

IN THE SUPREME COURT OF THE
STATE OF OREGON

In the Matter of Adoption) ORDER NO. 10-063
of the OREGON RULES)
FOR ADMISSION OF) ORDER AMENDING
ATTORNEYS) OREGON RULES FOR
) ADMISSION OF
) ATTORNEYS — 1.05, 5.20,
) 15.05

At its public meeting on November 3, 2010, the court considered and approved the amendments of the Rules for Admission of Attorneys 1.05, 5.20, and 15.05. The proposed amendments to Rule 1.05 makes clear under which circumstances unauthorized activities will not be deemed the practice of law and corrects the numeration of the rule. The proposed amendment to Rule 5.20 reflects the Board of Bar Examiners' practice in developing essay questions. The proposed amendment to Rule 15.05 allows applicants to complete CLE courses anytime within six months before or after the filing of their application. The new language is in bold print and the deleted language is struck out.

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 **in that jurisdiction.** ~~including:~~
 - (a) **The active practice of law includes:**
 - (i) Representation of one or more clients in the private practice of law;
 - (ii) Service as an attorney with a local, state, territorial or federal agency or court, including military service;

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- (iii) 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;
 - (iv) Service as a judge in a federal, state, territorial or local court of record;
 - (v) Service as a judicial clerk; or
 - (vi) 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.~~
- (b) **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.

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- (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.

5.20 Review of Examination Paper

- (1) 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, 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, **graders’ issue outlines and point allocations, and all other grading and exam materials authorized by the Board and the National Conference of Bar Examiners.** ~~issue outlines with points, essay question answers that address all~~

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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.

- (4) After the administration of each exam, the Board 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, protect the security of that part of the examination prepared and scored by or under the supervision of the NCBE.

15.05 Admission of Attorneys Licensed to Practice Law in other Jurisdictions

- (1) Attorneys who have taken and passed the bar examination in another qualifying jurisdiction, who are active members of the bar in that qualifying jurisdiction, and who have lawfully engaged in the active, substantial and continuous practice of law for no less than five of the 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 applicants for admission under this rule shall:
 - (a) Present satisfactory proof of their:

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- (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 bar examinations in a qualifying jurisdiction;
 - (iii) admission to the practice of law in a qualifying jurisdiction;
 - (iv) active membership in good standing in a qualifying jurisdiction; and
 - (v) active, substantial and continuous practice of law for no less than five of the 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 Board and the 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 Board and the 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. **Applicants must attend and complete the required continuing legal education hours any**

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time between six (6) months prior to and six (6) months after the filing of an application.

- (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, 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.
- (9) Notwithstanding the practice time requirements contained in paragraphs one (1) and three (3) of this rule, attorneys who are otherwise qualified under this rule, are, on the date of application, licensed in Washington, Idaho, Utah or Alaska, and file an application on or before December 31, 2015, need only demonstrate active, substantial and continuous practice of law for three of the preceding five years prior to filing the application.

IT IS HEREBY ORDERED that amendments of Rules 1.05, 5.20, and 15.05 of the Oregon Rules for Admission of Attorneys be approved.

Dated this 12th day of November, 2010.

Paul J. De Muniz
Chief Justice