragraph (f)(1)(C), above shall be promptly provided by the dean of the qualified law student's law school or the director by sending notice to the Clerk of the Supreme Court in Nashville and the Executive Director of the Tennessee Board of Law Examiners.

**(g) Activities.**

(1) An approved qualified law student may provide legal services on behalf of any person or entity financially unable to afford counsel or on behalf a governmental agency through:

(A) a law school clinical course;

(B) governmental agencies as defined in paragraph (b)(6);

(C) Office of the Attorney General and Reporter, District Public Defender or District Attorney General;

(D) any program funded in whole or in part by Legal Services Corporation; or

(E) a non-profit organization that, as part of its mission, provides legal services to persons or entities financially unable to afford counsel.

(2) Any pleadings, briefs, abstracts or other documents prepared by a qualified law student acting pursuant to this Rule must contain the name and signature of the qualified law student who participated in drafting it with the accompanying designation, "Qualified Law Student Approved under Tenn. Sup. Ct. R. 7, Sec. 10.03" but must also be signed by the supervising attorney (the "supervising attorney") as defined in paragraph (h), below.

(3) The rules of law and evidence relating to privileged communications between attorney and client shall govern communications made or received by qualified law students and their clients.

**(h) Supervision.**

(1) The qualified law student shall be under the immediate and personal supervision of an attorney who meets the requirements of paragraph (3), below. If the supervising attorney is not teaching in a law school clinic, the attorney must be approved in writing by the dean or director.

(2) It is the responsibility of the supervising attorney to ensure that the student is properly supervised and instructed, including compliance with Tenn. Sup. Ct. R. 8, RPC 5.3, and be present for administrative or adjudicatory proceedings; however, it is not necessary that the licensed attorney be personally present when the student engages in other activities such as interviewing, investigation, drafting and negotiation.

(3) The supervising attorney must:

(A) be a lawyer licensed and in good standing in Tennessee;

(B) have practiced for a minimum of three years;

(C) assume professional responsibility for the direct and immediate supervision for the professional work of the qualified law student; and

(D) be a full-time employee of an entity identified in paragraph (g)(1)(A)-(E), above, and supervise the qualified law student in connection to that employment.

(i) **Disciplinary Complaints.**

(1) In the event a disciplinary complaint is filed based on a qualified law student's participation under these rules, the authority with whom such complaint is filed shall immediately report the same to the dean of the student's law school and the Board of Law Examiners. Upon receipt of notice of a complaint, the dean or director shall provide the Board of Professional Responsibility the name of the supervising attorney for the law student against whom the complaint is filed.

(2) By operation of this Rule, a disciplinary complaint against a qualified law student constitutes a complaint against the supervising attorney. The Board of Professional Responsibility shall have jurisdiction over the complaint against both the student and the supervising attorney and, in the discretion of the Board of Professional Responsibility, may refer the complaint against the student to the Office of the Attorney General and Reporter, the Board of Law Examiners, or the law school.

(j) **Compensation.** This Rule does not preclude compensation of a qualified law student when consistent with the law school's academic policies. However, in no event shall the qualified law student be employed or compensated directly by a client for services rendered.

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

(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 another state in the United States, the District of Columbia, or U.S. Territories;

(B) has submitted an application pursuant to section 3.01 or 3.05 of this Rule;

(C) meets the educational requirements of section 2.01 and 2.02 of this Rule;

(D) works in Tennessee under the supervision of a licensed lawyer who is admitted and in good standing in Tennessee; 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 or submitted a UBE score transfer application, 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 or the graduation from law school, whichever is later.

(3) Applicants registered for supervised practice who are unsuccessful on the examination and who submit a re-examination application for the next available exam within ten days of the release of examination results may continue to practice under supervision subject to the time limits in paragraph

(4). The privilege to engage in supervised practice expires for applicants who are unsuccessful on the examination and do not submit a re-examination application within ten days of notification of examination results.

(4) The privilege to engage in supervised practice expires: upon admission of eligible examination or UBE score transfer applicants; as provided in paragraph (3) for unsuccessful examinees; upon admission in any other state, the District of Columbia, or U.S. Territory; or upon issuance of an order to show cause. In no event shall the privilege to engage in supervised practice continue for more than sixteen months from the date an applicant graduated from law school.

(5) The Board shall have no discretion to extend the time an applicant may engage in limited practice.

(6) An applicant who is licensed in another jurisdiction and seeking admission under sections 3.01, 3.05, 5.01, or 10.06 of this Rule may practice pending admission as provided in section 10.07.

(b) **Registration Process.** In order to perform the services described in paragraph (c), the applicant must submit to the Board the NCBE application, the Tennessee Supplemental application, and the fees associated with the application. Additionally, the applicant must register for supervised practice according to the procedures established by the Board and pay 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) **Supervision.**

(1) The applicant shall be under the immediate and personal supervision of an attorney who meets the requirements of paragraph (3), below.

(2) It is the responsibility of the supervising attorney to ensure that the applicant is properly supervised and instructed including compliance with Tenn. Sup. Ct. R. 8, RPC 5.3, and be present as provided in paragraph (d)(2), below; however, it is not necessary that the supervising attorney be present when the applicant engages in activities such as interviewing, investigation, drafting, and negotiation.

(3) The supervising attorney must:

(A) be a lawyer licensed and in good standing in Tennessee;

(B) have practiced for a minimum of three years; and

(C) assume professional responsibility for the direct and immediate supervision for the professional work of the applicant.

(d) **Services Permitted.** Under the supervision of the supervising attorney, 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) 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 attorney.

(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 attorney, 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 attorney, the name of the applicant must be accompanied by the designation “Tennessee Bar Applicant” but must be filed in the name of the supervising attorney. Upon motion by the supervising attorney, the applicant may request authorization to argue the matter before the appellate court but, even if the applicant is permitted to argue, the supervising attorney must be present and is responsible for the conduct of the applicant at the hearing.

(e) **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.

(f) **Aid in Establishing Supervised Practice.** 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 apply 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.

(g) **Disciplinary Complaints.**

(1) In the event a disciplinary complaint is filed in a case in which an applicant has been permitted to practice under this section, the authority with whom such complaint is filed shall immediately report

the complaint to the Board. Upon receipt of a notice of a complaint, the Board shall provide the Board of Professional Responsibility the name of the supervising attorney for the applicant.

(2) By operation of this Rule, a disciplinary complaint against an applicant permitted to practice under this section constitutes a complaint against the supervising attorney. The Board of Professional Responsibility shall have jurisdiction over the complaint against both the applicant and the supervising attorney and may refer the complaint against the applicant to the Office of the Attorney General and Reporter or the Board.

(h) **Board Permitted to Disclose.** 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.

#### **Sec. 10.05. Conditional Admission.**

An applicant whose previous conduct or behavior would or might result in a denial of admission may be conditionally admitted to the practice of law upon a showing of sufficient rehabilitation and/or mitigating circumstances. The Board shall recommend relevant conditions relative to the conduct or the cause of such conduct with which the applicant must comply during the period of conditional admission.

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

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

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

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

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

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

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

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

(i) **Confidentiality.** Except as otherwise provided herein, and unless the Supreme Court orders otherwise, the fact that an individual is conditionally admitted and the terms of the Conditional Admission Order shall be confidential provided that the applicant shall disclose the entry of any Conditional Admission Order to the admissions authority in any jurisdiction where the applicant applies

for admission to practice law. In addition to ensuring that the relevant records of the Board, the Board of Professional Responsibility and the Tennessee Lawyer Assistance Program are confidential, the Board shall use reasonable efforts to structure the terms and conditions of the conditional admission so that the conditional admission does not pose a significant risk to confidentiality. These provisions for confidentiality shall not prohibit or restrict the ability of the applicant to disclose to third parties that the applicant has been conditionally admitted under this Rule, nor prohibit requiring third-party verification of compliance with the terms of the Conditional Admission Order by admission authorities in jurisdictions to which the conditionally admitted lawyer may subsequently apply.

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

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

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

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

Applicant:

- (1) is the spouse of an active duty servicemember of the United States Uniformed Services as defined by the Department of Defense and that servicemember is on military orders stationed in the State of Tennessee or Fort Campbell, Kentucky;
- (2) has been licensed and admitted by examination to practice law before the court of last resort in at least one other jurisdiction of the United States;
- (3) meets the educational requirements of sections 2.01 and 2.02 of this Rule;
- (4) has achieved a passing score on the Multistate Professional Responsibility Examination (“MPRE”) as it is established in Tennessee at the time of application;
- (5) is currently an active member in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every such jurisdiction without any pending disciplinary actions;
- (6) is not currently subject to lawyer discipline in any other jurisdiction;
- (7) possesses the moral character and fitness required of all applicants for admission and licensing in Tennessee;
- (8) is physically residing in Tennessee or Fort Campbell, Kentucky, due to the servicemember’s military orders;
- (9) has never failed the Tennessee bar examination;

(10) has certified that the applicant has read and is familiar with the Tennessee Rules of Professional Conduct; and

(11) has paid such fees as may be set by the Board.

(b) **Application Requirements.** Any applicant seeking a temporary license under this section 10.06 to practice law in Tennessee shall:

(1) file an application for Temporary License for Servicemember's Spouse and an application for character investigation, including all required supporting documents, in the manner established by the Board;

(2) submit a copy of the applicant's Military Spouse Dependent Identification and documentation evidencing a spousal relationship with the servicemember;

(3) provide a copy of the servicemember's military orders to a military installation in Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command verifying that the requirement in section 10.06(a)(8) is met;

(4) submit certificate(s) of good standing from the highest court of each state to which the applicant has been admitted and disciplinary history(ies) to demonstrate satisfaction of the requirements of section 10.06(a)(5);

(5) pay the fee established pursuant to section 11.01 of this Rule; and

(6) comply with the provisions of section 1.07 of this Rule.

(c) **Issuance, Renewal and Subsequent Application.**

(1) **Issuance.** Upon approval and certification by the Board, the applicant for temporary license shall, upon registration and payment of applicable fees and taking the oath of admission as set forth in sections 9.01 and 9.02 of this Rule, become a member of the Tennessee bar. An attorney temporarily licensed pursuant to this section shall be subject to the same membership obligations, including payment of fees and continuing legal education requirements, as other active members of the Tennessee bar, and all legal services provided in Tennessee by a lawyer licensed and admitted pursuant to this section shall be deemed the practice of law and shall subject the attorney to all rules governing the practice of law in Tennessee, including the Tennessee Rules of Professional Conduct. The original term of the license is two years.

(2) **Duration and Renewal.**

(A) Persons who hold a temporary license under this provision may apply for subsequent one-year extensions to their license upon filing an application for extension with the Board. The application for extension must include sworn verification that the temporarily licensed attorney continues to meet all of the qualifications for temporary license as set forth in paragraphs (a), (b) and (c) of this section, and include the required fee for the application. A request for an extension must be submitted to the Board at least one month before the expiration of the temporary license. A request for an extension must be approved by both the Board and the Supreme Court to be effective.

(B) When the active duty servicemember is assigned to an unaccompanied or remote follow-on assignment and the temporarily licensed attorney continues to physically reside in Tennessee or

Fort Campbell, Kentucky, the temporary license may be renewed until the active duty servicemember's unaccompanied or remote assignment ends, provided that the attorney spouse complies with the other requirements for renewal.

(C) Subsequent Applications. A temporarily licensed attorney who wishes to become a permanent member of the bar of Tennessee may apply for admission under sections 3.01, 3.05, or 5.01 of this Rule for the standard application fee minus the application fee paid to the Board for the application for temporary license, not including any fees for requests for extension or background investigation fees. The requirement for a background investigation will be waived if the application for admission is submitted within two years of the original Application for Temporary License.

**(d) Termination.**

(1) Event of Termination. An attorney's temporary license to practice law pursuant to this section shall immediately terminate and the attorney shall immediately cease all activities under this section upon the occurrence of any of the following:

(A) the spouse's discharge, separation or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the State of Tennessee or Fort Campbell, Kentucky, except as provided in section 10.06(c)(2)(B);

(B) failure of the temporarily licensed attorney to meet any licensing requirements applicable to all active attorneys possessing a license to practice law in this State, including failure to submit a timely application to renew the temporary license;

(C) the attorney no longer physically residing within the State of Tennessee or at Fort Campbell, Kentucky;

(D) the request of the temporarily licensed attorney;

(E) the issuance to the temporary attorney of a Tennessee license under sections 3.01, 3.05, or 5.01 of this Rule;

(F) the temporarily licensed attorney receiving a failing score on the Tennessee bar examination;  
or

(G) the suspension, disbarment or other action affecting the temporarily licensed attorney's good standing with the bar of Tennessee or any other jurisdiction in the United States in which the temporarily licensed attorney is licensed.

(2) Notices Required.

(A) An attorney temporarily licensed under this section shall provide written notice to the Board and the Board of Professional Responsibility of any Event of Termination within thirty days of the occurrence thereof;

(B) Within thirty days of the occurrence of any Event of Termination, the temporarily licensed attorney shall:

- (i) provide written notice to all his or her clients that he or she can no longer represent such clients and shall furnish proof to the Board and the Board of Professional Responsibility within forty-five days of such notification; and
- (ii) file in each matter pending before any court or tribunal in this State a notice that the attorney will no longer be involved in the matter, which shall include such other attorney licensed to practice law in Tennessee selected by the client, as counsel in the place of the temporarily licensed attorney.

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

(a) A lawyer who is licensed to practice law and in good standing in another state in the United States, the District of Columbia, or a U.S. Territory and who has submitted an application for admission under section 3.01, 3.05, 5.01, or 10.06 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 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 or her application for admission to be granted;
- (4) notifies the Board of Professional Responsibility in writing within thirty 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) associates with a lawyer who is admitted to practice 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) submits an Application to Register for Practice Pending Admission under this section in the form provided by the Board;
- (8) pays the fee associated with the Application to Register for Practice Pending Admission;
- (9) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission unless the lawyer is granted such admission;
- (10) has never before practiced in Tennessee pursuant to this provision, unless the Board determines otherwise; and
- (11) 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.

(b) Notwithstanding the provisions of section 12.11, the Board may disclose that an applicant is authorized to practice under this section and when such authorization terminates.

(c) **Termination of Right of Practice Pending Admission.** The right to practice pending admission under this section terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other

jurisdiction in which the lawyer is licensed to practice law; or if the lawyer fails to timely provide the written notice required by section 10.07(a)(4). Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within ten days, 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 the authority in this section; and
- (3) take all other necessary steps to protect the interests of the lawyer's clients.

**(d) Change in Associated Attorney.**

(1) If the lawyer with whom the applicant has associated under paragraph (a)(5) of this section or the applicant wish to terminate the association, the lawyer with whom the applicant has associated and the applicant shall file notice with the Board and the Board of Professional Responsibility severing the association.

(2) The applicant may continue to practice pending admission if, within ten days of providing the notice required in paragraph (1), the applicant:

- (A) associates with another lawyer under paragraph (a)(5);
- (B) provides notice of the association to the Board of Professional Responsibility;
- (C) submits an Application to Register for Practice Pending Admission under paragraph (a)(7); and
- (D) pays the fee associated with the application to re-register for practice pending admission.

(3) If the applicant does not associate with another lawyer within ten days of providing notice as required under paragraph (1), the applicant's permission to practice pending admission terminates, and the applicant must comply with the requirements of paragraph (d)(2) of this section.

## **ARTICLE XI. FEES**

### **Sec. 11.01. Schedule of Fees.**

The Board shall adopt, from time to time, a schedule of fees to be paid by applicants. No fee shall be charged without the approval of the Supreme Court.

### **Sec. 11.02. Payment Mandatory.**

No step in the admissions process may be taken except upon the payment of the fees required for that step. No license will be issued until all fees due from the applicant have been paid.

### **Sec. 11.03. Refunds.**

Fees are non-transferable and non-refundable, except that the fee for examination or re-examination may be refunded in part as provided in the schedule of fees adopted by the Board and approved by the Supreme Court, as provided in section 11.01 of this Rule.

## **ARTICLE XII. ORGANIZATION AND POWERS OF BOARD**

### **Sec. 12.01. Composition of Board and Term.**

The Board shall consist of five attorneys licensed to practice law in this State and in good standing. The Board members shall be appointed to three-year terms by the Supreme Court. No member who has served three successive three-year terms shall be eligible for reappointment to the Board until three years after the termination of the most recent term.

### **Sec. 12.02. Officers and Allocation of Responsibilities.**

The officers of the Board shall consist of a President, a Vice President and a Secretary-Treasurer. The Board may, however, allocate responsibilities not requiring formal action, as it deems appropriate, on an informal basis.

### **Sec. 12.03. Official Seal.**

The Board shall use a seal of office containing the following words: "STATE OF TENNESSEE BOARD OF LAW EXAMINERS."

### **Sec. 12.04. Formal Actions; Quorum.**

- (a) Denial of an application to take the bar examination, or denial of a license, or the adoption of Board policies and rules shall be taken only on formal action concurred in by at least three members of the Board, expressed in an order.
- (b) Three members of the Board shall constitute a quorum.
- (c) Preliminary approval to take the bar examination may be given and any other informal action may be taken by any member of the Board.

### **Sec. 12.05. Policy and Procedure of the Board.**

- (a) The Board shall have the power to adopt such statements of policy and procedure as it may deem necessary or expedient, not inconsistent with the rules of the Supreme Court. Upon adoption by the Board, the Executive Director shall provide a copy of the policy or procedure to the Court for approval.
- (b) All such statements of policy and procedure shall be maintained by the Executive Director as the Board's Statement of Policy and Procedure and shall be open to public inspection. The Board shall take reasonably appropriate steps to ensure that applicants are given the opportunity to become familiar with the Board's Statement of Policy and Procedure, as well as with this Rule.

### **Sec. 12.06. Docket of Proceedings.**

The Executive Director shall maintain a docket of all proceedings before the Board in which formal action of the Board is taken, or in which a hearing is held with respect to any application for admission.

### **Sec. 12.07. Appointment and Duties of Executive Director.**

The Supreme Court shall appoint an Executive Director of the Board, who shall serve at the pleasure of the Supreme Court. Following his or her appointment, the Executive Director shall report to the Board, which shall conduct regular performance evaluations of the Executive Director and report such evaluations to the Supreme Court. The Executive Director shall be responsible for all administrative duties in the enforcement of this Rule, including, but not limited to, investigation of the character of applicants, investigation of schools, preliminary review of applications, making arrangements for the

giving of examinations, keeping books, records and files, and such other responsibilities as may be delegated or directed by the Board.

**Sec. 12.08. Administrative Assistance.**

The Executive Director may employ such full or part-time administrative and other office assistance as he or she may deem appropriate.

**Sec. 12.09. Assistants to the Board.**

The Supreme Court may appoint attorneys licensed to practice law in this State and in good standing to assist in the preparation and grading of examination questions, and to perform such other duties in the enforcement of this Rule as the Board may from time to time direct. The assistants shall serve staggered terms of five years and may be reappointed to serve a second five-year term, provided that shorter terms may be designated initially by the Court where necessary to observe the above rotation practices.

**Sec. 12.10. Salaries.**

The Board shall fix the salary of the Executive Director and of the employees of the Board, subject to budgetary limitations and approval of the Court.

**Sec. 12.11. Confidentiality of Board Records and Files.**

(a) Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity including any person, firm, or institution to the Board or their members, employees, or agents, applications for admission, examination papers and grades, and all investigative records of the Board, including, but not limited to, correspondence and/or electronic transmissions to and from the Board, its members and staff, minutes of Board meetings and its deliberations and all documents, communications and proceedings prepared in connection with evaluations or investigations of law schools under sections 17.01, 17.02, 17.03, 17.04, 17.05, 17.06, 17.07, and 17.10 of this Rule, whether in paper or electronic form, shall be confidential and shall not be open to inspection without written application to and authorization by an appropriate order of the Supreme Court.

(b) The Board is authorized to release information which would otherwise be confidential to disciplinary or law enforcement agencies of any jurisdiction, the Tennessee Lawyer Assistance Program, and to the Board of Professional Responsibility upon written request. The Board may release information that is otherwise confidential as follows:

(1) to the National Conference of Bar Examiners and to the bar admissions authority of any jurisdiction in the United States where the applicant has made a written request, provided a signed and notarized authorization and release, and the receiving authority has agreed not to give the information to the applicant; and

(2) to any other party upon written application to and authorization by an order of the Tennessee Supreme Court.

(c) Statistical information not identified with any particular applicant and information relating to whether and when an applicant has been admitted may be released to any person.

(d) Notwithstanding the provisions above, completion of an Application to the Bar of Tennessee constitutes Applicant's permission allowing the Board to release Applicant's name, address and email address to Bar and professional legal associations in Tennessee, as approved by the Board, and, for applications for admission by examination, Applicant's name and exam result to the law school from which Applicant graduated.

**Sec. 12.12. No Power to Waive or Modify Rule of the Supreme Court.**

Except as expressly provided in this Rule, the Board has no power to waive or modify any provision of this Rule.

**Sec. 12.13. Subpoena Power.**

The Board and each member of the Board are vested with the power to issue subpoenas for witnesses, to compel their attendance, and to compel the production of books, records and documents, to administer oaths to witnesses and to compel witnesses to give testimony under oath, and to have and exercise all other power and authority conferred by the laws of this State and the rules of the Supreme Court upon Commissioners or upon Special Masters of this Court. Subpoenas shall in each instance be attested by the Clerk or a deputy clerk of this Court. Subpoenas shall be issued and enforced in accordance with the provisions of Title 24, Tenn. Code Ann., as in the case of Commissioners authorized to take depositions.

**Sec. 12.14. Counsel for Board.**

(a) The Board is authorized to request any of the attorney assistants to the Board to act as counsel, or to request the State or any local bar association to furnish counsel, to assist the Board in investigations, preparation for hearings, or the conduct of hearings.

(b) The Attorney General shall represent the Board in any proceedings in court, including the review of Board actions in the Supreme Court.

**Sec. 12.15. Immunity.**

(a) Members of the Board, District Committee Members, the Executive Director, Assistants and employees of the Board shall be immune from civil suit in the course of their official duties.

(b) Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm or institution, without malice, to the Board, or to its members, employees or agents, are privileged, and civil suits for damages predicated thereon may not be instituted.

(c) The immunity granted in this section shall not be construed to limit any other form of immunity available to any covered person.

**ARTICLE XIII. FORMAL PROCEEDINGS BEFORE THE BOARD**

**Sec. 13.01. Show Cause Orders.**

(a) Grounds for Issuance of Show Cause Order. If the Board finds, from the information furnished it or from investigations made under its authority, that:

(1) grounds for doubt exist as to whether an applicant:

(A) meets the applicable standard for character and fitness under section 6.01 or

(B) has adhered to the duty of candor under section 6.04; or

(2) sufficient evidence has been provided to the Board that the applicant provided false information or refused to provide information requested by the Board or its investigators, staff, or agents,

the Board shall issue an order requiring the applicant to show cause why the applicant should not be denied admission or the opportunity to take the examination as the Board may determine. Any such show cause order shall state the grounds thereof, shall afford the applicant an opportunity to reply thereto within a period designated therein, and shall set the date, time and place of the hearing.

(b) Response to Show Cause Order. The applicant's reply to the Show Cause Order shall be in writing, under oath, and may include such additional affidavits or other documents as the applicant may choose to furnish.

(c) Resolution of Show Cause Before Hearing. If the Board determines that any such reply is sufficient to satisfy the concerns of the Board, the Board shall enter an order resolving the Show Cause Order and notify the applicant of the resolution and cancellation of the hearing.

(d) The Board or the Executive Director may contact the applicant in order to secure an informal resolution of the matter before resorting to the formal procedures herein provided, but no such informal disposition shall be made without the consent of the applicant.

(e) Denial due to Failure to Meet Eligibility Requirements. If the Board finds that an applicant does not meet the requirements for the type of admission the applicant is seeking, the Board shall deny admission of the applicant and issue an order that specifies grounds for the denial of the application for admission. Applicant is not entitled to a hearing before a denial for failure to meet eligibility requirements. An applicant who disagrees with the Board decision may petition the Board under section 13.02.

### **Sec. 13.02. Petitions to Board.**

(a) Any person who is aggrieved by any action of the Board involving or arising from the enforcement of this Rule, other than failure to pass the bar examination or a determination that an applicant has not completed the application process for an examination, may petition the Board for such relief as is within the jurisdiction of the Board to grant.

(b) Any such petition must:

(1) Be in writing, under oath;

(2) Be filed with the Executive Director within thirty days after notice of such action by the Board; and

(3) Must state with reasonable particularity the relief which is sought and the grounds therefor.

(c) Any such petition may:

(1) Be accompanied by such affidavits and other documentary evidence as the petitioner may deem appropriate;

(2) Be supported by a Memorandum of Law setting forth pertinent authorities and arguments; and

(3) May ask the Board to set the matter for hearing.

(d) The Board may order a hearing of any such petition on its own initiative.

### **Sec. 13.03. Hearings Before the Board.**

- (a) The Executive Director shall serve notice on the petitioner or the respondent to a show cause order and any other interested parties fixing the time and place of the hearing and indicating the matters to be heard.
- (b) The petitioner or respondent and any other person made a party to the proceeding shall have the right to be represented by counsel and to present evidence and argument with respect to the matters in issue.
- (c) The burden of proof shall be upon the petitioner, or the respondent in the case of a show cause order.
- (d) Any person having a direct interest in the matters in issue in any proceeding may, upon written motion, be allowed to intervene and become a party of record.
- (e) The Board shall not be bound by the rules of evidence applicable in a court, but it may admit and give probative effect to any evidence which in the judgment of the Board possesses such probative value as would entitle it to be accepted by reasonably prudent persons in the conduct of their affairs. The Board, however, shall give effect to the rules of privilege recognized by law. The Board may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.
- (f) All evidence, including records and documents in the possession of the Board of which it desires to avail itself, shall be offered and made a part of the record, and no factual information shall be considered by the Board which is not made part of the record.
- (g) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
- (h) The Board may take notice of judicially cognizable facts and, in addition, may take notice of general or technical facts within its specialized knowledge.
- (i) The Board may cause subpoenas to be issued for such witnesses as any party may in good faith and for good cause shown request in writing.
- (j) The Executive Director shall arrange for the presence of a court reporter to transcribe any oral hearing. The per diem charge of such reporter shall be paid by the party requesting the hearing, or, in the case of a show cause order, by the Board. In its discretion, the Board may waive the presence of a reporter and use an electronic or similar recording device. At the direction of the Board, or at the request of any party, a transcription of the hearing shall be made, and the transcription shall be incorporated in the record, if made. The party requesting the transcription shall bear the cost thereof. If the Board elects to transcribe the proceedings, any party shall be provided copies thereof upon payment to the Board of a reasonable compensatory charge.
- (k) At the direction of the Board and by agreement of the parties, all or part of a hearing may be conducted by telephone, or other electronic means, if each party has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.
- (l) Any member of the Board may hold hearings when authorized by the Board to do so, but any decision shall be made by a majority of the Board. Any member participating in the decision without being present for the hearing shall read the transcript of the proceedings and the entire record before the Board.

### **Sec. 13.04. Default.**

(a) If a party fails to respond to a show cause order, the Board shall hold that party in default, serve a notice of default on that party, and after the period stated in that notice, enter an order taking such action as the Board deems appropriate.

(b) If a party fails to appear at a hearing, the Board shall proceed with the hearing in the absence of that party.

(c) A party who has been held in default under paragraph (a), above, may file a petition for setting aside that default within fifteen days after the entry of an order based on that default, which petition shall state with particularity the grounds thereof.

#### **Sec. 13.05. Costs.**

The Board may require payment of or security for the costs and expenses of any hearing before the Board, in such a manner as it deems reasonably compensatory.

#### **Sec. 13.06. Decisions of Board.**

The Board's decision on any hearing before it shall be made in writing and a copy thereof shall be mailed or emailed to all parties of record.

#### **Sec. 13.07. Informal Disposition.**

Unless precluded by law or by this Rule, informal disposition may be had of any matter before the Board by stipulation, agreed settlement, or consent order.

#### **Sec. 13.08. Motions and Other Matters Preliminary to Hearing.**

(a) Any party who desires to raise any matter preliminary to the hearing or to obtain any order from the Board before the hearing shall do so by motion, which shall be made in writing, shall state with reasonable particularity the grounds therefor, and shall set forth the relief or order sought.

(b) Any member of the Board may dispose of any motion, subject to the right of review by the entire Board.

### **ARTICLE XIV. REVIEW OF BOARD DECISIONS**

#### **Sec. 14.01. Petition for Review.**

Any person aggrieved by any action of the Board may petition the Supreme Court for a review thereof as under the common law writ of certiorari, unless otherwise expressly precluded from doing so under this Rule. A petition filed under this section shall be made under oath or on affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106. On the grant of the writ, the Executive Director shall certify and forward to the Clerk of the Supreme Court a complete record of the proceedings before the Board in that matter. Any such petition must be filed within sixty days after entry of the order of the Board. The Board shall have thirty days after filing of any such petition within which to file a response.

#### **Sec. 14.02. Costs.**

The Supreme Court may make such orders as it may consider appropriate with respect to the payment of or security for costs and other expenses of hearings before the Court.

#### **Sec. 14.03. Exhaustion of Board Remedies.**

The Supreme Court will entertain no application or petition from any person who may be affected directly or indirectly by this Rule unless that person has first exhausted his remedy before the Board.

**Sec. 14.04. No Review of Failure to Pass Bar Examination.**

The only remedy afforded for a grievance for failure to pass the bar examination shall be the right to re-examination as herein provided.

**ARTICLE XV. SURRENDER OF LAW LICENSE**

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

- (a) An attorney licensed to practice in Tennessee may petition the Supreme Court to accept the surrender of his or her license to practice law.
- (b) The petition shall be filed in the office of the Clerk of the Supreme Court in Nashville. The petitioner shall contemporaneously serve copies of the petition upon the Chief Disciplinary Counsel of the Board of Professional Responsibility, the Executive Director, and the Executive Director of the Commission on Continuing Legal Education and Specialization.
- (c) The petition shall state under oath:
  - (1) the reason(s) for the requested surrender;
  - (2) whether disbarment, suspension, disciplinary, or other administrative action of any nature is in effect or pending as to the petitioner;
  - (3) whether there is a potential grievance, complaint, disciplinary or administrative action of any nature in any jurisdiction which may likely be filed against the petitioner;
  - (4) whether the attorney is currently on probation, under criminal charge(s), or under investigation for criminal charge(s), of any nature in any jurisdiction.
- (d) The Supreme Court may decline to consider any petition during the pendency of any of the matters described herein above.
- (e) The attorney shall attach the law license to the petition or shall attach an affidavit fully explaining why the license is not attached.

**Sec. 15.02. Supreme Court Decision.** Upon consideration of the petition, the Supreme Court may grant the petition or deny it. If the Supreme Court grants the petition, the order accepting the surrender shall state the date the surrender shall take effect. The Clerk of the Supreme Court shall mail a copy of the order to the surrendering attorney, the Board of Professional Responsibility, the Board, and the Commission on Continuing Legal Education and Specialization.

**Sec. 15.03. Effect of Order Accepting Surrender of License.** As of the effective date of the order accepting surrender, the attorney shall have no license to practice law in this state. After the effective date of the order, this license shall not be reinstated, and the attorney may not be licensed to practice law in Tennessee until he or she applies for a law license in Tennessee and meets the requirements of this Rule.

**ARTICLE XVI. REINSTATEMENT OF LAW LICENSE**

**Sec. 16.01.** In accordance with Tenn. Sup. Ct. R. 9, § 30, and R. 21, § 7, an attorney who has been suspended, disbarred or assumed inactive status and who wishes to take the bar examination to establish

proof of competency and learning in the law must first petition for reinstatement pursuant to Tenn. Sup. Ct. R. 9, § 30 and/or file an application for reinstatement pursuant to Tenn. Sup. Ct. R. 21, § 7. If the Supreme Court orders the applicant's successful completion of the bar exam, then the applicant must apply for examination as provided in section 3.01 of this Rule, and attach to the application a disclosure that the application is being submitted pursuant to this section.

**Sec. 16.02.** Applicant's bar examination scores will not be posted but will be released directly to the applicant.

**Sec. 16.03.** Submitting an application to take the bar examination constitutes the applicant's permission to allow the Board to release the results of the bar examination and the background investigation directly to the Board of Professional Responsibility.

## **ARTICLE XVII. TENNESSEE-APPROVED LAW SCHOOLS**

### **Sec. 17.01. Tennessee Law Schools.**

(a) Tennessee-Approved Law Schools Not Seeking ABA Accreditation. Tennessee law schools that are not ABA-accredited or seeking ABA accreditation and that are currently approved by this Board and such approval is not subject to obtaining full ABA accreditation ("Tennessee-Approved Law School") shall remain approved so long as the school continues to comply with the requirements of this Rule as it may be amended and any standards adopted by the Board and approved by the Supreme Court.

(b) Law Schools in Tennessee Seeking ABA-Accreditation.

(1) The Board may recommend approval to the Supreme Court of any law school in Tennessee for the purpose of allowing its graduates to be eligible for admission in Tennessee if the law school is seeking provisional accreditation, and pending full accreditation by the ABA. The Supreme Court shall certify or deny the Board's recommendation to approve the law school by written order.

(2) The recommendation of the Board to the Supreme Court shall be subject to a site evaluation as provided in section 17.03. Until the ABA grants such provisional accreditation, the law school shall be considered a Tennessee-Approved Law School, as provided herein.

(3) Law schools in Tennessee that are seeking provisional accreditation from the ABA but that are not yet provisionally approved are subject to all of the requirements of a Tennessee-Approved Law School.

(4) Graduates of law schools provisionally or fully accredited by the ABA ("ABA Law School") are eligible to seek admission in Tennessee.

(c) Law Schools Seeking Approval of Substantial Change. Whether or not physically located in Tennessee, if an ABA Law School requests approval of a substantial change from the ABA for purposes of opening a law school branch in Tennessee or moving an ABA Law School to Tennessee, the branch or relocated law school shall be treated as a new law school in Tennessee seeking ABA accreditation as provided in paragraph (b), above.

(d) Graduates of Tennessee-Approved Law Schools. Graduates of Tennessee-Approved Law Schools are eligible to seek admission in Tennessee.

(e) Notices from the ABA Regarding Compliance with Standards or Status of Accreditation.

(1) Reporting Requirements for ABA Law Schools in Tennessee. Upon receipt of notice from the ABA that an ABA-accredited law school located in Tennessee is out of compliance with the ABA standards or that the accreditation status of the law school has changed, the law school shall furnish to the Board copies of the notice and such documentation as the Board may request, including self-study analyses and evaluation reports, prepared, completed or received in connection with such school's accreditation status with the ABA. All documentation provided to the Board shall be confidential in order to ensure a frank, candid exchange of information.

(2) ABA Law Schools that are not approved for provisional accreditation by the ABA, do not achieve full accreditation or lose their ABA accreditation will not be recommended for approval to the Supreme Court by the Board until a new application or similar process for provisional or renewed accreditation has been initiated with the ABA, subject to a site evaluation as provided in section 17.03, below.

(f) Statement of Accreditation or Approval Status.

(1) In its catalogs or other informational material distributed to prospective students, a law school shall state whether it is accredited by the ABA or has been approved by the Board pursuant to section 17.01 of this Rule.

(2) Any law school in Tennessee that falsely advertises in its catalog or otherwise that it has been accredited by the ABA or approved by the Board shall be recognized by the Board as a substandard school and will be so classified and disapproved. Students of a substandard school shall not be eligible for admission in Tennessee.

(g) Substandard Law Schools.

(1) Any law school located in or seeking to locate in Tennessee (whether offering a full-time or part-time curriculum), which permits the enrollment of students without first having obtained the written approval of the Supreme Court as provided in section 17.01, shall be classified as a substandard school.

(2) Any ABA-Accredited Law School or Tennessee-Approved Law School that loses its accreditation or provisional approval and does not seek reinstatement of such accreditation or provisional approval shall be classified as a substandard school.

(3) Graduates at law schools that are not ABA-accredited or Tennessee-Approved shall be barred from admission in Tennessee unless the student meets the requirements of section 2.02(d) or section 7.01 of this Rule.

**17.02 Functions of the Board in Review and Regulation of Tennessee-Approved Law Schools.**

(a) For any Tennessee-Approved Law School as defined in section 17.01:

(1) the Board shall determine whether the law school is effectively achieving its mission and objectives, which includes meeting educational standards similar to those defined in the ABA Standards and any standards adopted by this Board. Upon determination by the Board that the law school has met the required standards, the Board shall recommend provisional or continued approval of the law school to the Supreme Court;

(2) the Board is authorized to make inquiry to the school and respond to inquiry by the school and to adopt such additional standards as in its judgment the educational needs of the school may justify, subject to the Supreme Court's approval;

(3) if the Board has reasonable cause to believe that a law school does not comply with the standards in section 17.02(a)(1) of this Rule, and/or the school is not effectively achieving its mission and objectives, it shall inform the school of its apparent noncompliance or failure to effectively achieve its mission or objectives and follow the procedures in sections 17.03 through 17.10 of this Rule; and

(4) the Board is authorized to:

(A) require a school to furnish such information, including periodic reports, as it deems reasonably appropriate for carrying out the Board's responsibilities; and

(B) investigate a law school in accordance with section 17.03 of this Rule, provided that such investigation shall be confidential to ensure a frank, candid exchange of information and evaluation.

(b) Self-Study.

(1) The dean and faculty of a Tennessee-Approved Law School shall develop and periodically revise a written self-study, including an evaluation of the following topics:

(A) the continuing relevance of the school's mission or objectives;

(B) the effectiveness of the program of legal education;

(C) the appropriateness of the school's admission policies;

(D) the significance of the trend in rates of graduation and attrition;

(E) the significance of the trends in the pass/fail rate on the bar examination;

(F) the strengths and weaknesses of the school's policies;

(G) goals to improve the educational program; and

(H) means to accomplish unrealized goals.

(2) The self-study shall be completed every seven years or earlier upon written request of the Board.

(3) Certification of Compliance. The dean and the chairperson of the board of directors of the law school shall certify annually in writing to the Board that the school is effectively achieving its mission and objectives or, if not effectively achieving its mission or objectives, identify areas of noncompliance or other deficiencies, as well as its intention and plan of action to attain compliance.

(c) Investigation and Evaluation by the Board. The Board may visit, investigate, and/or evaluate a Tennessee-Approved Law School, from time to time, with respect to the adequacy of its facilities, faculty, and course of study. The refusal of any such school to cooperate or participate in the conduct of such evaluation shall be reported to the Supreme Court, which may, after hearing, take such actions as the facts may justify.

### **Sec. 17.03. Site Evaluation of Tennessee-Approved Law Schools.**

(a) A site evaluation by the Board shall be conducted before approval of any law school in Tennessee.

(b) For a Tennessee-Approved Law School, a site evaluation by the Board shall be conducted in the third year following the granting of approval and every seventh year thereafter. The Board may order additional site evaluations of a school when special circumstances warrant.

(c) The Board shall arrange for the site evaluation or inspection of the law school by a team of qualified and objective persons who have no conflicts of interest as defined in section 17.10 of this Rule. The cost of the site evaluation or inspection, including the fees of any consultants engaged as part of the Board's site evaluation team, shall be paid by the law school.

(d) Before the site evaluation, the law school shall furnish to the Board and members of the site evaluation team:

(1) For a law school seeking provisional accreditation from the ABA or approval of a substantial change as provided in section 17.01(b), the completed application submitted to the ABA;

(2) the current self-study undertaken by the dean and faculty; and

(3) any complaints that the law school is not in compliance with the standards in section 17.02(a)(1).

(e) The Board shall schedule the site evaluation of the law school to take place during the academic year at a time when regular academic classes are being conducted. A site evaluation usually requires several days, as classes are visited, faculty quality assessed, admissions policies reviewed, records inspected, physical facilities examined, the library assessed, information reviewed, and consultations held with the chairperson of the board of directors of the law school, officers of the institution, the dean of the law school, members of the law school faculty, professional staff, law students, and members of the legal community. In the case of a law school seeking approval, such visit shall be scheduled within three months after receipt by the Board of an application for approval.

(f) Following a site evaluation, the team shall promptly prepare a written report based upon the site evaluation. The team shall not determine compliance or noncompliance with the standards, but shall report facts and observations that will enable the Board and the Supreme Court to determine compliance. The report of the team should give as much pertinent information as feasible.

(g) The team shall promptly submit its report to the Board. After reviewing the report, the Board shall transmit the report to the chairperson of the board of directors of the law school and the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter transmitting the report, the Board shall advise that any response to the report must be received by a specified date at least thirty days from the date the Board mailed the report to the school, unless the school consents to a shorter time period.

(h) Following receipt of the school's response to the site evaluation report, the Board shall forward a copy of the report with the school's response to members of the Board and the site evaluation team.

(i) The Board may not consider any additional information submitted by the school after the school's response to the report has been received by the Board, unless

(1) the information is received in writing by the Board at least fifteen days before the Board meeting at which the report is scheduled to be considered, or

(2) for good cause shown, the president of the Board authorizes consideration of the additional information that was not received in a timely manner.

(j) Upon the completion of the procedures, the Board shall consider the law school's evaluation and determine whether the school is in compliance with the standards and is effectively achieving its mission and objectives.

(k) A request for postponement of a site evaluation will be granted only if the law school is in the process of moving to a new physical facility or if extraordinary circumstances exist which would make it impossible for the scheduled site evaluation to take place. The postponement shall not exceed one year.

**Sec. 17.04. Action Concerning Apparent Noncompliance with Standards or Deficiencies in Mission.**

(a) If the Board has reasonable cause to believe that a Tennessee-Approved Law School has not complied with the standards in section 17.02(a)(1) of this Rule or is not effectively achieving its mission or objectives, the Board shall inform the school it is not in compliance and request the school to furnish by a date certain further information about the matter and about action taken to bring the school in compliance with the standards or correct the deficiencies. The school shall furnish the requested information to the Board within the time prescribed.

(b) If upon a review of the information furnished by the law school in response to the Board's request and other relevant information, the Board determines that the school has not demonstrated compliance with the standards or is not effectively achieving its mission or objectives, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on probation, removed from the list of law schools approved by the Board or be subject to other appropriate action.

(c) If the Board finds that a law school has failed to comply with the standards or is not effectively achieving its mission or objectives by refusing to furnish information or to cooperate in a site evaluation, the school may be required to appear at a hearing before the Board to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, placed on probation, removed from the list of law schools approved by the Board or be subject to other appropriate action.

(d) The Board shall give the law school at least thirty days' notice of the show cause hearing. The notice shall specify the school's apparent noncompliance with the standards or its failure to effectively achieve its mission or objectives and state the time and place of the hearing. For good cause shown, the president of the Board may grant the school additional time, not to exceed thirty days. Both the notice and the request for extension of time must be in writing. The Board shall send the notice of hearing to the dean of the school by certified or registered U.S. mail.

**Sec. 17.05. Fact Finder.**

(a) The president of the Board may appoint a fact finder to elicit facts relevant to any matter before the Board. The fees of the fact finder and any reasonable and necessary expenses incurred shall be paid by the law school.

(b) The Board shall furnish the fact finder with a copy of the most recent site evaluation report, any action letters written subsequent to the most recent site evaluation report, notice of hearing, and other relevant information.

(c) Following the fact finding visit, the fact finder shall promptly prepare a written report. The fact finder shall not determine compliance or noncompliance with the standards or whether the school is effectively

achieving its mission or objectives, but shall report facts and observations that will enable the Board to determine compliance or deficiencies. The report of the fact finder should give as much pertinent information as feasible.

(d) The fact finder shall promptly submit the report to the Board. After reviewing the report, the Board shall transmit the report to the dean of the law school in order to provide an opportunity to make factual corrections and comments. In the letter of transmittal of the report, the Board shall include the date on which the Board will consider the report. The Board shall further advise the school as to the date upon which their response to the report must be received by the Board, which date shall be at least fifteen days before the date of the meeting at which the Board will consider the report. The school shall be given at least thirty days to prepare its response to the report, unless the school consents to a shorter time period. The thirty-day period shall run from the date on which the Board mailed the report to the school.

#### **Sec. 17.06. Hearing on Show Cause Order.**

(a) The Board shall have available for review at the show cause hearing:

- (1) the fact finder's report, if any;
- (2) the most recent site evaluation report;
- (3) any site evaluation questionnaire;
- (4) any action letters written subsequent to the most recent site evaluation report, which letters direct the school to rectify noncompliance or correct deficiencies;
- (5) notice of the Board hearing; and
- (6) other relevant information.

(b) Representatives of the law school, including legal counsel, may appear at the hearing and submit information to demonstrate that the school is currently in compliance with all of the standards and is effectively achieving its mission or objectives or to present a reliable plan for bringing the school into compliance with all of the standards and to correct deficiencies within a reasonable time.

(c) The Board may invite the fact finder, if any, and the chairperson of the board of directors of the law school or other member of the most recent site evaluation team to appear at the hearing. The law school shall reimburse the fact finder and site evaluation team member for reasonable and necessary expenses incurred in attending the hearing.

(d) After the hearing, the Board shall determine whether the law school is in compliance with the standards and whether it is effectively achieving its mission and objectives and, if not, it shall direct the law school to take remedial action or shall impose sanctions, as appropriate.

- (1) Remedial action may be ordered pursuant to a reliable plan for bringing the school into compliance with all of the standards and to help it achieve its mission and objectives.
- (2) If matters of noncompliance or deficiencies are substantial or have been persistent, then the Board may recommend to the Supreme Court that the school be subjected to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance or to correct deficiencies.

(3) If matters of noncompliance or deficiencies are substantial or have been persistent, and the school fails to present a reliable plan for bringing the school into compliance with all of the standards or to correct deficiencies, the Board may recommend to the Supreme Court that the school be removed from the list of approved schools.

(e) If the Board determines that the law school is in compliance and has no deficiencies, it shall conclude the matter by adopting an appropriate resolution, a copy of which shall be transmitted to the dean of the school by the Board.

**Sec. 17.07. Confidentiality of Approval and Evaluation Procedures.**

The proceedings set forth in sections 17.02, 17.03, 17.04, 17.05, and 17.06 of this Rule shall be confidential to ensure a frank, candid exchange of information.

**Sec. 17.08. Supreme Court Consideration of Board Recommendation for Imposition of Sanctions.**

(a) If the Board determines that a Tennessee-Approved Law School is not in compliance with the standards or has effectively failed to achieve its mission and objectives and recommends that the school be placed on probation or removed from the list of Tennessee-Approved Law Schools, the Board shall notify the Supreme Court and request a hearing. The Board shall notify the dean of the school of the time and place of the Supreme Court hearing, which shall be open to the public.

(b) The Board shall file with the Supreme Court in the public record the Board's written recommendation, the fact finder's report, if any, the most recent site evaluation report, and any action letters to the school written subsequent to the most recent site evaluation report.

(c) Representatives of the law school, including legal counsel, may appear at the Supreme Court hearing at which the Board's recommendations are considered. The president of the Board (or his or her designee) shall present the Board's findings, conclusions, and recommendations.

(d) The Supreme Court shall determine whether to affirm the Board's findings and conclusions, and whether to adopt the Board's recommendations. The Board's findings and conclusions shall be affirmed if there is substantial and material evidence to support them, unless the school presents new information that demonstrates to the Supreme Court that the school is in compliance with the standards.

(e) The Supreme Court may direct the law school to take appropriate remedial action or subject it to sanctions other than removal from the list of approved law schools regardless of whether the school has presented a reliable plan for bringing the school into compliance with all of the standards.

(f) The Supreme Court shall render its decision by written order. If the decision is adverse to the law school, the order shall provide reasons for the decision.

(g) If the Supreme Court imposes sanctions in the absence of a reliable plan for bringing the school into compliance with all of the standards or to correct deficiencies, the Board shall monitor the steps taken by the school to come into compliance. If the Court imposes sanctions pursuant to a reliable plan for bringing the school into compliance with the standards or to correct deficiencies, the Board shall monitor the steps taken by the school for meeting its plan. At any time that the school is not making progress toward compliance with all of the standards or to correct deficiencies, or at any time that the school is not meeting the obligations of its plan, or if at the end of a period of time set by the Court for coming into compliance the school has not achieved compliance with all of the standards or corrected all deficiencies, the Board shall forward a recommendation that the school be removed from the list of approved schools.

This recommendation shall be heard by the Court under the procedures of section 17.08 of this Rule but the only issue for Court consideration will be whether the school has met the terms of its plan or is in compliance with all of the standards or has corrected deficiencies.

(h) At any time that the school presents information on which the Board concludes that the school is in full compliance with the standards or has corrected its deficiencies, the Board shall recommend to the Supreme Court that the school be taken off probation. This recommendation will be heard by the Court under the procedures of section 17.08 of this Rule.

**Sec. 17.09. Maximum Period for Compliance with Remedial or Probationary Requirements.**

Upon communication to a law school of a final decision that it is not in compliance with the standards or has failed to effectively achieve its mission or objectives and informing it that it has been ordered to take remedial action or has been placed on probation, the school shall have a period as set by the Supreme Court to come into compliance. The period may not exceed two years unless such time is extended by the Supreme Court for good cause shown.

**Sec. 17.10. Conflicts of Interest.**

Members of the Board and any site evaluation team, as well as any fact finders appointed under the provisions of sections 17.03 and 17.05, should avoid any conflict of interest or perceived conflict of interest arising because a person has an “associational interest” in the law school or the law school program under review by the Board or the Supreme Court. Alumni, faculty, and directors of the school under review are deemed to have an associational interest in the school and should recuse themselves from the process of review. Former faculty and board members who have terminated their relationship with the school less than five years before to the site inspection, evaluation, or review process are also deemed to have an associational interest in the school and should recuse themselves from the process of review.

[As amended by order December 21, 2015 and effective January 1, 2016, Rule 7 replaced in its entirety, with the exception of Section 3.03 (by order on December 21, 2015 effective March 1, 2016); as amended by order December 1, 2016 effective December 1, 2016; as amended by order May 31, 2017 effective May 31, 2017; as amended by order August 30, 2017 effective November 27, 2017; as amended by order January 26, 2018 effective January 26, 2018; as amended by order April 18, 2018 effective April 18, 2018; and as amended by order October 16, 2018 effective October 16, 2018, with the exception of Section 1.07 (by order on October 16, 2018 effective January 1, 2019).]