

IN THE SUPREME COURT OF THE STATE OF OREGON

In the Matter of Adoption)	
of the OREGON RULES FOR)	ORDER NO. 09-028
ADMISSION OF ATTORNEYS)	
)	ORDER APPROVING OREGON
)	RULES FOR ADMISSION OF
)	ATTORNEYS

At its public meeting on March 4, 2009, the court considered and approved the revised Rules for Admission of Attorneys with exception of Rule 15.05 which will be reviewed and revised after a comment period to become completed on or before October 1, 2009. The rules are set out in Attachment "A" as follows. The new language is in bold print and the deleted language is underlined.

IT IS HEREBY ORDERED that Oregon Rules for Admission of Attorneys be adopted.

Dated this 5 day of May, 2009.

Paul J. De Muniz
Chief Justice



SUPREME COURT OF THE
STATE OF OREGON

RULES

FOR

ADMISSION OF ATTORNEYS

REVISED _____, 2009



SUPREME COURT OF THE
STATE OF OREGON

RULES
REGULATING ADMISSION
TO PRACTICE LAW
IN OREGON

REVISED: _____, 2009



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DEFINITIONS

1.05 Definitions

As used in these Rules for Admission of Attorneys, unless the context requires otherwise:

- (1) “Active practice of law” or “actively engaged in the practice of law” means law-related professional activities, if performed in a jurisdiction in which the applicant is admitted or in a jurisdiction that affirmatively permits such activity by an attorney not admitted, including:**
 - (a) Representation of one or more clients in the private practice of law;**
 - (b) Service as an attorney with a local, state, territorial or federal agency or court, including military service;**
 - (c) Teaching at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;**
 - (d) Service as a judge in a federal, state, territorial or local court of record;**
 - (e) Service as a judicial clerk; or**
 - (f) Service as a house counsel to a corporation or other business entity. The active practice of law does not include work that is performed in advance of bar admission in any jurisdiction or work that, as undertaken, constitutes the unauthorized practice of law in the jurisdiction in which it is performed or in the jurisdiction in which the clients receiving the unauthorized services are located.**

- (2) **“Board” means the Oregon Board of Bar Examiners.**
- (3) **“Court” means the Oregon Supreme Court.**
- (4) "Fit to practice law" or "fitness" means an applicant demonstrates a level of conduct, mental health, judgment, and diligence that will result in adequate representation of the best interests of clients, including participation in the legal process according to the Oregon Rules of Professional Conduct.
- (5) "Foreign law consultant" means an individual who is licensed to practice law in a foreign jurisdiction, as defined in ORS 9.242, and is authorized to advise on the law of that foreign jurisdiction pursuant to Rule 12.05.
- (6) "Good moral character" is given the same meaning as contained in ORS 9.220(2)(b).
- (7) "Military service" means extended active service in the armed forces of the United States **or deployment with the National Guard.**
- (8) **“Substantially and continuously engaged in the practice of law” means at least 1,000 hours of work per annum in law-related professional activities specified in Rule 1.05(1), uninterrupted by periods of other employment or unemployment. An applicant whose practice of law was interrupted by military service may exclude the time spent in such service in determining whether his or her practice has been continuous or has been within the time periods specified in Rules 3.05, 8.10(5) or 15.05.**
- (9) "Practice of law" includes, but is not limited to, teaching in a law school approved by the Supreme Court or service as a judge of a court of record of another state. An applicant whose practice of law was interrupted by military service may exclude the time spent in such service in determining whether his or her practice has been continuous or has been within the five-year period specified in Rules 3.05 and 8.10(5).

FILING DOCUMENTS WITH THE BOARD

1.10 Filing

- (1) Any document required to be filed with the Board under the Rules for Admission of Attorneys shall be delivered in person to the Oregon Board of Bar Examiners, 16037 S.W. Upper Boones Ferry Road, Tigard, Oregon 97224, or by mail to the Board, P. O. Box 231935, Tigard, Oregon 97281-1935.
- (2) Delivery by mail shall be complete when the documents are mailed on or before the due date by first class mail through the United States Postal Service.
- (3) If filing is not done as provided in subsection (1) of this rule, the filing shall not be timely unless the pleading or document is actually received by the Board within the time fixed for filing.

RULE CITATION

1.15 Citation

These rules may be cited as "RFA__."

BOARD OF BAR EXAMINERS

BOARD OF BAR EXAMINERS

2.05 Appointment of Members; Officers; Executive Director

- (1) (a) The Board of Bar Examiners shall consist of at least 14 members appointed by the Supreme Court. On or before September 1 of each year, four examiners, who must be active members of the Oregon State Bar, shall be appointed for three-year terms to commence on October 1.

- (b) At least two of the members of the Board of Bar Examiners shall not be members of the Oregon State Bar. Such members shall be appointed by the Supreme Court with the advice of the Board of Bar Examiners and shall be appointed for a term of one year. Such members shall have no responsibility for preparing or grading examination papers.
 - (c) A person who is connected with the faculty or governing body of a law school, except an adjunct professor teaching a subject other than those listed in Rule 5.15, is not eligible to become or remain a member of the Board of Bar Examiners.
- (2) In April, the Board of Bar Examiners, with the approval of the Supreme Court, shall appoint, from among the members of the Board of Bar Examiners, a chair and vice chair to serve as such officers for a term of one year to commence on October 1.
 - (3) The Board of Bar Examiners shall appoint an Executive Director, who may or may not be a member of the bar, who shall serve at the pleasure of the Board and shall perform such duties as the Board may prescribe.

2.10 Duties

The Board of Bar Examiners shall act for the Supreme Court in the evaluation of an applicant's qualifications for admission to practice law in the State of Oregon. The Board's of Bar Examiners' activities in determining an applicant's qualifications for admission shall include, but not be limited to:-

- (1) The preparation, grading, administration and evaluation of a **the** bar examination;
- (2) Investigation and evaluation of the moral character and fitness to practice law of each applicant; including
- (3) Conducting evidentiary hearings **of applicants in accordance with these rules** for that purpose; and
- (4) Making recommendations to the Supreme Court regarding applicants' qualifications to practice law in Oregon.

2.15 Disclosure of Board Records

- (1) Unless expressly authorized by the Supreme Court **or by these rules**, the Board of Bar Examiners shall not disclose any of its records, work product or proceedings in carrying out these its duties. activities for the Supreme Court except
- (2) The Board may release an applicant's admissions file to:
 - (a) A special investigator appointed under Rules 9.15 to 9.20;
 - (b) The Oregon State Bar's Disciplinary Counsel when an applicant seeks Supreme Court review of an adverse admissions recommendation;
 - (c) Counsel appointed by the Board when an applicant initiates civil proceedings against the Board in connection with the applicant's application; or
 - (d) Admissions authorities in other jurisdictions which guarantee the confidentiality of admissions materials **applicant files** to the same extent as required under Oregon law. **Further, the Board may release only to an applicant a true copy of that portion of the application form which was completed and submitted by the applicant. The Board may charge a reasonable administrative fee to an applicant for providing the true copy.**

QUALIFICATIONS OF APPLICANTS

3.05 Qualifications of Applicants

Prior to taking the examination the applicant must show that the applicant will be at least 18 years of age at the time of admission to the practice of law and meet the requirements of either section (1), (2) or (3):

- (1) The applicant is a graduate of a law school approved by the American Bar Association, earning a Juris Doctor degree or Bachelor of Law (LL.B.) degree.

- (2) The applicant is a graduate of a law school in the United States, earning a Juris Doctor degree or Bachelor of Law (LL.B.) degree, and
 - (a) Has been admitted to practice before the highest tribunal of another state, the District of Columbia, or federal territory, where the requirements for admission are substantially equivalent to those of this state; and
 - (b) Has been actively, substantially and continuously engaged in the practice of law for at least three of the five years immediately preceding the taking of the examination.
- (3) The applicant is admitted to practice law in a foreign country where the common law of England exists as the basis of its jurisprudence. In such case, the applicant shall have the burden of proving:
 - (a) That the requirements for admission to practice are substantially equivalent to those of this state; and
 - (b) That the applicant is a graduate of a law school equivalent to a law school approved by the American Bar Association. The Board of Bar Examiners, after reviewing the recommendation of an equivalency panel composed of representatives of Oregon ABA-approved law schools, shall determine whether the law school is equivalent to an ABA-approved law school for the purposes of this rule. The academic dean of each participating law school shall designate a member of its faculty to sit on the equivalency panel. An evaluation fee may be set by the Board of Bar Examiners and charged to each applicant seeking an equivalency determination. The fee shall accompany the applicant's request for admission.

3.10 Conviction of Crime

An applicant shall not be eligible for admission to the Bar after having been convicted of a crime, the commission of which would have led to disbarment in all the circumstances present, had the person been an Oregon attorney at the time of conviction.

3.15 Discipline in Another Jurisdiction

- (1) An attorney who is not in good standing for disciplinary reasons in any other jurisdiction in which the attorney was licensed to practice shall not be eligible to apply for admission to the Bar in Oregon:
 - (a) If the attorney was disbarred or resigned in lieu of disciplinary action in the other jurisdiction; or
 - (b) If the attorney was not disbarred and did not resign in lieu of disciplinary action, until the attorney is eligible to apply for reinstatement or readmission after the disciplinary action in the other jurisdiction.
- (2) Notwithstanding subsection (1)(a), an attorney who was disbarred in another jurisdiction or who resigned in lieu of disciplinary action in the other jurisdiction may apply for admission to the Bar in Oregon if the attorney can show that the attorney's conduct that led to the disbarment or resignation would not have led to disbarment in Oregon.

APPLICATION

4.05 Filing of Application

- (1) Applications for admission by examination shall be in the form prescribed by the Board of Bar Examiners and shall be filed with the Board of Bar Examiners not later than March 31 **April 15** preceding the date of the July examination and by October 31 **November 15** preceding the date of the February examination.
- (2) Applicants who took but did not pass the Oregon February examination and desire to take the following July examination shall file an application not later than April 30 **May 1** preceding the date of the July examination.
- (3) Applications for admission by examination may be filed late, subject to the fee prescribed by Rule 4.10(3), but such late applications, with all appropriate fees, must be received by the Board of Bar Examiners by December **30**, prior to the February examination, or by May **30**, prior to the July examination. No late applications will be accepted after the dates specified, regardless of cause.

- (4) Other applications for admission shall be in the form prescribed by the Board of Bar Examiners. They may be filed at any time.

4.10 Application and Investigation Fees

- (1) Each applicant shall pay to the Board of Bar Examiners, at the time of filing application, an application fee of \$525. Of this amount, \$25 shall be due at the time the applicant requests an application kit.
- (2) In addition to the fee prescribed by paragraph (1) of this rule, there shall be paid to the Board of Bar Examiners, at the time of filing such application, an investigation fee of \$225 by each applicant who on the date of any application in Oregon, has previously been admitted to the practice of law in any other jurisdiction. However, an applicant who reapplies for admission to the practice of law in this state within 12 months of a prior application for admission to the practice of law in this state, and who has previously paid an investigation fee of \$225, shall pay to the Board of Bar Examiners, at the time of filing the reapplication, an investigation fee of \$175, in addition to the fee prescribed in paragraph (1) of this rule.
- (3) In addition to the fees prescribed by paragraphs (1) and (2) of this rule, any applicant who files a late application pursuant to Rule 4.05(3) shall pay to the Board of Bar Examiners, at the time of filing such application, a late filing fee of \$200.
- (4) An applicant who, in conformance with Rule 8.10(4), seeks to take the oath and be admitted more than thirteen months after notice was mailed by the State Court Administrator as provided by Rule 8.05(2) shall pay to the Board of Bar Examiners a fee of \$250, if not required to retake the examination, and pay the full application fee and the investigation fee (if applicable under paragraph (2) of this rule) if reexamination is required.
- (5) If the applicant was previously denied admission by the Supreme Court in a contested admission case, such applicant shall pay to the Oregon State Bar, at the time of application, any unpaid judgment for costs and disbursements assessed by the cCourt therein.
- (6) If an applicant is found to be unqualified to take the examination for any

reason under these rules, the applicant shall be entitled to a refund of one-half of the application fee specified in subsection (1) of this rule, less the non-refundable application kit fee.

- (7) If an applicant withdraws his or her application, the applicant shall be entitled to a partial refund of the application fees only as follows:
 - (a) The applicant must request in writing that the application be withdrawn;
 - (b) If the application withdrawal is received **by the Board** on or before the Thursday Tuesday before the first day of the examination, one-half of the application fee specified in subsection (1) of this rule will be refunded;
 - (c) If the application withdrawal is **received by the Board after the deadline specified in section (7)(b) of this rule** after the Thursday before the first day of the examination, no refund will be made;
 - (d) An applicant other than an examination applicant shall be entitled to a refund of one-half of the application fee set forth in Rule 4.10(1) if a written request for withdrawal of his or her application is received by the Board of Bar Examiners within sixty (60) days of the Board's of Bar Examiners' receipt of the application.
- (8) In no event shall any portion of the fees specified in subsections (2), (3) and (4) of this rule or the application kit fee be refunded.

4.15 Contents of Application

- (1) Each application shall be on a form prescribed by the Board of Bar Examiners and must contain or be accompanied by:
 - (a) A card upon which the applicant's fingerprints have been placed in accordance with instructions accompanying the application;
 - (b) An executed release and authorization to obtain:
 - (i) the applicant's motor vehicle driving record;
 - (ii) the applicant's college and law school files and records;

- (iii) credit information concerning the applicant; and
 - (iv) the applicant's disciplinary history and status in any other jurisdiction.
 - (c) The Law School Dean Certification permitting the applicant to appear in court under any student appearance rule (where applicable).
- (2) No later than the 15th day before the first day of the examination, each applicant must file one copy of a certificate of graduation, on a form prescribed by the Board of Bar Examiners, or other evidence satisfactory to the Board of Bar Examiners that the applicant is a graduate of a law school prescribed by Rule 3.05 (1), (2) or (3).
- (3) (a) Prior to admission, each applicant who has been admitted to practice before the highest tribunal of another state, the District of Columbia, a federal territory, or a foreign country must file one copy of a certificate of good standing.
 - (b) The certificate of good standing shall state:
 - (i) the date of the applicant's admission to the practice of law;
 - (ii) whether the applicant is entitled to engage in the practice of law;
 - (iii) whether the applicant is a member of the bar in good standing; and
 - (iv) whether there is now pending, or ever has been, any complaint, grievance, disciplinary proceeding or disciplinary action against the applicant, and, if any appear, the status thereof, the nature of the charge or charges, the full facts including the disposition thereof, the nature of the final judgment, order or decree, if any, rendered therein and the name and address of the person or body in possession of the record thereof.
 - (c) The certificate of good standing shall be submitted by either:

- (i) the secretary or president of the bar of each state having an integrated bar in which the applicant has been admitted and licensed to practice law, or
- (ii) the clerk of the Supreme Court (or admitting court) of each other state or jurisdiction in which the applicant has been admitted and licensed to practice law.

4.20 Form of Petitions to Supreme Court

- (1) Any petition to the Supreme Court relating to admission shall be signed and verified before a notary public or other official authorized to execute oaths. **The Court will only consider Petitions from current applicants.** Petitions shall be on 8 1/2" by 11" paper and contain the name, address, and telephone number of the petitioner and counsel, if any. Petitions shall be headed "IN THE SUPREME COURT OF THE STATE OF OREGON" and shall set forth those facts which petitioner believes will indicate reasons for granting the petition.
- (2) The original petition and 25 copies shall be sent to **filed with** the Board of Bar Examiners for evaluation and comment. The Board may **request additional information from the petitioner in support of the petition.** by general instructions or by specific requests, indicate what initial or additional information should be supplied in support of the petition. When the information has been supplied or the petitioner states that he **or she** chooses not to submit additional responses to such requests, the Board shall forward the petition and eight copies thereof to the Supreme Court along with the Board's comments and recommendation.

4.25 Applicant Duties

- (1) **Cooperation. Every applicant has a duty to cooperate and comply with requests from the Board, including but not limited to, requests to appear for scheduled Board interviews, to execute releases and to obtain information and records from third parties for submission to the Board.**
- (2) **Continuing obligation to report. Every applicant has a duty to report promptly to the Board any change, addition or correction to the information provided in his or her application, including but not limited to: changes in address, e-mail address, phone number(s), or employment;**

criminal charges; disciplinary proceedings; traffic violations; and any other facts or occurrences that could reasonably bear upon the character and fitness of the applicant.

EXAMINATION

5.05 Time and Place of Examinations; Special Examinations

- (1) The examination shall be held at a time and place approved by the Supreme Court on recommendation of the Board of Bar Examiners.
- (2) The Board of Bar Examiners shall hold special examinations as the Supreme Court may direct.

5.10 Examination of Physically Incapacitated Applicants with Disabilities

- (1) **Definitions.** For the purpose of this rule:
 - (a) The term “disability” means a disability as the term is defined under the Americans with Disabilities Act of 1990 (42 USC § 12101 et seq.) (ADA), amendments to the act, applicable regulations and case law.
 - (b) The term “qualified professional” means a licensed physician, psychologist, or other health care provider who has comprehensive training in the field related to the applicant’s claimed disability.
- (2) On request of a **An applicant with claiming physical incapacity a disability that substantially or impairment limits one or more major life activities and who desires an adjustment or modification to the standard testing conditions to alleviate the impact of the applicant’s functional limitation on the examination process may request reasonable accommodation(s) to take the examination.** to take the examination under regular conditions the Board of Bar Examiners in its discretion may give the applicant the examination under special conditions that the Board considers appropriate under the circumstances. However, if the applicant is recommended to the Supreme Court for admission, the recommendation must show that it is based on special conditions and must set forth the grounds on which the applicant was permitted to take

the examination and the special conditions provided.

- (3) **Consistent with the requirements of the ADA, the Board shall evaluate all timely and complete accommodation requests and determine the extent, if any, to which they will be granted. In fashioning an accommodation, the Board shall strive for an accommodation that is reasonable, not unduly burdensome, consistent with the nature and purpose of the examination and which does not fundamentally alter the nature of the examination as necessitated by the applicant's disability.**
- (4) Applicants must **file timely and complete accommodation requests using the forms prescribed by the Board. The filing deadlines for requests shall be set by the Board. Incomplete or untimely requests will be rejected** submit requests for special examination conditions by no later than the deadline for filing applications, except where: (a) disability occurs after the application filing deadline; or, (b) good cause exists for the failure to file an otherwise timely request.
- (5) An applicant requesting accommodations seeking the Board's leave for special examination conditions **must fully complete the forms approved by the Board** and submit:
 - (a) Medical **and/or psychological** verification completed by a **qualified professional.** licensed physician (MD or DO practicing in the medical specialty applicable to the applicant's impairment) describing the nature and extent of the physical impairment. The medical **and/or psychological** verification shall, at a minimum, describe:
 - (i) the test(s) performed **the basis of the assessment, including all tests used** to diagnose the **disability impairment** and the results of those tests;
 - (ii) the effect of the impairment **disability** on the applicant's ability to take the examination under regular testing conditions; and
 - (iii) the recommended **accommodation** special testing conditions which would alleviate the effects of the applicant's impairment.
 - (b) A letter from the applicant's law school setting forth any special conditions **accommodations** that were provided to the applicant

for examinations taken at the law school.

- (c) **A letter from each jurisdiction in which the applicant has applied to practice law setting forth any accommodations that were provided to the applicant for taking the bar exam.**

5.15 Examination

- (1) The examination shall be:
 - (a) Given by the Board of Bar Examiners twice each year at appropriate times and places in the State of Oregon approved by the Supreme Court on recommendation of the Board of Bar Examiners, unless otherwise ordered by the Supreme Court.
 - (c) Conducted in the manner and according to the method prescribed by the Board.
- (2) Each applicant shall be examined as to requisite general learning in subjects **selected by the Board** falling within the following major areas from the following topics:
 - (a) **Administrative Law (Oregon and Federal law);**
 - (b) **Agency;**
 - (c) **Civil Procedure (Oregon and Federal law);**
 - (d) **Constitutional Law;**
 - (e) **Contracts;**
 - (f) **Corporations;**
 - (g) **Criminal Law;**
 - (h) **Criminal Procedure;**
 - (i) **Evidence (Oregon and Federal law);**
 - (j) **Federal Income Taxation;**
 - (k) **Legal Ethics (Oregon rules only);**
 - (l) **Partnerships;**
 - (m) **Property;**
 - (n) **Sales (UCC Article 2);**
 - (o) **Secured Transactions (UCC Articles 1 & 9);**
 - (p) **Torts;**
 - (q) **Trusts and Estates;**
 - (r) **Wills.**

Civil litigation, including, federal and Oregon procedure, and federal and Oregon rules of evidence;

Commercial transactions, including the Uniform Commercial Code

(Articles I, II, and IX only), common law contracts, and related aspects of agency;

(c) Property, including transactions in real property, trusts, decedents' estates;

(d) Public law, including criminal law and procedure, federal and Oregon administrative law and procedure, constitutional law, and federal income taxation;

(e) Business organizations, corporations and partnerships;

(f) Torts; and

(g) Legal ethics (the Oregon Rules of Professional Conduct).

- (3) Questions may be in the form of essay questions or multiple-choice questions, or may test performance skills. Each essay question will generally be based on hypothetical facts involving issues in no more than two of these major areas, but some essay questions may be in forms other than hypothetical facts. Performance test questions may call for application of legal authorities to given facts in a variety of answer formats, including but not limited to legal memoranda, letters, etc. The Board of Bar Examiners, in its discretion, may include optional questions in the examination.
- (4) At the conclusion of an examination or within a reasonable time thereafter, the Board of Bar Examiners shall furnish to each unsuccessful applicant a printed or typewritten copy of the examination questions, except that no copies need be furnished of any part of the multiple-choice examination prepared by the National Conference of Bar Examiners for multi-state use.

5.20 Review of Examination Paper

- (1) After the Board of Bar Examiners has graded the examination and

before release of the grading results, the Board of Bar Examiners shall review all essay answers of the top 15 percent of failing applicants to determine if any applicant achieved a passing score. **The Board shall review all applicant essay answers for those applicants whose overall score places them in the top 15 percent of failing applicants after the initial grading is complete.**

- (2) **Except as set forth in rule 5.20(1), or as may be authorized by the Board,** there shall be no further review of any portion of the examination.
- (3) An applicant who has failed the examination has the right:
 - (a) To be informed of the total grade on the examination, the grade on the Multistate Bar Examination (MBE), the grade on the Multistate Performance Test (MPT), the grade on the essay portion of the examination, and the passing grade on the examination.
 - (b) To inspect, and to obtain at the applicant's expense, copies of the applicant's handwritten or typewritten answers, essay questions, issue outlines with points, essay question answers that address all issues, the grade on each individual question, **and materials authorized by the National Conference of Bar Examiners (NCBE) for disclosure concerning the applicant's MPT materials.** the applicant's MPT answer, an MPT Booklet, the MPT Drafter's Point Sheet, and MPT Scoring Guide.
- (4) After the administration of each exam, the Board of Bar Examiners shall establish a date, time and place to inspect and/or obtain the materials as prescribed in paragraph (1) of this rule, provided that:
 - (a) The date shall be no sooner than the 30th day, or later than the 60th day, following the mailing of the notice under Rule 8.05; and
 - (b) Disclosure of the information and inspection and copying of materials shall be permitted only under conditions which, in the opinion of the Board of Bar Examiners, protect the security of that part of the examination prepared and scored by or under the supervision of the **NCBE.** National Conference of Bar Examiners.

CHARACTER AND FITNESS

6.05 Investigation of Applicant's Moral Character and Fitness to Practice Law

- (1) The Board of Bar Examiners is authorized to conduct investigations and to convene evidentiary hearings for the purpose of determining whether applicants possess the good moral character and fitness to practice law prescribed by ORS 9.220(2) and these Rules.
- (2) The Board may, prior to an evidentiary hearing described in 9.05, request an applicant to appear before members of the Board as part of the Board's investigation.
- (3) The Board may, as necessary, issue subpoenas to secure information material to the Board's inquiry.
- (4) An applicant may be denied admission for **failing to comply with Rule 4.25** or for refusing to provide the Board with information material to the Board's inquiry regarding the applicant's good moral character and fitness to practice law.

6.10 List of Applicants; Publication

Prior to each examination, or 60 **45** days prior to admission, the Board of Bar Examiners shall cause the names of all applicants to be published in the Oregon State Bar *Bulletin* or other publication as approved by the Court.

6.15 Applicant Must be Recommended by a Majority of Board of Bar Examiners

- (1) Subject to review by the Supreme Court under Rule 9.60, an applicant may not be admitted to practice law in Oregon unless at least a majority of all non-recused members of the Board of Bar Examiners considers the applicant to be qualified by age and by the requisite moral character, fitness, learning and ability.
- (2) The Board of Bar Examiners may recommend that an applicant be
 - (a) Denied admission;

- (b) Admitted conditionally, subject to probationary terms as specified by the Board; or
 - (c) Admitted unconditionally.
- (3) The Board may recommend specific probationary terms for admission, including, but not limited to, requiring alcohol or drug treatment, requiring medical care, requiring psychological or psychiatric care, requiring professional office practice or management counseling, requiring practice supervision, and requiring professional audits or reports. The Board may recommend persons to supervise the probation and may recommend that cooperation with such supervisors be a probationary term. The Board may recommend that violation of any probationary term be grounds for revocation of probation and immediate suspension from the practice of law. The Board may recommend a specific duration for such probationary terms.

PROFESSIONAL RESPONSIBILITY EXAMINATION

7.05 Time and Place

- (1) Every applicant for admission by examination and as house counsel under Rule 16.05 is required to pass a Professional Responsibility Examination as a requirement for admission. The passing grade for each examination shall be determined by the Supreme Court upon the recommendation of the Board of Bar Examiners. The examination ~~will~~ **shall** be the Multistate Professional Responsibility Examination as given under the auspices of the National Conference of Bar Examiners (**NCBE**). The examination will be conducted at the times, places and in the manner prescribed by the **NCBE** National Conference of Bar Examiners or its duly authorized representatives.
- (2) The applicant may take the examination at any location where it is given, and may take the examination before graduation from law school. However, the examination must be taken and passed within 24 months of passing the Oregon Bar Examination. For applicants applying under Rule 16.05, the examination must be taken and passed within 13 months of the date of application. For the purpose of this rule, the date that an examination is given shall be the date on which it is "taken and passed" if the applicant is successful.

- (3) The applicant may take the examination as many times as is necessary to pass.

ADMISSION

8.05 Report by Board of Bar Examiners; Notice to Applicant

- (1) Not later than the 60th day after the date prescribed for the written examination in Rule 5.05, the Board of Bar Examiners shall file with the Supreme Court a written report identifying by number each applicant whom the Board recommends for admission on the examination.
- (2) As soon as the Supreme Court has acted upon the report, the State Court Administrator shall notify each applicant by mail whether the applicant has passed or failed the examination and whether or not the applicant has been recommended for admission on moral character and fitness grounds.
- (3) If the Board of Bar Examiners is unable to complete its investigation of an applicant's moral character and fitness and make a recommendation to the Supreme Court at the time the results of the applicant's written examination are reported to the Court, the Board shall make its report as soon as possible thereafter. As soon as the Court has acted on the report, the State Court Administrator shall notify the applicant by mail whether the applicant has been recommended for admission on moral character and fitness grounds.

8.10 Qualifications for Admission; Oath of Office

(A) Examination Applicants

- (1) In order to be qualified to be admitted to the practice of law in Oregon, an applicant must have passed the Oregon Bar Examination and the Multistate Professional Responsibility Examination, be at least 18 years of age at the time of admission, and be approved for admission by the Supreme Court on moral character and fitness grounds.
- (2) Each qualified applicant must execute a prescribed oath of office to be

filed with the State Court Administrator at the admission ceremonies, or as provided in subsections (3), (4) or (5) of this rule. Each applicant's date of admission shall be the date the oath of office is received by the State Court Administrator.

- (3) A qualified applicant who does not take and file the oath of office at the time of the admission ceremonies may take such oath before any person authorized by law to administer oaths in the jurisdiction within which the applicant may be. The date of admission cannot be prior to the admission ceremonies next following the date that notice is mailed advising that the applicant passed the bar examination.
- (4) An applicant who does not take and file the oath of office within thirteen months after the mailing of the notice advising that the applicant passed the bar examination shall, prior to admission, file an application for admission as prescribed by the Board of Bar Examiners and pay the fees prescribed by Rule 4.10(4). Such applicant shall be permitted to take the oath of office when found by the Supreme Court to have the requisite moral character and fitness to practice law, learning and ability. Such oath of office must be filed within one year of being advised that applicant is eligible for admission pursuant to this subsection.
- (5) An applicant who does not take and file the oath of office within three years after the mailing of the notice advising that the applicant passed the bar examination shall, prior to admission, file an application for admission as prescribed by the Board of Bar Examiners and pay the fees prescribed by Rule 4.10(4), and shall be required to either (a) demonstrate that the applicant has been actively, substantially and continuously engaged in the practice of law for at least three of the five years immediately preceding the application or (b) take and pass the bar examination and the Multistate Professional Responsibility Examination within the provisions of Rule 7.05. Such applicant shall be permitted to take the oath of office when found by the Supreme Court to have the requisite moral character and fitness to practice law, learning and ability. Such oath of office must be filed within one year of being advised that applicant is eligible for admission pursuant to this subsection.
- (6) An applicant who does not take and file the oath of office within five years after the mailing of the notice advising that the applicant passed the bar examination shall, prior to admission, file an application for admission as prescribed by the Board of Bar Examiners and pay the fees

prescribed by Rule 4.10 and take and pass the bar examination and the Multistate Professional Responsibility Examination within the provisions of Rule 7.05. Such applicant shall be permitted to take the oath of office when found by the Supreme Court to have the requisite moral character and fitness to practice law, learning and ability.

(B) Other Applicants

- (1) In order to be qualified to be admitted to the practice of law in Oregon, an applicant must meet the requirements of the rules under which he or she seeks admission and be approved for admission by the Supreme Court on moral character and fitness grounds.
- (2) Each qualified applicant must execute an oath of office prescribed by the Supreme Court. The applicant shall file the executed oath of office with the State Court Administrator. Each applicant's date of admission shall be the date the oath is received by the State Court Administrator. Applicants must comply with the requirements of Admission Rule 8.15 (Resident Agent for Service of Process) and 8.20 (Address and Telephone Designation).
- (3) An applicant who does not take the oath of office and file it with the State Court Administrator within ninety (90) days after the mailing of the notice advising that the applicant has been approved for admission shall be required to fully reapply for admission.

8.15 Residency † Agent for Service of Process

- (1) **Oregon R** residency is not required for admission to the Oregon State Bar.
- (2) (a) Nonresidents of the State of Oregon, at the time of admission, must designate on a form approved by the Oregon State Bar an in-state agent for service of process who shall be a resident active member of the Oregon State Bar. The designation shall include a street address for the designated agent.

(b) It is the duty of all nonresident applicants promptly to notify the Oregon State Bar in writing of any change in the name or address of his or her designated agent. A new designation shall not become effective until actually received by the Oregon State Bar.

- (c) Service as permitted by law upon an applicant's designated agent shall be considered the same as personal service upon the applicant.

8.20 Address and Telephone Number Designation

- (1) Applicants, at the time of admission, must designate on a form approved by the Oregon State Bar, a current business address and telephone number, or in the absence thereof, a current residence address and telephone number. A post office address designation must be accompanied by a street address.
- (2) It is the duty of all applicants promptly to notify the Oregon State Bar in writing of any change in his or her business address or telephone number, or residence address or telephone number, as the case may be. A new designation shall not become effective until actually received by the Oregon State Bar.

EVIDENTIARY HEARINGS FOR APPLICANTS WHOSE MORAL CHARACTER OR FITNESS TO PRACTICE LAW IS AT ISSUE

PROCEDURAL FRAMEWORK AND RESPONSIBILITIES

9.05 Establishment of Hearing Panel

Three members of the Board of Bar Examiners shall constitute a Board of Bar Examiners hearing panel ("hearing panel") and shall perform the responsibilities of a hearing panel for character and fitness review as set out in these rules. The chair of the Board of Bar Examiners shall appoint a hearing panel for each character review proceeding, including at least one public member of the Board on each hearing panel, and shall appoint a member of the hearing panel to preside in the proceeding. If a member of a hearing panel is not able to participate in a character review proceeding, the chair of the Board shall appoint a member of the Board as a replacement.

9.10 Initiation and Purpose of a Character Review Proceeding

- (1) Initiation: A hearing panel shall commence a proceeding, to be known as a character review proceeding:
 - (a) Upon **the** Board's of Bar Examiners' referral of a matter to a hearing panel, or;
 - (b) In any matter where the Oregon Supreme Court does not accept the Board's of Bar Examiners' recommendation to admit an applicant to practice, if the Board's recommendation to admit was made without a hearing panel having conducted a character review proceeding. See Rule 9.60(7).
- (2) Purpose: The hearing panel, in its character review proceeding, shall inquire into whether an applicant possesses the requisite character and fitness to practice law in Oregon.
- (3) Definition: "Character and fitness", as used in these rules, shall mean the "good moral character" and fitness required to practice law in Oregon, pursuant to ORS 9.220(2) and these Rules.

9.15 Appointment of a Special Investigator

The chair of the Board of Bar Examiners shall appoint a special investigator in each matter that is referred to a hearing panel. A special investigator shall be a member of the Oregon State Bar, shall not be a member of the Board of Bar Examiners, and shall perform the responsibilities of the special investigator as set out in these rules.

9.20 Responsibilities of the Special Investigator

- (1) Investigation: The special investigator shall investigate facts relevant to an applicant's character and fitness, including but not limited to the particular matter(s) that prompted the referral.
- (2) Notice: The special investigator, if requested by the presiding member of the hearing panel, shall draft a proposed statement of the matters asserted or charged. That proposed statement shall be submitted to the presiding member, for the presiding member to refer to in preparing the notice of the character review proceeding as described in Rule 9.35(5).

- (3) Presentation of evidence: The special investigator shall present evidence at the character review proceeding relevant to the matters asserted or charged in the notice of the proceeding.
- (4) Additional duties: The special investigator shall perform such other duties related to the character review proceeding as the presiding member of the hearing panel or the Board of Bar Examiners may direct.

9.25 Responsibility of the Hearing Panel

The entire hearing panel shall consider the record of the character review proceeding and shall submit, in writing, a proposed decision for action by the Board of Bar Examiners.

9.30 Responsibility of the Board of Bar Examiners

The Board of Bar Examiners, including members of the Board who also served on the hearing panel, shall recommend to the Oregon Supreme Court whether an applicant should be admitted to the practice of law in Oregon, denied admission, or conditionally admitted.

THE CHARACTER AND FITNESS REVIEW PROCEEDING

9.35 Notice

- (1) Generally: When the presiding member of the hearing panel believes that adequate information exists for the special investigator to proceed toward a hearing at a date certain upon identifiable issues of an applicant's character and fitness, the presiding member shall notify the applicant that a character review proceeding will take place.
- (2) Means of notice: Notice shall be in writing, mailed by certified mail, return receipt requested, marked "Personal and Confidential," addressed to the applicant's mailing address on file with the Executive Director of the Board of Bar Examiners.
- (3) Statement of authority: Notice shall state that a character review proceeding to determine applicant's fitness to practice law in Oregon shall be conducted before a Board of Bar Examiners hearing panel,

pursuant to ORS 9.220(2) and the Rules for Admission of Attorneys. A copy of the Rules for Admission of Attorneys pertaining to the character review proceeding shall be attached to the notice.

- (4) Date, time, location, presiding member: Notice shall state the date, time, and location set for the character review proceeding. The date of the proceeding shall give the applicant reasonable time to prepare. Notice shall state the name, business address, and business telephone number of the presiding member of the hearing panel.
- (5) Statement of issues: Notice shall contain a short and plain statement of the matters asserted or charged and the applicant's burden of proof.
- (6) Statement of rights: The applicant shall have the right to respond at the character review proceeding to the matters asserted or charged in the notice, including the right to present evidence and to question witnesses. The applicant shall have the right to be represented by retained counsel in the character review process, including at the character review proceeding. Notice shall advise the applicant of these rights.
- (7) Statement of right to take exceptions: The applicant shall have the right to take exception in writing within 21 days to the Hearing Panel's proposed decision. See Rule 9.50(3). Notice shall so advise the applicant.

9.40 Discovery

- (1) Depositions: Upon petition of the applicant or the special investigator, the presiding member of the hearing panel may order that the testimony of any material witness may be taken by deposition in the manner prescribed by law for depositions in a civil action. Depositions may also be recorded by the use of audio or audio-visual recordings. If the witness resides in Oregon and is unwilling to appear, the presiding member may issue a subpoena requiring the appearance of the witness for deposition.
- (2) Subpoenas: The presiding member of the hearing panel shall provide subpoenas to the applicant or the special investigator for the appearance of designated witnesses or the production of discoverable materials, upon a showing of general relevance and reasonable scope of the evidence sought. The subpoenas shall be enforceable in circuit court by contempt.

- (3) List of witnesses and exhibits: The applicant and the special investigator shall provide to each other, and to the presiding member of the hearing panel, a list of witnesses that they expect to call to testify and a list of exhibits that they will seek to introduce into evidence at the character review proceeding. The presiding member shall set a date at least one week in advance of the proceeding on which the lists will be due, and the lists shall be modified if circumstances change after the original submission.

9.45 The Proceeding

- (1) Record: The record of the character review proceeding includes the notice of the proceeding; motions; rulings; evidence offered, received, or considered; stipulations; facts officially noticed; offers of proof; the verbatim record of the character review proceeding; and any authorized post-proceeding submission or exception taken.
- (2) Recording, transcription: A verbatim record of the character review proceeding shall be made. The presiding member of the hearing panel may select whether to create the record by use of an audio recording, audio-visual recording, stenographic record, or a combination. The record need not be transcribed unless requested. If the applicant requests that a transcript be made, the applicant shall pay the cost of transcription.
- (3) Subpoenas: The presiding member of the hearing panel shall provide subpoenas to the applicant or the special investigator for the appearance of designated witnesses or the production of evidence, upon a showing of general relevance and reasonable scope of the testimony or evidence sought. The subpoenas shall be enforceable in circuit court by contempt.
- (4) Evidence:
 - (a) Admissible evidence: Evidence shall be admissible if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
 - (b) Inadmissible evidence: Irrelevant or unduly repetitious evidence should be excluded.

- (c) Rulings: The presiding member of the hearing panel shall rule on the admissibility or exclusion of evidence. Objections may be made by the special investigator, the applicant, or the presiding member of the hearing panel. Evidentiary rulings, if not made at the character review proceeding, shall be made on the record, at or before the time that the hearing panel submits its proposed decision to the Board of Bar Examiners.
 - (d) Exhibits: Exhibits offered or received into evidence shall be marked and shall be maintained as part of the record of the character review proceeding.
 - (e) Telephonic evidence: The presiding member of the hearing panel may, upon request, permit testimony to be offered by telephonic communication.
 - (f) Oath: All testimony shall be given under oath.
- (5) Conduct of the proceeding:
- (a) Authority of presiding member: The character review proceeding shall be under the control of the presiding member of the hearing panel. The presiding member of the hearing panel shall make all rulings. These rulings may, in the presiding member's discretion, be made after consultation with other members of the hearing panel.
 - (b) Harmless error: Any error in procedure, in admitting or excluding evidence, or in ruling on evidentiary or discovery questions shall not invalidate a finding or conclusion, or require that a new or supplemental character review proceeding be conducted, unless the error resulted in the denial of a fair hearing.
 - (c) Elements of the proceeding: The character review proceeding shall be conducted, subject to the discretion of the presiding member of the hearing panel, to include the following: (i) the statement and evidence of the special investigator; (ii) the statement and evidence of the applicant; (iii) any rebuttal and surrebuttal evidence; (iv) any closing statements.
 - (d) Questioning of witnesses: The special investigator, the applicant, and any member of the hearing panel may question any witness.

The presiding member of the hearing panel shall determine the order of questioning and may set reasonable time limits for testimony.

- (e) Submissions after the proceeding: The presiding member of the hearing panel may request or authorize the special investigator or the applicant to submit, after the conclusion of the character review proceeding, additional evidence, written argument, or a proposed form of recommended disposition with findings of fact and conclusions.
- (6) Burden of proof: To be entitled to admission to the practice of law in Oregon, an applicant must establish by clear and convincing evidence that she or he has the requisite character and fitness to practice law.

THE DECISION-MAKING PROCESS

9.50 The Hearing Panel Decision Making Process

- (1) Hearing Panel proposed decision: The hearing panel shall consider the record made at the character review proceeding, including any authorized post-proceeding submission by the applicant or the special investigator. The hearing panel shall submit, in writing, a proposed decision for action by the Board of Bar Examiners, including findings of fact and conclusions, based exclusively on the record of the character review proceeding.
- (2) Minority report: Any member of the hearing panel may submit a separate statement of views to the Board of Bar Examiners, in writing, in whatever form that the member deems appropriate.
- (3) Notice, exceptions: The hearing panel shall mail its proposed decision to the applicant. The mailing shall state its date of mailing and shall notify the applicant that the applicant may file with the Board of Bar Examiners any exceptions to the hearing panel's proposed decision. Exceptions shall be in writing and must be received by the office of the Executive Director of the Board of Bar Examiners within 21 days of the stated date of the mailing.

9.55 The Board of Bar Examiners Decision Making Process

- (1) Considerations of the Board of Bar Examiners: The Board of Bar Examiners, including the members of the hearing panel, shall consider the record of the character review proceeding, in addition to the proposed decision of the hearing panel, any exceptions taken to the hearing panel's proposed decision, and any member's separate statement. The Board of Bar Examiners' decision, in the form of a recommendation to the Oregon Supreme Court, shall be based exclusively on the record of the character review proceeding.
- (2) Oral argument: The Board of Bar Examiners may, in its discretion, permit the applicant and the special investigator to present oral argument to the Board, based exclusively on the record of the character review proceeding.
- (3) Further proceedings: The Board of Bar Examiners may refer a matter back to the hearing panel for further proceedings if the Board concludes that the record does not provide an adequate basis for the Board's decision. The Board of Bar Examiners itself may, in lieu of a referral back to the hearing panel, hear or receive such additional evidence as the Board may require for its decision, including the taking of testimony from witnesses who have already appeared before the hearing panel on subjects covered by the prior testimony.
- (4) Form of decision: The Board of Bar Examiners shall issue its decision in writing. If, following a character review proceeding, a majority of the non-recused members of the Board of Bar Examiners recommends that an applicant be admitted to the practice of law, the decision shall be in a form sufficient to apprise the court of the basis for the decision. If one-half or more of all non-recused members of the Board of Bar Examiners recommends that an applicant be denied admission or be conditionally admitted, the decision shall contain a proposed disposition, including findings of fact and conclusions. The Board's of Bar Examiners' decision may adopt, reject, or modify all or any part of the hearing panel's proposed decision.
- (5) Minority report: Any member of the Board of Bar Examiners may submit a separate statement of views, in writing, in whatever form that the member deems appropriate.
- (6) Notice of decision: The Board of Bar Examiners shall mail its decision to the applicant. The mailing shall notify the applicant of the right to

petition the Oregon Supreme Court to adopt, modify, or reject the decision of the Board of Bar Examiners, pursuant to Rule 9.60(1).

- (7) Filing of decision: The Board of Bar Examiners shall file its decision, accompanied by the record, with the State Court Administrator, Records Section.

9.60 The Supreme Court Review of Board of Bar Examiners Decision

- (1) Petition: An applicant may petition the Oregon Supreme Court to adopt, modify, or reject, in whole or in part, the decision of the Board of Bar Examiners. The petition shall be filed within 28 days after the Oregon Supreme Court's written notice to the applicant that the Court has received the record.
- (2) Briefs: A petition filed under Rule 9.60(1) shall be accompanied by a brief. The format of the opening brief and the timing and format of an answering brief and a reply brief shall be governed by the applicable Oregon Rules of Appellate Procedure.
- (3) Citation to record required: If the applicant contests the Board's of Bar Examiners' recommended disposition, the applicant shall direct the Supreme Court to all pertinent portions of the record, including items in support of and contrary to the applicant's position.
- (4) Oral argument: The Oregon Rules of Appellate Procedure relative to oral argument shall apply in any matter in which the Board's of Bar Examiners' decision recommends that an applicant be denied admission or be conditionally admitted. The applicant shall argue first.
- (5) De novo review: Whether or not an applicant petitions the Oregon Supreme Court for review of a decision of the Board of Bar Examiners, the Supreme Court shall review de novo the record of a character review proceeding to determine whether an applicant should be admitted to the practice of law in Oregon, denied admission, or conditionally admitted. The Supreme Court's decision shall be based exclusively on the record of the character review proceeding.
- (6) Remand for further proceedings: The Oregon Supreme Court may remand a matter back to the Board of Bar Examiners for such further evidentiary proceedings as the Supreme Court may direct, if the

Supreme Court concludes that the record does not provide an adequate basis for the Supreme Court's decision.

- (7) Remand for an original proceeding: If the Oregon Supreme Court is unwilling to accept a Board of Bar Examiners recommendation to admit an applicant to practice, and if the Board's of Bar Examiners recommendation to admit was made without a character review proceeding having been held, then the Oregon Supreme Court shall remand the matter back to the Board for a character review proceeding to be commenced. The Supreme Court may limit or direct the scope of the character review proceeding on remand.
- (8) Finality of Court's Decision: The Oregon Supreme Court's decision to admit an applicant to the practice of law in Oregon, to deny admission, or to admit an applicant conditionally, shall be a final decision of the Supreme Court, subject to the Oregon Rules of Appellate Procedure respecting such decisions.

OREGON COUNCIL ON LEGAL EDUCATION AND ADMISSION TO THE BAR

10.05 Composition and Duties of Council

- (1) There shall be an Oregon Council on Legal Education and Admission to the Bar (**Council**), the purpose of which is to promote cooperation between the Supreme Court, the law schools and the Board of Bar Examiners, with the object of improving legal education and the bar admissions process.
- (2) The Council is composed of:
 - (a) A justice of the Supreme Court; selected by the Supreme Court, who shall be chair of the Council;
 - (d) The dean of each law school in Oregon approved by the American Bar Association, and a member of the faculty selected by the each dean; and
 - (e) The members of the Board of Bar Examiners.

- (3) The Council shall meet at least annually at such times as it considers advisable. The agenda for the annual meeting **shall be proposed by the Board and approved by the members of the Council.** include a critique of the last bar examination by representatives of the law schools.

ADMISSION OF LAW TEACHERS

11.05 Admission of Law Teachers

A person who is a regular, full-time member of the faculty of any law school in this state approved by the Supreme Court, who has graduated from a law school approved by the American Bar Association, earning a Juris Doctor Degree, and who has passed a bar examination substantially equivalent to the Oregon Bar Examination and been admitted to practice law in another state, federal territory or commonwealth or the District of Columbia, may be admitted to practice in this state by the following procedure:

- (1) After serving at least one year on the faculty of a law school in this state approved by the Supreme Court, such person may apply for a teacher's admission to practice by filing an application as prescribed in Rule 4.15.
- (2) The applicant shall pay the fees prescribed in Rule 4.10.
- (3) The applicant shall be investigated as prescribed in Rule 6.05 to 6.15.
- (4) If a majority of the non-recused members of the Board of Bar Examiners considers the applicant to be qualified as to the requisite moral character and fitness to practice law, the Board shall recommend the applicant to the Supreme Court for admission as a teacher-member.
- (5) If the Supreme Court considers the applicant qualified for a teacher's admission, it shall admit the applicant as a teacher-member. A teacher-member shall have all the rights and obligations of the Bar of Oregon except permanent admission.
- (6) In order to remain a teacher-member, such person must continue as a regular, full-time member of the faculty of a law school in this state approved by the Supreme Court.

FOREIGN LAW CONSULTANTS

12.05 Licensing of Foreign Law Consultants

- (1) A person who is licensed to practice law in a foreign jurisdiction, as defined in ORS 9.242 for purposes of this rule, as an attorney or counselor at law or the equivalent and who complies with the provisions of this rule for licensing of foreign law consultants may advise on the law of that foreign jurisdiction in the state of Oregon to the extent allowed by this rule. Although a person licensed as a foreign law consultant pursuant to this rule shall be subject to this rule and the provisions of ORS Chapter 9, the Oregon Rules of Professional Conduct, and the Oregon State Bar Rules of Procedure, such person shall not be considered an Oregon attorney or be a member of the Oregon State Bar.
- (2) In its discretion, the Supreme Court may license to practice as a foreign law consultant, without examination, an applicant who:
 - (a) For a period of not less than 5 of the 7 years immediately preceding the date of application:
 - (i) has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign jurisdiction; and
 - (ii) has engaged either in the practice of law in such jurisdiction or in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such jurisdiction;
 - (b) Possesses the fitness and good moral character, as defined in ORS 9.220(2) and these rules, required for admission to practice as an attorney in the state of Oregon;
 - (c) Intends to practice as a foreign law consultant in the state of Oregon; and
 - (d) Is at least 18 years of age.
- (3) The procedure for application to the Supreme Court to be licensed as a foreign law consultant shall be as follows:

- (a) Every applicant for a license as a foreign law consultant shall file with the Executive Director of the Board of Bar Examiners a verified typewritten application on a form approved by the Board, in duplicate, setting forth, in English:
 - (i) the applicant's name, age, current and last place of residence;
 - (ii) the character and term of the applicant's law study, including the name of each institution of law the applicant attended and graduated from and what degree the applicant received from each;
 - (iii) the names of all courts or other licensing authorities to which the applicant has made applications to practice, including the dates the applicant has taken examinations and the dates the applicant has been admitted to practice as an attorney or counselor at law or equivalent or as a foreign law consultant or equivalent;
 - (iv) whether the applicant has been the subject of any investigation or proceeding for professional misconduct and, if so, the substance of any such investigation or proceeding and its adjudication or resolution; and
 - (v) whether the applicant has ever been rejected upon an application to practice before any court or other licensing authority in any jurisdiction.
- (b) The application shall be accompanied by the following documents, together with duly authenticated English translations if such documents are not in English:
 - (i) a certificate from the authority having final jurisdiction over professional discipline in the foreign jurisdiction in which the applicant is admitted to practice which shall be signed by a responsible official or one of the members of the executive body of such authority and which shall be accompanied by the official seal, if any, of such authority and which shall certify:
 - (A) as to the authority's jurisdiction in such matters;

- (B) as to the applicant's admission to practice in such foreign jurisdiction, including the date thereof, and as to the applicant's good standing as an attorney or counselor at law or the equivalent therein; and
 - (C) as to whether any charge or complaint has ever been filed against the applicant with such authority and, if so, the substance of each such charge or complaint and the adjudication or resolution thereof;
- (ii) a letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or court of general original jurisdiction of such foreign jurisdiction certifying to the applicant's professional qualifications, together with a certificate from the clerk of such authority or of such court, as the case may be, attesting to the office held by the person signing the letter and the genuineness of the person's signature;
 - (iii) a letter of recommendation from at least two attorneys or counselors at law or the equivalent admitted in and practicing in such foreign jurisdiction setting forth the length of time, when and under what circumstances they have known the applicant and their appraisal of the applicant's moral character;
 - (iv) a letter of recommendation from at least two attorneys admitted to practice in the state of Oregon setting forth the length of time, when and under what circumstances they have known the applicant and their appraisal of the applicant's moral character; and
 - (v) such other relevant documents or information as may be requested by the Supreme Court or the Board of Bar Examiners.
- (c) The Board of Bar Examiners is authorized to conduct investigations and to convene evidentiary hearings for the purpose of determining whether an applicant possesses the good moral character and general fitness to practice as a foreign law consultant in Oregon. The Board may, as necessary, issue subpoenas to secure information material to the Board's inquiry. An applicant may be denied admission as a foreign law consultant for refusing to provide the Board with information material to the Board's inquiry regarding the

applicant's good moral character and general fitness to practice as a foreign law consultant. Subject to review by the Supreme Court under Rule 9.60, an applicant may not be recommended for admission as a foreign law consultant in the state of Oregon unless at least a majority of all nonrecused members of the Board of Bar Examiners considers the applicant to be of good moral character and to have the general fitness to practice as a foreign law consultant.

- (d) In considering whether to license an applicant as a foreign law consultant under this rule, the Supreme Court may, in its discretion, take into account whether an attorney admitted to practice in the state of Oregon would have a reasonable and practical opportunity to establish an office for the giving of Oregon legal advice in the applicant's jurisdiction of admission.
 - (e) Application and investigation fees as prescribed by the Board of Bar Examiners and approved by the Supreme Court shall accompany each application.
 - (f) The Executive Director of the Board of Bar Examiners shall cause the name of all applicants to be published in the Oregon State Bar *Bulletin* or **other publication approved by the Court** For The Record.
- (4) Upon a showing that compliance with the provisions of paragraphs (2)(a) or (3)(b) of this rule would cause an applicant unnecessary hardship, or upon a showing of exceptional professional qualifications to practice as a foreign law consultant, the Supreme Court may, in its discretion, waive or vary the application of such provisions and permit the applicant to make such other showing as is satisfactory to the Supreme Court for admission as a foreign law consultant in Oregon.
- (5) A person licensed as a foreign law consultant under this rule may provide legal advice on the law of his or her foreign jurisdiction in the state of Oregon pursuant to this rule; provided that a foreign law consultant shall not:
- (a) Appear for another person as an attorney in any court or before any magistrate or other judicial officer in the state of Oregon or prepare pleadings or any other papers in any action or proceeding brought in any such court or before any such judicial officer, except as authorized by ORS 9.240;

- (b) Prepare any deed, mortgage, assignment, discharge, lease, agreement of sale or any other instrument affecting title to real estate located in the United States of America;
- (d) Prepare any will, trust or any other instrument affecting the disposition of any property located in the United States of America and owned by a resident thereof;
- (d) Prepare any instrument relating to the administration of a decedent's estate in the United States of America;
- (e) Prepare any instrument in respect of the marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of such a resident;
- (f) Render legal advice on the laws of the state of Oregon or the United States of America or any other state or territory of the United States of America or the District of Columbia or any foreign jurisdiction, other than the foreign law consultant's jurisdiction of admission as an attorney or counselor at law or the equivalent, whether rendered incident to the preparation of legal instruments or otherwise, except on the basis of advice from a person admitted to practice law as an attorney in the state of Oregon or such other state or territory or the District of Columbia or as an attorney or counselor at law or the equivalent in such other foreign jurisdiction who has been consulted by the foreign law consultant in the particular matter at hand and who has been identified to the client by name;
- (g) Represent in any way that such person is licensed as an attorney in the state of Oregon or as an attorney or foreign law consultant or the equivalent thereof in another state or territory or the District of Columbia or as an attorney or counselor at law or the equivalent thereof in a foreign jurisdiction, unless so licensed; or
- (h) Use any title other than "foreign law consultant" except that such person's authorized title and firm name in the foreign jurisdiction in which such person is admitted to practice as an attorney or counselor at law or the equivalent may be used if the title, firm name and the name of such foreign jurisdiction are stated together with the title "foreign law consultant."

- (6) (a) Each person licensed to practice as a foreign law consultant under this rule shall comply with the terms of ORS Chapter 9, the Oregon Rules of Professional Conduct and the Oregon State Bar's Rules of Procedure, unless otherwise inconsistent with the provisions of this rule.
- (b) Each person applying for a license to practice as a foreign law consultant under this rule shall execute and file with the Executive Director of the Board of Bar Examiners, along with the application, in such form and manner as the Board of Bar Examiners may prescribe:
- (i) a statement that the foreign law consultant has read and agrees to comply with ORS Chapter 9, these rules, the Oregon Rules of Professional Conduct and the Oregon State Bar's Rules of Procedure;
 - (ii) an undertaking or appropriate evidence of professional liability insurance, in such amount as required of attorneys through the Oregon State Bar Professional Liability Fund or as the Board of Bar Examiners may prescribe, to assure such foreign law consultant's proper professional conduct and responsibility;
 - (iii) a duly acknowledged instrument in writing setting forth such foreign law consultant's address within the state of Oregon and designating a resident active member of the Oregon State Bar as such foreign law consultant's agent upon whom bar documents or bar or general process may be served, with like effect as if served personally upon such foreign law consultant, in any inquiry, action or proceeding thereafter brought against such foreign law consultant whenever after due diligence service cannot be made upon such foreign law consultant at such address; and
 - (iv) a commitment to notify the Executive Director of the Board of Bar Examiners of any resignation or revocation of such foreign law consultant's admission to practice in the foreign jurisdiction of admission, or of any censure, reprimand, suspension or expulsion in respect of such admission.
- (c) Complaints to, and other authorized inquiries by, the Oregon State

Bar concerning a foreign law consultant shall be considered and resolved in the same manner as those made about members of the Oregon State Bar pursuant to the provisions of ORS Chapter 9 and the Oregon State Bar Rules of Procedure.

LAW STUDENT APPEARANCE PROGRAM

13.05 Purpose of Law Student Appearance Program

The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay reasonable fees for these services. As one means to develop trial and appellate advocacy skills and to encourage law schools to provide clinical instruction in trial and appellate work, Rules 13.05 to 13.30 are adopted. Nothing contained in these rules shall affect the right of any person who is not admitted to the practice of law to do anything that the person might lawfully have done prior to the adoption of these rules.

13.10 Appearances and Activities of Eligible Law Student

- (1) An eligible law student may appear before any court or before any administrative tribunal in this state in accordance with this rule. As used herein, "appear" or "appearance" means personal appearance before a court or an administrative tribunal.
- (2) The law student shall at all times be subject to the supervision of a member of the Oregon State Bar, except as provided in subparagraph (3) of this rule.
- (3) Subject to the client's approval as hereinafter provided, an eligible law student may appear for a client, with or without the supervising attorney being present, except as hereinafter provided. The extent of the law student's participation shall be determined by the supervising attorney, giving due consideration to the nature of the case, the ability and experience of the student and the complexity of the factual and legal issues involved.
- (4) Except as provided for in subparagraph (5) of this rule, no law student shall appear without the supervising attorney in (a) any criminal case in which the defendant may be subject to a felony conviction, (b) any

juvenile case where the act committed by the juvenile if committed by an adult would have been considered a felony or (c) in any commitment proceedings.

- (5) An eligible law student may appear in any civil or criminal matter, on behalf of the state or any other governmental body, with the written consent of the supervising attorney of the state agency or governmental body.
- (6) No law student shall appear until the client, the supervising attorney and the judge of the court or the presiding officer of the tribunal have consented to such appearance. The supervising attorney shall be responsible for explaining to the client the nature and extent of the law student's participation and for obtaining the client's consent to such participation. The client's consent shall be in writing and filed with the court or tribunal and become part of the record of the case.

13.15 Other Activities of Eligible Law Student

- (1) An eligible law student may engage in other activities, under the general supervision of a member of the bar of the Supreme Court, but outside the personal presence of that lawyer attorney, including:
 - (a) Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear; but such pleadings or documents must be signed by the supervising lawyer attorney;
 - (b) Preparation of briefs, abstracts and other documents to be filed in the appellate courts of this state; but such documents must be signed by the supervising lawyer attorney;
 - (c) Assistance to indigent inmates of correctional institutions or other persons convicted of crimes who request such assistance in preparing habeas corpus applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of the Supreme Court; provided that if there is an attorney of record in the matter, all such assistance must be supervised both by the supervising attorney and the attorney of record, and all documents submitted to the court on behalf of such client must be signed by the attorney of record.

- (2) Each document or pleading prepared under subparagraph (1) of this rule must contain the name of the eligible law student who has participated in drafting it. If the student participated in drafting only a portion of it that fact may be mentioned.
- (3) An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer **attorney**.

13.20 Requirements and Limitations

- (1) To be eligible for certification pursuant to these rules, a law student must:
 - (a) Be duly enrolled in or have graduated from a law school approved by the American Bar Association;
 - (b) Have completed legal studies amounting to at least four semesters of full-time law study or the equivalent;
 - (c) Be of good character and be adequately trained to perform competently as a legal intern; and
 - (d) Certify in writing to the dean of the law school that the student has read and is familiar with the Model Rules of Professional Conduct of the American Bar Association and the Oregon Rules of Professional Conduct of the Oregon State Bar.
 - (e) Cause the dean of the student's law school to certify that the student is eligible under subsections (a), (b), (c) and (d) substantially in the form set forth in Appendix A.
- (2) A certified law student shall neither ask for nor receive any compensation or remuneration of any kind for the student's services directly from the client on whose behalf service is rendered; but **an lawyer attorney**, legal aid organization, law school, public defender or any governmental body may pay compensation to the eligible law student as an employee, and the employer may charge for the student's services.

The certified law student's supervising attorney shall introduce the law student to the court or tribunal in which the student is to appear.

13.25 Certification Procedure

The certification of a student by the law school dean:

- (1) Shall be filed with the State Court Administrator and, unless it is withdrawn **sooner**, shall remain in effect until the expiration of the earlier of (a) eighteen months after it is filed or (b) the announcement of the results of the first bar examination following the student's graduation, provided, for any student who passes that examination, the certification shall continue in effect through the date of the first swearing-in ceremony following the examination.
- (2) May be withdrawn by the dean at any time by mailing a notice to that effect to the State Court Administrator. It is not necessary that the notice state the cause for withdrawal.
- (3) May be terminated by the Supreme Court at any time without notice or hearing and without any showing of cause. Notice of the termination shall be filed with the State Court Administrator.

13.30 Supervision

The member of the bar of the Supreme Court under whose supervision an eligible law student does any of the things permitted by these rules shall assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work. The supervising attorney shall assist the student's analysis, preparation and performance to the extent the supervising attorney considers appropriate, giving at all times consideration to the interests of the client.

APPENDIX A

CERTIFICATION OF ELIGIBILITY
TO PARTICIPATE IN LAW STUDENT APPEARANCE PROGRAM

I certify that _____:

- (1) Is duly enrolled in or has graduated from _____, a law school approved by the American Bar Association;
- (2) Has completed legal studies amounting to at least four semesters of full-time law study or the equivalent;
- (3) Appears from all the information available to this law school to be of good character and is adequately trained to perform competently as a legal intern; and
- (4) Has certified to me that he or she has read and is familiar with the Model Rules of Professional Conduct of the American Bar Association and the Oregon Rules of Professional Conduct of the Oregon State Bar.

DATE

DEAN

LAWYER ATTORNEY EXCHANGE PROGRAM

14.05 Purpose of Lawyer Attorney Exchange Program

As a means of furthering the legal education of lawyers **attorneys** and the development of professional understanding of the practice of law in foreign jurisdictions, there is established a Lawyer Attorney Exchange Program between governmental bodies, legal aid organizations or public defenders in Oregon, and governmental bodies, legal aid organizations, or public defenders in foreign jurisdictions as defined in ORS 9.242.

14.10 Requirements and Limitations

- (1) To be eligible for participation pursuant to these rules, a foreign attorney must:
 - (a) Be 18 years of age;
 - (b) Be licensed to practice law in a foreign jurisdiction as defined in ORS 9.242;
 - (c) Be of good moral character and fit to practice law and be adequately trained to perform competently as an attorney;
 - (d) Certify in writing to the Supreme Court that the foreign attorney has read and is familiar with and will comply with the Oregon Rules of Professional Conduct and ORS Chapter 9;
 - (e) Provide the Supreme Court with a current certificate of good standing or comparable certificate as a member of the bar of the foreign attorney's jurisdiction; and
 - (f) Cause the supervising attorney (who must be an active member in good standing of the Oregon State Bar) of the governmental body, legal aid organization, or public defender in Oregon to certify to the Supreme Court that the foreign attorney will be supervised by the supervising attorney and that the foreign attorney is eligible under subsections (a), (b), (c), (d) and (e) of this section substantially in the form set forth in Appendix B.

- (2) Foreign attorneys must remain in good standing in their foreign jurisdictions throughout their participation in the lawyer **attorney** exchange program in Oregon.

14.15 Petition Procedure

The petition of a foreign attorney shall be made to the Supreme Court, it shall be filed with the State Court Administrator and it shall be substantially in the form set forth in Appendix C. The certificate of the supervising attorney required by Rule 14.10 (1) (f) shall be filed with the petition.

14.20 Approval, Withdrawal and Termination

- (1) The Supreme Court, in its discretion, may approve the petition of a foreign attorney. On approval, the foreign attorney shall be permitted to participate in the program until the expiration of six months after the date of approval. The foreign attorney, with the approval and recommendation of the supervising attorney, may petition the Supreme Court for permission to participate in the program for an additional six months.
- (2) The foreign attorney or the supervising attorney may cause the foreign attorney's participation in the program to be withdrawn at any time by mailing a notice to that effect to the State Court Administrator. A notice of withdrawal must be filed promptly by either the foreign attorney or the supervising attorney if the foreign attorney ceases to remain in good standing in the foreign attorney's foreign jurisdiction. It is not necessary that a notice of withdrawal state the cause of withdrawal.
- (3) Approval of a foreign attorney to participate in the program may be terminated by the Supreme Court at any time without notice or hearing. Notice of termination shall be filed with the State Court Administrator and copies mailed to the foreign attorney and the supervising attorney.

14.25 Appearances and Activities of Foreign Attorney

- (1) A foreign attorney may appear before any court or before any administrative tribunal in this state in accordance with this rule. As used herein, "appear" or "appearance" means personal appearance before a

court or an administrative tribunal. The foreign attorney shall at all times be subject to the supervision of the supervising attorney who shall personally appear with the foreign attorney. No foreign attorney shall appear until the client, the supervising attorney and the judge of the court or the presiding officer of the tribunal have consented to such appearance. The supervising attorney shall be responsible for explaining to the client the nature and extent of the foreign attorney's participation and for obtaining the client's consent to such participation. The client's consent shall be in writing and filed with the court or tribunal and become part of the record of the case.

- (2) A foreign attorney may engage in other activities, under the general supervision of the supervising attorney, but outside the personal presence of the supervising attorney, including:
 - (a) Preparation of pleadings and other documents to be filed in any matter in which the foreign attorney is eligible to appear; but such pleadings or documents must be signed by the supervising attorney;
 - (b) Preparation of briefs, abstracts and other documents to be filed in the appellate courts of this state; but such documents must be signed by the supervising attorney;
 - (c) Assistance to indigent inmates of correctional institutions or other persons convicted of crimes who request such assistance in preparing habeas corpus applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of the Supreme Court; provided that if there is an attorney of record in the matter, all such assistance must be supervised both by the supervising attorney and the attorney of record, and all documents submitted to the court on behalf of such client must be signed by the attorney of record.
- (3) Each document or pleading prepared under sub-paragraph (3) of this rule must contain the name of the foreign attorney who has participated in drafting it. If the foreign attorney participated in drafting only a portion of a document or pleading then that fact may be mentioned.

A foreign attorney may participate in oral argument before any court or administrative tribunal, but only if the supervising attorney is present.

APPENDIX B

CERTIFICATION OF SUPERVISING ATTORNEY AS TO
FOREIGN ATTORNEY'S ELIGIBILITY TO PARTICIPATE
IN THE LAWYER **ATTORNEY** EXCHANGE PROGRAM

I certify that _____:

- (1) is licensed to practice law in the following foreign jurisdiction as defined in ORS 9.242 _____;
- (2) appears from all of the information available to me to be of good moral character and fit to practice law as defined in ORS 9.220 (2) and the Rules of Admission of Attorneys and is adequately trained to perform competently as an attorney;
- (3) has certified to me that he/she has read, is familiar with and will comply with the Oregon Rules of Professional Conduct, ORS Chapter 9 and Rules 14.05 through 14.25 of the Rules for Admission of Attorneys; and
- (4) is a member in good standing of the bar of the following foreign jurisdiction _____;

I further certify that I will supervise the foreign attorney in accordance with the Lawyer **Attorney** Exchange Program rules.

DATED this _____ day of _____, 20_____

Supervising Attorney OSB # _____

APPENDIX C

PETITION OF FOREIGN ATTORNEY TO PARTICIPATE
IN THE LAWYER **ATTORNEY** EXCHANGE PROGRAM

I, _____, petition the Supreme Court of the State of Oregon for approval to participate in the Lawyer **Attorney** Exchange Program and I certify that:

- (1) I am licensed to practice law in the following foreign jurisdiction as defined in ORS 9.242 _____;
- (2) I am of good moral character and fit to practice law as defined in ORS 9.220 (2) and the Rules for Admission of Attorneys and am adequately trained to perform competently as an attorney;
- (3) I have read, and am familiar with and will comply with the Oregon Rules of Professional Conduct, ORS Chapter 9 and Rules 14.05 through 14.25 of the Rules for Admission of Attorneys; and
- (4) I am a member in good standing of the bar of the following foreign jurisdiction, _____, as evidenced by a true copy of the current Certificate of Good Standing or comparable certification which is attached hereto.

DATED this _____ day of _____, 20____.

Foreign Exchange Attorney

RECIPROCITY ADMISSION

15.05 Admission of Lawyers Attorneys Licensed to Practice Law in Alaska, Idaho, Utah and Washington other Jurisdictions

- (1) Lawyers Attorneys who have taken and passed the **bar examination in another qualifying jurisdiction** Alaska, Idaho, Utah and/or Washington bar examinations, who are active members of the **bar in that qualifying jurisdiction** one or more of those state bars as a result of the passage of those examinations, and who have lawfully engaged in the active, **substantial and continuous** practice of law for no less than three five of the four seven years immediately preceding their application for admission under this rule may be admitted to the practice of law in Oregon without having to take and pass the Oregon bar examination, subject to the requirements of this rule.
- (2) **For purposes of this rule, a “qualifying jurisdiction” means any other United States jurisdiction which allows attorneys licensed in Oregon to become regular members of the bar in that jurisdiction without passage of that jurisdiction’s bar examination.**
- (3) All Alaska, Idaho, Utah and Washington attorneys seeking admission to practice law in Oregon under this rule must All applicants for admission under this rule shall:
 - (a) Present satisfactory proof of their:
 - (i) possession of a (1) Juris Doctor (J.D.) or (2) Bachelor of Law (LL.B.) degree from an ABA approved law school; or satisfaction of the requirements of rule 3.05(3);
 - (ii) passage of **the** the Alaska, Idaho, Utah and/or Washington bar examinations **in a qualifying jurisdiction**;
 - (iii) admission to the practice of law in Alaska, Idaho, Utah and/or Washington **a qualifying jurisdiction**;
 - (iv) active membership in the Alaska Bar Association, Idaho State Bar, Utah State Bar and/or Washington State Bar Association **in good standing in a qualifying jurisdiction**; and

- (iv) lawful active, **substantial and continuous** practice of law for no less than three **five** of the four **seven** years immediately preceding their application for admission under this rule;
 - (b) Possess the good moral character and fitness required of all other applicants for admission to practice law in Oregon;
 - (c) Complete such applications and submit such other information as may be required by the Oregon Board of Bar Examiners and **the Oregon Supreme Court** within six months of the date of filing the application; and
 - (d) pay such application fees and costs as may be established by the Oregon Board of Bar Examiners and the Oregon Supreme Court for applicants under this rule.
- (4) The character and fitness of applicants under this rule shall be reviewed under the procedures set forth in **ORS 9.220 and** Admission Rules 6.05, 6.10, 6.15, and 9.05 to 9.60.
- (5) All applicants admitted to practice law pursuant to this rule shall complete and certify prior to admission under this rule that, after filing of the application, he or she has attended at least fifteen hours of continuing legal education on Oregon practice and procedure and ethics requirements as regulated and approved by the Board of Bar Examiners.
- (6) All applicants admitted to practice law pursuant to this rule shall obtain and maintain malpractice coverage from the Oregon State Bar Professional Liability Fund (**PLF**) as required by the rules and regulations of the fund. If an applicant is not required to maintain malpractice coverage through the **PLF Oregon State Bar Professional Liability Fund**, the applicant shall obtain and maintain other malpractice coverage covering the applicant's law practice in Oregon which coverage shall be substantially equivalent to the Oregon State Bar Professional Liability Fund coverage plan.
- (7) All applicants admitted to practice law pursuant to this rule shall be subject to and shall comply with the Oregon Rules of Professional Conduct, the Oregon State Bar Rules of Procedure, and all other rules

and regulations applicable to members of the Oregon State Bar.

- (8) **The provisions of this rule in effect at the time an application is filed shall apply to the application, notwithstanding subsequent amendments to this rule.**

If, in the judgment of the Oregon Supreme Court, it is in the best interest of the State of Oregon to discontinue reciprocity with other states, such decision may be implemented immediately by order of the Court. Additional states may be added to this rule by order of the Court upon petition of the Board of Governors of the Oregon State Bar and the Board of Bar Examiners.

- (9) “Active practice of law” means, for the purposes of this rule, law-related professional activities including:

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

(b) Service as a attorney with a local, state, territorial or federal agency, including military service;

(c) Teaching at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

(d) Service as a judge in a federal, state, territorial, or local court of record;

(e) Service as a judicial law clerk; or

(f) Service as corporate counsel.

For purposes of this rule, the active practice of law shall not include work that was performed in advance of bar admission in any jurisdiction and shall not include work that, as undertaken, constituted the unlawful or unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which clients receiving the unlawful or unauthorized services were located. The active practice of law need not have been full-time to qualify for consideration as prior active practice, but part-time practice must be shown to have consisted of at least 1,000 hours of work per annum to qualify as the

practice of law.

- (9) Notwithstanding Rule 15.05 (2)(a)(v), an applicant who has failed the Oregon Bar examination must present satisfactory proof of the lawful active practice of law in other jurisdictions for no less than five of the six years immediately preceding his or her application for reciprocity admission to qualify for admission under this rule.

ADMISSION OF HOUSE COUNSEL

16.05 Admission of House Counsel

An attorney employed by a business entity authorized to do business in Oregon, who has been admitted to practice law in another state, federal territory or commonwealth, or the District of Columbia, may be admitted to practice law as house counsel in this state, subject to the provisions, conditions and limitations in this rule, by the following procedure:

- (1) The attorney, if at least 18 years of age, may apply for admission to practice law as house counsel by:
 - (a) Filing an application as prescribed in Rule 4.15; and
 - (b) Presenting satisfactory proof of graduation from an ABA approved law school with either a (1) Juris Doctor (J.D.) or (2) Bachelor of Law (LL.B.) degree; or satisfaction of the requirements of rule 3.05(3);
 - (c) Presenting satisfactory proof of passage of a bar examination in a jurisdiction in which the applicant is admitted to the practice of law; and
 - (d) Providing verification by affidavit signed by both the applicant and the business entity that the applicant is employed as house counsel and has disclosed to the business entity the limitations on the attorney to practice law as house counsel as provided by this rule.
- (2) The applicant shall pay the application fees prescribed in Rule 4.10.

- (3) The applicant shall be investigated as prescribed in Rule 6.05 to 6.15.
- (4) The applicant shall take and pass the Professional Responsibility Examination prescribed in Rule 7.05.
- (5) If a majority of the non-recused members of the Board of Bar Examiners considers the applicant to be qualified as to the requisite moral character and fitness to practice law, the Board shall recommend the applicant to the Supreme Court for admission to practice law as house counsel in Oregon.
- (6) If the Supreme Court considers the applicant qualified for admission, it shall admit the applicant to practice law as house counsel in Oregon. The applicant's date of admission as a house counsel member of the Oregon State Bar shall be the date the applicant files the oath of office with the State Court Administrator as provided in Rule 8.10(2).
- (7) In order to qualify for and retain admission to practice law as house counsel, an attorney admitted under this rule must satisfy the following conditions, requirements and limitations:
 - (a) The attorney shall be limited to practice exclusively for the business entity identified in the affidavit required by section (1)(d) of this rule, and except as provided in subsection 7(f) below regarding pro bono legal services, is not authorized by this rule to appear before a court or tribunal, or offer legal services to the public; Participating as an attorney in any arbitration or mediation that is court-mandated or is conducted in connection with a pending adjudication shall be considered an appearance before a court or tribunal under this rule.
 - (b) All business cards, letterhead and directory listings, whether in print or electronic form, used in Oregon by the attorney shall clearly identify the attorney's employer and that the attorney is admitted to practice in Oregon only as house counsel or the equivalent;
 - (c) The attorney shall pay the Oregon State Bar all annual and other fees required of active members admitted to practice for two years or more;

- (d) The attorney shall be subject to ORS Chapter 9, these rules, the Oregon Rules of Professional Conduct, the Oregon State Bar's Rules of Procedure, the Oregon Minimum Continuing Legal Education Rules and Regulations, and to all other laws and rules governing attorneys admitted to active practice of law in this state;
 - (e) The attorney shall promptly report to the Oregon State Bar: a change in employment; a change in membership status, good standing or authorization to practice law in a state, federal territory, commonwealth, or the District of Columbia where the attorney has been admitted to the practice of law; or the commencement of a formal disciplinary proceeding in any such jurisdiction.
 - (f) The attorney may provide pro bono legal services through a pro bono program certified by the Oregon State Bar under Oregon State Bar Bylaw 13.2, provided that the attorney has professional liability coverage for such services through the pro bono program or otherwise, which coverage shall be substantially equivalent to the Oregon State Bar Professional Liability Fund coverage plan.
- (8) The attorney shall report immediately to the Oregon State Bar, and the admission granted under this section shall be automatically suspended, when:
- (a) Employment by the business entity is terminated; or
 - (b) The attorney fails to maintain active status or good standing as an attorney in at least one state other than Oregon, federal territory, commonwealth, or the District of Columbia; or
 - (c) The attorney is suspended or disbarred for discipline, or resigns while disciplinary complaints or charges are pending, in any jurisdiction.
- (9) An attorney suspended pursuant to section (8)(a) of this rule shall be reinstated to practice law as house counsel when able to demonstrate to the Oregon State Bar that, within six months from the termination of the attorney's previous employment, the attorney is again employed

as house counsel by a qualifying business entity, and upon verification of such employment as provided in section (1)(d) of this rule.

- (10) An attorney suspended pursuant to section (8)(b) of this rule shall be reinstated to practice law as house counsel when able to demonstrate to the Oregon State Bar that, within six months from the attorney's failure to maintain active status or good standing in at least one other jurisdiction, the attorney has been reinstated to active status or good standing in such jurisdiction.
- (11) Except as provided in sections (9) and (10) of this rule, an attorney whose admission as house counsel in Oregon has been suspended pursuant to section (8) of this rule, and who again seeks admission to practice in this state as house counsel, must file a new application with the Board of Bar Examiners under this rule.
- (12) The admission granted under this section shall be terminated automatically when the attorney has been otherwise admitted to the practice of law in Oregon as an active member of the Oregon State Bar.
- (13) For the purposes of this Rule 16.05, the term "business entity" means a corporation, partnership, association or other legal entity, excluding governmental bodies, (together with its parents, subsidiaries, and affiliates) that is not itself engaged in the practice of law or the rendering of legal services, for a fee or otherwise.
- (14) For the purposes of this Rule 16.05, "tribunal" means all courts and all other adjudicatory bodies, including arbitrations and mediations described in Rule 16.05(7)(a), but does not include any body when engaged in the promulgation, amendment or repeal of administrative or other rules.

ADMISSION OF OUT-OF-STATE ACTIVE PRO BONO ATTORNEYS

17.05 Admission of Out-of-State Active Pro Bono Attorneys

An attorney, who has been admitted to practice law in another state, federal territory or commonwealth, or the District of Columbia, may be admitted

to practice law as an Active Pro Bono Attorney, subject to the provisions, conditions and limitations in this rule, by the following procedure:

- (1) The attorney, having actively practiced law for at least 15 years, may apply for admission to practice law as an Active Pro Bono Attorney by:
 - a) Filing an application as prescribed in Rule 4.15;
 - b) Presenting satisfactory proof of graduation from an ABA approved law school with a Juris Doctor degree or its equivalent;
 - c) Presenting satisfactory proof of passage of a bar examination in a jurisdiction in which the applicant is admitted to the practice of law;
 - d) Presenting satisfactory proof that the applicant is not currently serving any disciplinary sanction or disbarment in any jurisdiction; or has not resigned from the practice of law while disciplinary charges were pending or in lieu of discipline;
 - e) Presenting satisfactory proof that the applicant will practice law with a Certified Pro Bono Program; and
 - f) Agreeing to abide by the Rules of Professional Conduct and submit to the jurisdiction of the Oregon State Bar for disciplinary purposes.
- (2) The applicant shall pay the investigation fee as set forth in Rule 4.10(2).
- (3) The applicant shall be investigated as prescribed in Rule 6.05 to 6.15.
- (4) If a majority of the non-recused members of the Board of Bar Examiners considers the applicant to be qualified as to the requisite moral character and fitness to practice law, the Board shall recommend the applicant to the Supreme Court for admission to practice law as an Active Pro Bono Attorney in Oregon.
- (5) If the Supreme Court considers the applicant qualified for admission, it shall admit the applicant to practice law as an Active Pro Bono Attorney in Oregon. The applicant's date of admission as an Active Pro Bono member of the Oregon State Bar shall be the

date the applicant files the oath of office with the State Court Administrator as provided in Rule 8.10(2).

- (6) In order to qualify for and retain admission to practice law as an Active Pro Bono Attorney, an attorney admitted under this rule must satisfy the following conditions, requirements and limitations:
 - (a) The attorney shall be limited to practice exclusively as a pro bono attorney, and through a Certified Pro Bono Program;
 - (b) All business cards, letterhead and directory listings, whether in print or electronic form, used in Oregon by the attorney shall clearly identify that the attorney is admitted to practice in Oregon only as an Active Pro Bono Attorney;
 - (c) The attorney shall pay the Oregon State Bar all annual and other fees required of inactive members admitted to practice for two years or more;
 - (d) The attorney shall be subject to ORS Chapter 9, these rules, the Oregon Rules of Professional Conduct, the Oregon State Bar's Rules of Procedure, the Oregon Minimum Continuing Legal Education Rules and Regulations, and to all other laws and rules governing attorneys admitted to active practice of law in this state; and
 - (e) The attorney shall promptly report to the Oregon State Bar: a change in membership status, good standing or authorization to practice law in a state, federal territory, commonwealth, or the District of Columbia where the attorney has been admitted to the practice of law; or the commencement of a formal disciplinary proceeding in any such jurisdiction.
- (7) The attorney shall report immediately to the Oregon State Bar, and the admission granted under this section shall be automatically suspended, when the attorney is suspended or disbarred for discipline or resigns while disciplinary complaints or charges are pending, in any jurisdiction.

- (8) The admission granted under this section shall be terminated automatically when the attorney has been otherwise admitted to the practice of law in Oregon as an active member of the Oregon State Bar.

- (9) For the purposes of this Rule 17.05, the term "Certified Pro Bono Program" means a legal services provider that has applied for and received certification through the Oregon State Bar and that maintains Professional Liability Coverage for the Active Pro Bono Attorney, either through a waiver of coverage or through purchasing coverage from the PLF.