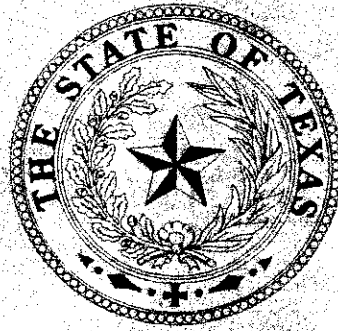


Rules Governing Admission  
to the Bar of Texas

*Adopted by*

The Supreme Court of Texas



*Effective May 15, 1997*

**THE SUPREME COURT OF TEXAS**

**Chief Justice**

Thomas R. Phillips

**Justices**

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John Cornyn

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Effective September 1, 1997

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Effective January 1, 1998

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## About the Board of Law Examiners . . . .

The Board of Law Examiners is the judicial agency responsible for administering the process of determining that applicants seeking to be licensed to practice law in Texas meet the qualifications set by the Supreme Court of Texas. The Board itself has nine members, appointed biennially by the Supreme Court. Each member must be an attorney, at least 35 years of age, with a minimum of ten years of experience in the practice of law. The Board has approximately nineteen employees, including the Executive Director, Director of Eligibility and Examination, Director of Character and Fitness, Staff Attorney, numerous Licensure Analysts, and other employees who assist in carrying out the daily functions of the agency.

The Board's rules are adopted and promulgated by the Supreme Court of Texas. Acting under these rules, the Board investigates the character and fitness of students studying law in ABA-approved law schools in Texas who intend to apply for admission in Texas, as well as that of all applicants for admission to the Bar; holds hearings, when indicated, on the moral character and fitness of its applicants; makes determinations as to whether applicants have met all other Texas requirements for licensure; prepares, administers, and grades the Texas Bar Examination twice yearly and the Short Form Examination four times yearly. When the Board determines that a candidate has met all requirements for admission, the Board certifies the applicant to the Supreme Court as being eligible for licensure. While the Board makes these determinations as to eligibility, only the Supreme Court has the authority to issue a law license.

In its character and fitness investigations, the Board looks into such matters as whether the candidate has been involved in criminal activities, fraudulent practices, financial irresponsibility indicative of a lack of respect for legal obligations, failure to comply with court orders, and other activities which indicate the presence of character traits which would impact on and have a clear and rational connection to the responsibilities an attorney owes to clients, the courts, and the legal profession. The Board is charged with making a determination, as to whether each candidate for admission to practice law, has the *present* good moral character and fitness required for admission to the Bar of Texas. Therefore, while a candidate is not automatically barred from becoming an attorney if any of these matters appear in his or her history, the Board does make a determination as to whether such *past* activities have a *present* bearing on the individuals character and fitness at the time admission is sought. Often, such an individual may be

required to appear at a public hearing before the full Board, so that the Board can consider all relevant evidence in order to decide whether such problems rise to the level of a lack of present good moral character and fitness. After such a hearing, if the Board finds that the activities do evidence a lack of present good moral character and fitness, the Board will render an order to that effect and decline to recommend the individual to the Supreme Court for licensure and admission to the Bar of Texas.

The Board conducts its business and carries out its responsibilities in meetings conducted approximately six times yearly. The Board is subject to both the Open Meetings Act and the Open Records Act (with certain exceptions authorized by statute and order of the Supreme Court), and notices of the Board's meetings are posted with the Secretary of State and published in the Texas Register, as required by law. The agenda of each board meeting includes an item entitled "communications from the public," and members of the public are invited and encouraged to attend and participate in the Board's meetings.

Each year, the Board processes the Declarations of Intention to Study Law filed by approximately 2,000 students at ABA-approved Texas law schools and approximately 3,700 applications of law graduates to take the Texas Bar Examination. In addition, each year the Board acts on about 400 applications of attorneys licensed in other states for admission without examination or to take the Short Form Examination. Out of all these applicants for admission to the Bar, the Board annually recommends that the Supreme Court grant Texas law licenses to approximately 2,800 individuals.

Once applicants are certified to the Supreme Court as eligible for regular licensure, the Board's jurisdiction over these individuals ceases. All disciplinary and grievance matters concerning licensed attorneys fall under the jurisdiction of the State Bar of Texas.

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**Rules of the Supreme Court  
Governing Admission to the Bar of Texas**

**Rule I**

**Definitions and General Provisions**

(a) Frequently used terms are defined as follows:

(1) "Applicant" shall mean a person who files with the Board any Application or Re-application to take the Texas Bar Examination, the Short Form Examination, to be admitted without examination, or for Certification as a Foreign Legal Consultant.

(2) "Application" shall mean an Application or Re-application to take the Texas Bar Examination, the Short Form Examination, to be admitted without examination to the Texas Bar, or for Certification as a Foreign Legal Consultant.

(3) "Approved law school" shall mean a law school approved by the American Bar Association.

(4) "Board" shall mean the Board of Law Examiners.

(5) "Chemical dependency" shall mean:

(i) the abuse of alcohol or a controlled substance;

(ii) a pathological use of alcohol or a controlled substance that chronically impairs the Applicant's ability to competently provide legal advice or services; or

(iii) a physiological or physical dependence on alcohol or a controlled substance.

(6) "Controlled substance" shall have the meaning assigned by Section 462.001, Health and Safety Code.

(7) "Declarant" shall mean a person who files with the Board a Declaration of Intention to Study Law.

(8) "Declaration" shall mean a Declaration of Intention to Study Law.

(9) "District Committee" shall mean a District Committee on Admissions.

(10) "Short Form Examination" shall mean the shortened form of the bar examination available for Applicants qualified under Rule XIII.

(11) "State" shall mean any state or territory of the United States, as well as the District of Columbia.

(12) "Supreme Court" shall mean the Supreme Court of Texas.

(13) "Texas Bar Examination" shall mean the full bar examination.

(14) "Treatment" shall have the meaning assigned by Section 462.001, Health, and Safety Code.

(15) "Treatment facility" shall have the meaning assigned by Section 462.001, Health, and Safety Code.

(b) The terms "admitted," "admitted to the Bar," "admitted to the Texas Bar," "licensed," and "licensed to practice law in Texas" are used interchangeably in these Rules.

(c) If any completed document required to be filed hereunder is placed, along with all required fees, in a postpaid envelope properly addressed to the Board and then deposited in a post office or official depository under the care and custody of the United States Postal Service, such document shall be deemed timely filed if the envelope bears a legible U.S. Postal Service postmark which is dated on or before the applicable deadline date.

(d) Neither the Board nor any District Committee shall disclose to any third party any information obtained with respect to the character or fitness of any Applicant, Declarant, or probationary licensee, except:

(1) upon written authority of such Applicant or Declarant, or probationary licensee;

(2) in response to a valid subpoena from a court of competent jurisdiction; or

(3) to the Office of the General Counsel of the State Bar of Texas or to the Texas Unauthorized Practice of Law Committee.

**Rule II**

**General Eligibility Requirements for  
Admission to the Texas Bar**

(a) To be eligible for admission or reinstatement as a licensed attorney in Texas, the Applicant shall:

(1) comply with all applicable requirements of these Rules;

(2) be at least eighteen (18) years of age;

(3) be of present good moral character and fitness;

(4) have completed the law study required under these Rules, unless specifically exempted under the terms of Rule XIII;

(5) qualify under one of the following categories:

(A) be a United States citizen;

(B) be a United States National;

(C) be an alien lawfully admitted for permanent residence;

(D) be an alien lawfully admitted for temporary residence under 8 USC Sec. 1255;

(E) be admitted as a refugee under 8 USC

Sec. 1157; or

(F) be granted asylum under 8 USC Sec. 1158.

If the Applicant does not qualify for a regular Texas law license due to an inability to meet the requirements of this Rule II(a)(5), the Applicant may be issued a Probationary License, upon meeting all other requirements of these rules, if the Applicant holds one or more of the following valid non-immigrant visa statuses entitling him or her lawfully to work in the United States: H-1B, TC, L-1, or F-1 Practical Training. A Probationary License issued under this rule shall be valid concurrently with such valid visa status, and, with the exception of an F-1 Practical Training visa status, shall entitle the Applicant to be employed only by the employer named in the petition of application through which such status was obtained.

(6) have satisfactorily completed the Texas Bar Examination, unless exempted from the Bar Examination under Rule XIII (but in no event shall an Applicant for reinstatement be so exempted);

(7) have satisfactorily completed the Multistate Professional Responsibility Examination; and

(8) be willing to take the oath required of attorneys in Texas;

(9) pay the appropriate licensing fee to the Clerk of Supreme Court of Texas; and

(10) enroll in the State Bar of Texas by filing an enrollment form and paying the appropriate fees and assessments due within the time specified in Article III, Sec. 2(A) of the State Bar Rules.

(b) If an Applicant has not satisfied all requirements for admission to the Texas Bar within two years from the date that the Applicant is notified that (s)he has passed all parts of the Texas Bar Examination, the Applicant's examination scores shall be void, provided, however, that the Board may waive this provision for good cause shown.

### **Rule III**

#### **Law Study Requirement**

(a) The law study requirement for eligibility of an Applicant to take the Texas Bar Examination, unless otherwise provided by these Rules, is met by:

(1) graduation with a J.D. degree or its equivalent from an approved law school;

(2) satisfaction of all requirements for graduation from an approved law school with a J.D. degree or its equivalent; or

(3) study of law in an approved law school or

schools by satisfying all requirements for graduation with a J.D. degree or its equivalent, except for not more than four semester hours or its equivalent in quarter hours; provided, however, that no person shall be licensed to practice law until graduation or satisfaction of all requirements for graduation, unless specifically excepted hereunder. If an Applicant under this subsection has not graduated with a J.D. degree or satisfied all requirements for graduation within two years from the date that all parts of the bar examination are satisfactorily completed, the Applicant's examination scores shall be void.

(b) If a law school was an approved law school at the time the Applicant enrolled, the law school shall be deemed an approved law school as to that Applicant for four years thereafter, regardless of its status at the date of the Applicant's graduation. If a law school was an approved law school at the time the Applicant graduated, the Applicant shall be deemed to be a graduate of an approved law school, regardless of the status of the school at the time the Applicant enrolled.

(c) If a person graduated from a law school that was not an approved law school at either the time the person enrolled or at the time the person graduated, the person is not a graduate of an approved law school even if the law school later became or becomes an approved law school.

### **Rule IV**

#### **Good Moral Character and Fitness Requirement**

(a) No one shall be eligible for admission to the Texas Bar or for certification as a Foreign Legal Consultant until the investigation of such person's moral character and fitness has been completed, and it has been determined by the Board that such individual possesses good moral character and fitness.

(b) Good moral character is a functional assessment of character and fitness of a prospective lawyer. The purpose of requiring an Applicant to possess present good moral character is to exclude from the practice of law those persons possessing character traits that are likely to result in injury to future clients, in the obstruction of the administration of justice, or in a violation of the *Texas Disciplinary Rules of Professional Conduct*. These character traits usually involve either dishonesty or lack of trustworthiness in carrying out responsibilities. There may be other character traits that are relevant in the admission process, but such traits must have a rational connection with the Applicant's present fitness or capacity to practice law and accordingly must relate to the legitimate interests of

Texas in protecting prospective clients and in safeguarding the system of justice within Texas.

(c) Fitness, as used in these Rules, is the assessment of mental and emotional health as it affects the competence of a prospective lawyer. The purpose of requiring an Applicant to possess this fitness is to exclude from the practice of law any person having a mental or emotional illness or condition which would be likely to prevent the person from carrying out duties to clients, courts or the profession. A person may be of good moral character, but may be incapacitated from proper discharge of his or her duties as a lawyer by such illness or condition. The fitness required is a present fitness, and prior mental or emotional illness or conditions are relevant only so far as they indicate the existence of a present lack of fitness.

(d) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or an Applicant who has been convicted of a felony in Texas or placed on probation for a felony with or without an adjudication of guilt in Texas, or who has been convicted or placed on probation with or without an adjudication of guilt in another jurisdiction for a crime which would be a felony in Texas. A Declarant or Applicant may be found lacking in present good moral character and fitness under this rule based on the underlying facts of a felony conviction or deferred adjudication, as well as based on the conviction or probation through deferred adjudication itself.

(1) The record of conviction or order of deferred adjudication is conclusive evidence of guilt.

(2) An individual guilty of a felony under this rule is conclusively deemed not to have present good moral character and fitness and shall not be permitted to file a Declaration of Intention to Study Law or an Application for a period of five years after the completion of the sentence and/or period of probation.

(3) Upon proof that a felony conviction or felony order of probation with or without adjudication of guilt has been set aside or reversed, the Declarant or Applicant shall be entitled to a new hearing before the Board for the purpose of determining whether, absent the record of conclusive evidence of guilt, the Declarant or Applicant possesses present good moral character and fitness.

(e) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or Applicant who has been licensed to practice law in any jurisdiction and has been disciplined, or allowed to resign in lieu of discipline, in that jurisdiction.

(1) A certified copy of the order or judgment of discipline from the jurisdiction is prima facie evidence of the

matters contained in such order or judgment, and a final adjudication in the other jurisdiction that the individual in question has committed professional misconduct is conclusive of the professional misconduct alleged in such order or judgment.

(2) An individual disciplined for professional misconduct in the course of practicing law in any jurisdiction or an individual who resigned in lieu of disciplinary action ("disciplined individual") is deemed not to have present good moral character and fitness and is therefore ineligible to file an Application for Admission to the Texas Bar during the period of such discipline imposed by such jurisdiction, and in the case of disbarment or resignation in lieu of disciplinary action, until the disciplined individual has filed an application for reinstatement in the disciplining jurisdiction and obtained a final determination on that application.

Notwithstanding the foregoing provision of this subsection (e)(2) and except as provided in Rule IV(d)(2), if the period of discipline imposed by another jurisdiction exceeds five years, the disciplined individual may file an Application after the expiration of five years from the date of imposition of such discipline, provided that (s)he has obtained a final determination on his/her application for reinstatement in the disciplining jurisdiction.

(3) The only defenses available to an Applicant or Declarant under section (e) are outlined below and must be proved by clear and convincing evidence:

(A) The procedure followed in the disciplining jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.

(B) There was such an infirmity of proof establishing the misconduct in the other jurisdiction as to give rise to the clear conviction that the Board, consistent with its duty, should not accept as final the conclusion on the evidence reached in the disciplining jurisdiction.

(C) The deeming of lack of present good moral character and fitness by the Board during the period required under the provisions of section (e) would result in grave injustice.

(D) The misconduct for which the individual was disciplined does not constitute professional misconduct in Texas.

(4) If the Board determines that one or more of the foregoing defenses has been established, it shall render such orders as it deems necessary and appropriate.

(f) An individual who applies for admission to practice law in Texas or who files a petition for



redetermination of present moral character and fitness after the expiration of the five-year period required under subsection (d)(2) above or after the completion of the disciplinary period assessed or ineligibility period imposed by any jurisdiction under subsection (e) above shall be required to prove, by a preponderance of the evidence:

(1) that the best interest of the public and the profession, as well as the ends of justice, would be served by his or her admission to practice law;

(2) that (s)he is of present good moral character and fitness; and

(3) that during the five years immediately preceding the present action, (s)he has been living a life of exemplary conduct.

(g) An individual who files a petition for redetermination of present moral character and fitness after a negative determination based on a felony conviction, felony probation with or without adjudication of guilt, or professional misconduct or resignation in lieu of disciplinary action and whose petition is denied after a hearing, is not eligible to file another petition for redetermination until after the expiration of three years from the date of the Board's order denying the preceding petition for redetermination.

#### **Rule V**

##### **Professional Responsibility Examination Requirement**

(a) No Applicant for admission to the Texas Bar shall be issued a license to practice law in Texas until such person has furnished to the Board evidence that (s)he has passed the Multistate Professional Responsibility Examination (MPRE) with a scaled score of 85.

(b) A passing MPRE score is valid for five years from the date the MPRE is taken.

(c) If an Applicant has a valid, passing MPRE score on the date (s)he takes the Texas Bar Examination or Short Form Examination, the MPRE score is deemed to be valid for licensing purposes if the Applicant passes that particular Texas examination, even if the five-year period set out in (b) above expires before the Texas grades are released.

#### **Rule VI**

##### **Declaration of Intention to Study Law; General Provisions**

(a) Every person who is beginning law study in an approved law school in Texas for the first time (an entrant) and who intends to apply for admission to the Bar of Texas shall, unless prohibited from filing by these Rules, file with

the Board a Declaration of Intention to Study Law, on a form promulgated by the Board.

(1) The Declaration shall show:

(A) the history, experience, and educational qualifications of the Declarant;

(B) the approved law school in which the Declarant is or was enrolled;

(C) the Declarant's criminal history;

(D) the Declarant's history of mental illness;

(E) the Declarant's history with regard to charges of fraud in any legal proceeding;

(F) the Declarant's involvement in any civil litigation or bankruptcy proceedings;

(G) the Declarant's willingness to take the oath required of attorneys in Texas;

(H) the Declarant's history as to compliance with court orders regarding child support and spousal support;

(I) the Declarant's history regarding re-payment of federally guaranteed student loans;

(J) the Declarant's history regarding the filing of required federal income tax returns and the payment of federal income tax liability;

(K) the Declarant's history regarding payment to the IRS of payroll taxes (s)he collected as an employer of others; and

(L) such other information regarding the Declarant as the Board deems reasonably related to its investigation of the Declarant's moral character and fitness.

(2) The Board may require the Declarant to provide, in addition, such supporting documents relating to the Declarant as the Board deems reasonable.

(3) The Board may also require the Declarant to execute a consent form supplied by the Board, authorizing all persons, firms, officers, corporations, associations, organizations, and institutions to furnish to the Board or any of its authorized representatives, all relevant documents, records, or other information pertaining to the Declarant.

(b) The timely filing deadline for such Declaration, for which no late fees shall be charged, shall be as follows:

Fall entrants, October 1;

Regular spring entrants, May 1;

Spring entrants at quarter-hour law schools, June 1;

Summer entrants, September 15.

(c) Declarations filed with the Board after the timely filing deadline will be accepted with the payment of

applicable late fees as set forth in Rule XVIII, so long as they are filed by the absolute deadline set out in Rule IX(a)(3). However, regardless of the date a Declaration is filed, the Board shall have 270 days from the date the Declaration is filed to conduct its character and fitness investigation and notify the Declarant of the Board's determination, as provided in Rule VIII(a).

(d) Upon receipt of a Declaration, the Board shall note the filing date in its records. Absent a Declarant's written request to retain a Declaration, all Declarations will be destroyed five years after the date of filing if the Declarant has not activated his or her file by applying to take the Texas Bar Examination during that five year period.

(e) The Board shall conduct a complete investigation of the moral character and fitness of the Declarant, including a preliminary investigation before forwarding any Declaration and supporting documentation to any District Committee on Admissions, as provided in Rule VII.

#### **Rule VII**

##### **District Committees on Admission**

(a) The District Committee on Admissions in each Bar District in Texas, appointed by the Supreme Court in accordance with applicable law, shall aid the Board in determining the good moral character and fitness of Declarants, to the extent required by the Board.

(b) The Board shall provide to the Chair of each District Committee on Admissions a list of all Declarations filed by the following persons:

(1) each Texas resident whose Declaration indicates that the Declarant's legal residence, prior to entering law school, was in the geographical area encompassed by such district; and

(2) each person who was not a resident of Texas when (s)he entered law school, whose Declaration indicates that the Declarant entered law school in the geographical area encompassed by such district.

(c) Upon written request of the Chair of such District Committee, the Board shall provide a copy of any person's Declaration, together with the information received in the Board's preliminary investigation. Upon receipt of such Declaration and preliminary information, the District Committee may conduct a personal interview of the Declarant. Such personal interview shall be before not less than five (5) members of the District Committee.

(d) The District Committee is authorized to use all reasonable means to satisfy itself that a Declarant possesses the present good moral character and fitness to practice law;

provided, however, that in all cases, the District Committee shall treat Declarants uniformly and impartially.

(e) The District Committee, upon completion of its investigation, shall file with the Board, within sixty (60) days of its receipt of the Declaration and preliminary investigation, a written report, on forms provided by the Board, as to whether, in the opinion of the Committee, such Declarant possesses the good moral character and fitness to be a candidate for admission to the Bar.

(f) The Board may, during the period of the District Committee's inquiry, provide to the Committee additional information and suggestions for further investigation; may direct the District Committees to employ such practices and procedures as the Board may deem appropriate; and may require the Committee to provide to the Board such reports and information with respect to the work of the District Committee as the Board may determine necessary.

#### **Rule VIII**

##### **Determination of Declarant Character and Fitness**

(a) After completing its own investigation and considering the reports, if any, received from the applicable District Committee on Admissions, the Board shall thereupon determine whether, on all the documentation before it at this stage, the Board is satisfied that the Declarant possesses the good moral character and fitness necessary for admission to the Texas Bar and shall advise the Declarant accordingly, no later than the 270th day after the date the Declaration and fees were filed with the Board. If the determination is that the Declarant does not have the requisite good moral character and fitness, such notice shall include:

(1) a detailed analysis of the results of the investigation; and

(2) an objective list of actions, if any, which the Declarant may take to correct the deficiencies and become qualified for admission to the bar after passing the Texas Bar Examination.

(b) A hearing may be set on any such preliminary negative determination, in accordance with the provisions of Rule XV.

(c) If the Board determines that a Declarant may suffer from chemical dependency, the Board shall direct the Declarant to meet with representatives of the Lawyers Assistance Program of the State Bar of Texas or a similar program of the State Bar, and may require that the Declarant submit to a treatment facility for evaluation.

(d) If the Board determines that a Declarant does

suffer from chemical dependency, the Board shall assist the Declarant in working with the Lawyers Assistance Program of the State Bar of Texas or a similar program of the State Bar in order to address the dependency.

#### **Rule IX**

##### **Application to Take the Texas Bar Examination**

(a) Every Applicant to take the Texas Bar Examination, whether or not such Applicant was required under Rule VI to file a Declaration, shall, unless prohibited from filing by these Rules, file an Application therefore with the Board as follows:

(1) For the February Examination, an Application shall be timely filed if the Board receives the required forms and fees between June 30 and August 30 of the year preceding the examination.

(2) For the July Examination, an Application shall be timely filed if the Board receives the required forms and fees between the preceding November 30 and January 30.

(3) Upon a showing of good cause or to prevent hardship, the Board may permit the Application to be filed later, upon the payment of applicable late fees as set forth in Rule XVIII. Other than as provided in subsection (f) of this Rule or Texas Government Code, Section 82.027, no Applicant shall be eligible to take an examination until such Application has been on file with the Board by the preceding October 30, for the February Examination, or by March 30, for the July Examination.

(b) The Application shall be made on a form furnished by the Board and calling for information reasonably related to a thorough inquiry into the Applicant's good moral character, fitness, legal education and other qualifications required in these Rules. Applicants who have filed a Declaration required under these Rules shall be required to complete the Application with information relating only to the period since the filing of the Declaration.

(c) The Board may require the filing of a Supplemental Investigation Form if:

(1) an Applicant previously filed a Declaration and did not apply to take the Texas Bar Examination within four (4) years of the filing date of the Declaration;

(2) two years have elapsed since the date the initial Application was filed with the Board;

(3) two years have elapsed since the date a previously required Supplemental Investigation Form was filed with the Board; or

(4) in other situations deemed appropriate by the

Board.

(d) The Applicant shall furnish proof satisfactory to the Board of compliance with the law study requirements of Rule III, and no Applicant shall be admitted to the examination until the Board has determined that these requirements have been met.

(e) Upon the filing of an Application, the Board shall note the filing date and shall initiate an investigation of the Applicant. For Applicants who filed a Declaration required under these Rules, the investigation shall cover only the period of time subsequent to the filing of the Declaration, unless other matters relevant to moral character or fitness not previously revealed in such Declaration shall have come to the attention of the Board.

(f) Any Applicant who fails a Texas Bar Examination may take a later examination upon filing a Re-application and payment of the then required fees by January 15, for the February Examination, and by June 15, for the July Examination, **unless** another provision of these Rules requires the filing of a Supplemental Investigation Form, in which case the Applicant must comply with the regular Application deadlines. Late fees shall be waived for any Re-applicant filing between the timely deadline and the Re-application deadline, if such Re-applicant took and failed the most recent examination given.

#### **Rule X**

##### **Determination of Applicant Character and Fitness**

(a) After completing its investigation on the Application, the Board shall determine whether, on all the documentation before it, the Board is satisfied that the Applicant possesses the requisite present good moral character and fitness and shall advise the Applicant accordingly, no later than the 150th day after the date the Application or Re-application and fees were filed with the Board. If the determination is that the Applicant does not have the requisite present good moral character and fitness, such notice shall include:

(1) a detailed analysis of the results of the investigation; and

(2) an objective list of actions, if any, which the Applicant may take to correct the deficiencies and become qualified for admission to the bar after passing the bar examination.

(b) If, after investigation, the Board determines:

(1) that an Applicant may suffer from chemical dependency, the Board shall require the Applicant to submit to a treatment facility for evaluation;

(2) that an Applicant suffers from chemical dependency, the Board shall assist the Applicant in working with the Lawyers Assistance Program of the State Bar of Texas or a similar program of the State Bar.

(c) A hearing may be set on any such preliminary negative determination, in accordance with the provisions of Rule XV.

### **Rule XI Texas Bar Examination**

(a) The Supreme Court, by separate order, has established a list of the subjects for the Texas Bar Examination which shall be open to public inspection at all reasonable times.<sup>1</sup>

(b) The Texas Bar Examination shall be given at such places as the Board may direct.

(c) The Texas Bar Examination shall be given two times each year, beginning on the last Tuesday of the months of February and July, unless the Board otherwise directs.

(d) The approved Applicants for an examination are required to be in attendance at the time and place designated by the Board.

(e) The provisions of this subsection (e) shall apply to each Applicant who takes all portions of the Texas Bar

Examination in February 1994 or thereafter<sup>2</sup>. The Texas Bar Examination shall last two and one-half days and shall consist of the Multistate Performance Test (MPT), given on Tuesday morning; the Procedure and Evidence Questions (P&E), given on Tuesday morning; the Multistate Bar Examination (MBE), given on Wednesday; and the Texas Essay Questions (Essays), given on Thursday. After grading the answers to the MPT, the P&E, and the Essays, the resulting raw scores on each of these portions will be scaled to the Multistate Bar Examination, using the equipercenile method. Scores on the various portions of the examination will be weighted as follows: MPT, 10%; P&E, 10%; MBE, 40%; and Essays, 40%. Applicants who earn a combined scaled score of 675 (out of a possible 1000 points) shall pass the examination.

(f) An Applicant may take no more than five (5) examinations. However, for good cause shown, the Board at its discretion may waive this limitation upon such conditions as the Board may prescribe.

(g) Any Applicant who has failed the examination at least two times may submit a written request, within two

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<sup>2</sup> Through the administration and grade release of the July 1998 Texas Bar Examination any Applicant who has previously taken and passed either Part I or Part II of any Texas Bar Examination given from February 1989 through July 1993 and whose score on such part is still valid (i.e., five years have not passed since the date of the examination in which the part was passed) shall irrevocably designate, at the time of filing his or her first Re-application for any examination given in July 1994 or thereafter, whether (s)he elects to take the complete Texas Bar Examination and have applied to him or her the provisions of this subsection (e), OR whether (s)he elects to carry forward the passing result from a prior examination, subject to the limitations of prior subsection (e) and (f) of this rule. If the latter option is elected, an Applicant opting to take only the MBE and Texas Essay Questions will pass if (s)he earns on those portions scaled scores, which when added together, equal at least 4/5 of the combined scaled score necessary to pass the Texas Bar Examination at the time of the exam being taken. Likewise, an Applicant opting to take only the Procedure & Evidence Questions will pass if (s)he earns a scaled score equal to at least 1/5 of the combined scaled score necessary to pass the Texas Bar Examination at the time of the exam being taken. An Applicant opting to take only a portion of the examination under this clause shall pay the same fees as an Applicant taking the entire examination.

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<sup>1</sup> A list of such subjects, established by the Supreme Court as of the time of publication, is included in Appendix A to these Rules. In the event the Court changes such list, the Board will provide a copy of the revised list upon request.

weeks of the release of the examination results, for a Formal Review of the Applicant's performance on the immediately preceding examination (excluding the multistate portion). Such Formal Review shall take place in Austin, Texas at a time selected by the Board and shall consist of an individual oral review of such examination papers by the examining members of the Board. Regardless of the number of examinations taken, an Applicant may receive only one Formal Review under the provisions of this paragraph, provided, however, that no Applicant may obtain both a Formal Review and Informal Review of the same examination.

(h) Any Applicant who has failed the examination may submit a written request, within two weeks of the release of the examination results, for an Informal Review of the Applicant's performance on his/her failed parts of the immediately preceding examination (excluding the multistate portion). The form of such Informal Review shall be either oral or written, at the discretion of the examining members of the Board. An Applicant may request an Informal Review each time (s)he fails all or part of an examination.

(i) The Board shall keep, for one year from the date of every examination, all failing parts of such examination. The Board shall not be required to keep any passing parts of any examination.

#### **Rule XII Examinees With Disabilities**

(a) The Texas Bar Examination and the Short Form Examination shall be administered to all eligible Applicants in a reasonable manner, while maintaining the integrity of the examination. In each city in which an examination is administered, the Board shall provide facilities that are reasonably accessible and which enable persons having disabilities to take the examination.

(b) Any Applicant who desires special testing accommodations based upon a disability shall submit a written request to the Board on forms designated by the Board, such request to be submitted at the same time as the Application is submitted.

(c) A request for special testing accommodations must be accompanied by written proof evidencing the existence of the disability. Statements from licensed physicians or a professional specialist that specifically set forth the physical, mental or emotional handicap or disability and the relationship between the disability and the inability to take the examination under standard conditions shall be required. The Board may require additional information or evidence

from the Applicant and may, at its option, seek professional evaluation of such data. The Applicant will be responsible for the cost of obtaining documented medical evidence and other required information.

(d) After considering the written request of the Applicant and the evidence submitted, the Board shall determine what reasonable special testing accommodations will be granted.

#### **Rule XIII Attorneys From Other Jurisdictions**

(a) An attorney holding a valid law license issued by another state shall meet the requirements imposed on any other Applicant under these Rules, unless such attorney qualifies under one of the following exceptions:

(1) Such attorney is eligible for admission without examination, if the attorney:

(A) at the time the Texas law license is issued, meets the requirements of Rule II(a)(5);

(B) satisfies the Board of his/her good moral character and fitness after furnishing to the Board such evidence as the Board may require;

(C) has been actively and substantially engaged in the lawful practice of law in any state as his/her principal business or occupation for at least five of the last seven years immediately preceding the filing of the Application;

(D) has a J.D. degree from an approved law school; and

(E) has failed neither the last Texas Bar Examination taken in Texas, nor the last Short Form Examination taken in Texas.

(2) An attorney who does not meet the criteria for admission without examination set out above is eligible for admission after passing the **Short Form Examination**<sup>3</sup>, if the attorney:

(A) at the time the Texas law license is issued, meets the requirements of Rule II(a)(5);

(B) satisfies the Board of his/her good moral character and fitness after furnishing to the Board such evidence as the Board may require;

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<sup>3</sup> The Short Form Examination shall cover the areas of the Texas substantive law and procedure which the Board may determine advisable. Any Applicant who fails the Short Form Examination twice shall thereafter be required to pass the Texas Bar Examination as provided in Rule XI.

(C) has not failed the last Texas Bar Examination taken;

(D) has not failed the last bar examination taken in any other state;

(E) has not failed the last short form examination (sometimes known as attorney's exam) in any other state: **and**

(F) meets one of the following requirements:

(i) has a J.D. degree from an approved law school **and** has been actively and substantially engaged in the lawful practice of law in any State as his/her principal business or occupation for at least three of the last five years immediately preceding the filing of the Application; or

(ii) has a J.D. degree, which is not based on study by correspondence, from an unapproved law school **and** has been actively and substantially engaged in the lawful practice of law as his/her principal business or occupation for at least five of the last seven years immediately preceding the filing of the Application.

(3) An attorney who does not meet the criteria set out above for admission after passing the Short Form Examination is eligible for admission after passing the **Texas Bar Examination**, if the attorney:

(A) at the time the Texas law license is issued, meets the requirements of Rule II(a)(5);

(B) satisfies the Board of his/her good moral character and fitness after furnishing to the Board such evidence as the Board may require;

(C) has a J.D. degree, which is not based on study by correspondence, from an unapproved law school: **and**

(D) has been actively and substantially engaged in the lawful practice of law in any State as his/her principal business or occupation for at least three of the last five years immediately preceding the filing of the Application.

(b) An Attorney holding a *valid* law license issued by a foreign nation is eligible for admission after passing the Texas Bar Examination and after meeting all other requirements for admission imposed on any other Applicant under these Rules, **except that**:

(1) The attorney is deemed to have fulfilled the law study requirement without the attorney holding a J.D. degree from an approved law school upon proof of active and substantial engagement in the lawful practice of law in such foreign nation as his/her principal business or occupation for at least five of the last seven years

immediately preceding the filing of the application, if such attorney:

(A) has been licensed, for at least five years, to practice law in the highest court of the foreign nation;

(B) holds the equivalent of a J.D. degree, which is not based on study by correspondence, from a law school accredited in the jurisdiction where it exists and which requires the equivalent of a three-year course of study, which is the substantial equivalent of the legal education provided by an approved law school: **and**

(C) meets one of the following criteria:

(i) demonstrates to the Board that the law of such foreign nation is sufficiently comparable to the law of Texas that, in the judgment of the Board, it enables the foreign attorney to become a competent attorney in Texas without additional formal legal education; **or**

(ii) holds an L.L.M. from an approved law school.

(2) The attorney is deemed to have fulfilled the law study requirement without the attorney holding a J. D. degree from an approved law school upon proof of active and substantial engagement in the lawful practice of law in such foreign nation as his/her principal business or occupation for at least three of the last five years immediately preceding the filing of the Application, if such attorney:

(A) has been licensed, for at least three years to practice law in the highest court of the foreign nation;

(B) holds the equivalent of a J.D. degree, which is not based on study by correspondence, from a law school accredited in the jurisdiction where it exists and which requires the equivalent of a three-year course of study that is the substantial equivalent of the legal education provided by an approved law school;

(C) demonstrates to the Board that the law of such foreign nation is sufficiently comparable to the law of Texas that, in the judgment of the Board, it enables the foreign attorney to become a competent attorney in Texas without additional formal legal education: **and**

(D) holds an L.L.M. from an approved law school.

(c) An attorney applying under this Rule XIII shall furnish to the Board such proof of his/her active and substantial engagement in the practice of law as his/her principal business as the Board may require.

(1) The phrase practice of law shall include:

(A) private practice as a sole practitioner or

for a law firm, legal services office, legal clinic, public agency, or similar entity;

(B) practice as an attorney for an individual, a corporation, partnership, trust, or other entity, with the primary duties of furnishing legal counsel and advice, drafting and interpreting legal documents and pleadings, interpreting and giving advice regarding the law, or preparing, trying or presenting cases before courts, departments of government or administrative agencies;

(C) practice as an attorney for local, state, or federal government, with the same primary duties described in the preceding subsection;

(D) employment as a judge, magistrate, referee, or similar official for the local, state, or federal government, provided that such employment is open only to licensed attorneys;

(E) employment as a full-time teacher of law at a law school approved by the American Bar Association;

(F) any combination of the preceding categories.

(2) The requirement of active and substantial engagement in the practice of law as his/her principal business or occupation cannot be satisfied with practice by a non-resident attorney under Rule XIX.

(d) Any attorney applying and qualifying under this Rule XIII is required to take and pass the Multistate Professional Responsibility Examination (MPRE) as required under Rule V.

#### **Rule XIV Foreign Legal Consultants**

(a) A Foreign Legal Consultant is a person who:

(1) has been, and is currently, admitted to practice law in a foreign country, and while so admitted, has engaged in the practice of law in that country for a period of not less than five of the seven years immediately preceding the date of Application and has been in good standing as an attorney or counselor at law or the equivalent in that country throughout the period of such admission; and

(2) possesses the good moral character and fitness requisite for admission to the Bar of Texas; and

(3) is an actual resident of Texas; and

(4) is over twenty-six (26) years of age; and

(5) possesses the requisite documentation evidencing compliance with the immigration laws of the United States; and

(6) has been issued a Certificate of Registration

as Foreign Legal Consultant, which certificate is in current status.

(b) An Applicant for a Certificate of Registration as a Foreign Legal Consultant shall file an Application with the Board on a form furnished by the Board accompanied by the requisite fee. Such Application shall include, but not be limited to:

(1) a certificate from the authority in such foreign country having final jurisdiction over professional admission and discipline, certifying as to the Applicants admission to practice and the date thereof and as to his or her good standing as such attorney or counselor at law or the equivalent, together with a duly authenticated English translation of such certificate if it is not in English; and

(2) 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 intermediate appellate court of such foreign country, together with a duly authenticated English translation of such letter if it is not in English; and

(3) such other evidence as to the Applicants educational and professional qualifications, required practice, and good moral character and fitness; and

(4) documentation in duly authenticated form evidencing that the Applicant is lawfully entitled to reside and be employed in the United States of America pursuant to the immigration laws thereof; and

(5) a duly acknowledged instrument in writing setting forth the Applicant's address of actual residence in the State of Texas and designating an agent for service in Texas upon whom process may be served, with like effect as if served personally upon the Applicant, in any action or proceeding thereafter brought against the Applicant and arising out of or based upon any legal services rendered or offered to be rendered by the Applicant within or to residents of the State of Texas whenever, after due diligence, service cannot be made upon the Applicant at such address or at such new address as filed by a supplemental instrument; and

(6) in such amount as the Board may prescribe, evidence of professional liability insurance or such other proof of financial responsibility as the Board may require, to assure the Applicants proper professional conduct and responsibility; and

(7) a duly acknowledged statement affirming that the Board will be immediately advised of any law suit brought against the Applicant which arises out of or is based upon any legal services rendered or offered to be rendered by the Applicant within Texas.

(c) The Board shall investigate the qualifications,

moral character, and fitness of any Applicant for a certificate, and may require the Applicant to submit any additional proof or information which the Board deems appropriate.

(1) The Applicant shall disclose all past charges of professional misconduct and shall show that the Applicant has never been disbarred or had his or her license suspended and that there are no charges of misconduct pending against Applicant, and so far as the Applicant knows none are being threatened.

(2) Upon a showing that strict compliance with the provisions of (b)(1) or (2) of this Rule is impossible or very difficult for reasons beyond the control of the Applicant, the Board may in its discretion, waive or vary the Application of such provisions and permit the Applicant to submit other evidence.

(3) Upon completion of its investigation, if the Board determines that the Applicant possesses all the qualifications set forth in paragraph (a) of this Rule, the Board shall recommend to the Court the issuance of a Certificate of Registration as a Foreign Legal Consultant.

(d) The Certificate of Registration as a Foreign Legal Consultant shall be valid for one year, unless revoked for good cause shown, and may be renewed upon the filing of an annual request, which shall be accompanied by payment of the annual renewal fee and such evidence as the Board shall deem necessary that all requirements for the issuance of an original Certificate continue to be met.

(e) Certified Foreign Legal Consultants shall be subject to control by the Supreme Court of Texas and to censure, suspension, removal or revocation of the Certificate of Registration in accordance with the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct applicable to members of the State Bar of Texas.

(f) Each Applicant, prior to the issuance of the Certificate of Registration, shall execute and file with the Supreme Court of Texas an oath in the form prescribed attesting that the Foreign Legal Consultant will abide by the rules and regulations applicable to such Certified Foreign Legal Consultant.

(g) A Foreign Legal Consultant may render legal services and give professional legal advice only on the law of the foreign country where the legal consultant is admitted to practice, subject, however, to the limitations that such person shall not:

(1) appear for a person other than himself as attorney in any Court, before any magistrate or other judicial officer, or before any administrative agency in Texas or

prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any such Court, before any such magistrate or other judicial officer, or before any such administrative agency; or

(2) prepare any deed, mortgage, assignment, discharge, lease, trust instrument, or any other instrument affecting title to real estate located in the United States; or

(3) prepare:

(A) any will or trust instrument affecting the disposition on death of any property located in the United States; or

(B) any instrument relating to the administration of a decedent's estate in the United States; or

(4) prepare any instrument in respect to the marital relations, rights or duties of a resident of the United States or the custody or care of the children of such a resident; or

(5) otherwise render professional legal services or advice on the law of the State of Texas or of the United States or of any other jurisdiction (domestic or foreign) in which such person is not authorized to practice law (whether rendered incident to the preparation of legal instruments or otherwise); or

(6) in any way hold himself out as an attorney licensed in Texas, as a member of the State Bar of Texas, or as an attorney licensed in any United States jurisdiction, unless actually so licensed; or

(7) use any title other than Foreign Legal Consultant, or his or her authorized title and/or firm name in the foreign country of his admission to practice, in each case in conjunction with the name of such foreign country.

## **Rule XV Hearings**

(a) The Board shall set a time and place for a public hearing on the question of the requisite moral character and fitness of an Applicant or Declarant, under the following circumstances:

(1) When any Applicant or Declarant who is the subject of a preliminary negative character and fitness determination files a written request for such a hearing within thirty (30) days of his or her receipt of the Board's letter containing the notice of such determination; or

(2) When the Board determines that, in the interest of fairness, such a hearing is necessary regardless of whether the Declarant or Applicant files a timely request for hearing.

(b) If there are pending proceedings involving the



Declarant or Applicant, the resolution of which could impact the determination of his/her character and fitness, the Board may exercise its discretion to defer the hearing until such time as the pending proceeding is resolved.

(c) The Applicant or Declarant shall be given reasonable notice, by registered or certified mail, return receipt requested, of the time and place of the hearing.

(d) An Applicant or Declarant, either before or after receiving notice of a hearing, may agree to waive the hearing, stipulate to the facts regarding good moral character and fitness, and allow the Board to proceed with making a final determination as to the Applicant's moral character and fitness under these Rules. An Applicant may additionally agree to a Probationary License and to any conditions imposed by the Board to protect the public.

(e) At the hearing:

(1) The Board or any opponent of approval of the moral character and fitness of the Applicant or Declarant, shall have the burden of proof and be required to present evidence that the Applicant or Declarant does not have the requisite good moral character or fitness. Upon the admission of such evidence, the burden of proof shall shift to the Applicant or Declarant to show that the Applicant possesses good moral character and fitness as defined in these Rules. However, in a redetermination hearing on a Probationary License, the burden of proof shall be on the Probationary Licensee to demonstrate that (s)he has complied with the conditions of the Probationary License.

(2) The Applicant or Declarant shall be given the opportunity to be present in person and by attorney, to present evidence, to confront and to cross-examine adverse witnesses, and to present argument to the Board on the issues of law and fact; provided, however, that evidence otherwise inadmissible may be admitted if the evidence is of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(3) Evidence and argument for or against the Declarant or Applicant may be presented by the Board or any other interested party.

(f) In connection with hearings conducted under this Rule, the Board shall have the authority to administer oaths, issue subpoenas, take depositions, and employ court reporters.

(g) After the hearing, in closed deliberations, the Board may:

(1) determine that an Applicant or Declarant has the requisite present good moral character and fitness and, in the case of an Applicant, should be recommended for admission to the Texas Bar;

(2) determine that a Declarant should be granted conditional approval of his or her present good moral character and fitness and be required to meet such conditions as the Board deems appropriate;

(3) determine that an Applicant should be granted conditional approval of his or her present good moral character and fitness and be recommended for a Probationary License subject to the terms of Rule XVI, after meeting all other requirements of these Rules;

(4) determine that an Applicant or Declarant does not possess the requisite present good moral character and fitness required for admission to the Texas Bar; or

(5) defer a decision until such time as the Board has the opportunity to consider further information, evaluations, or documentation as deemed necessary by the Board;

(6) in the case of either a temporary or probationary license, recommend to the Supreme Court that the license should be renewed in its present form, renewed with additional or amended conditions, or revoked and no regular license be issued.

(h) Within a reasonable period of time after the decision is made, the Board shall furnish to the Applicant or Declarant a written order setting forth the decision of the Board. If the decision is adverse, such order shall specify the bases of the Board's determination and shall include an objective list of actions, if any, the Applicant or Declarant may take to become qualified for a license to practice law in Texas. Any such order containing a determination that the Applicant or Declarant suffers from chemical dependency shall include provisions setting out the rights under Section 82.038, Texas Government Code.

(i) An individual who has been the subject of a Board order containing a negative character and fitness determination may petition the Board in writing for a redetermination hearing on the issue of character and fitness, as follows:

(1) No petition for redetermination may be filed earlier than the date specified in the Board's order (or if none, then no earlier than twelve months from the date of the hearing), nor more often than once every twelve months.

(2) Such individual shall have the burden of proof as to rehabilitation and the possession of present good moral character and fitness.

(3) Such individual shall complete and file with the Board a Supplemental Investigation Form and pay the requisite fees therefore within thirty (30) days of the filing of the redetermination petition.

(4) This subsection (h) shall not apply to

character and fitness redeterminations in Probationary License cases, which are governed under the provisions of Rule XVI.

(j) The following provisions shall govern judicial review of the Board's decisions:

(1) The affected Applicant or Declarant shall institute, in the district courts of Travis County, Texas proceedings for review of such decision within sixty (60) days after the date the written decision is mailed to the Applicant.

(2) The petition for review shall name the Board as defendant and shall be served on the Executive Director of the Board.

(3) After service of such petition, and within the time permitted for filing an answer, the Board shall file with the district court a certified copy of the record of the Boards proceedings.

(4) The review of the Board's decision shall be tried by the court without a jury.

(5) The court shall determine from the certified record on file whether or not the Boards decision is reasonably supported by substantial evidence. The reviewing court may affirm the action complained of or remand the matter to the Board for further proceedings.

(6) Appeals from any final judgment of the court may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the Board.

(k) The Board shall have the authority to adopt such other rules of procedure for hearings, not inconsistent with these Rules, as the Board deems necessary or appropriate to implement these Rules.

(l) The Board may assess costs against any Declarant or Applicant who has been sent reasonable notice of a hearing before the Board and who does not appear.

### **Rule XVI Probationary Licenses**

(a) The Board shall have the authority to grant conditional approval of the present good moral character and fitness of an Applicant and to recommend the granting of a Probationary License, after the Applicant meets all other requirements under these Rules, in the following circumstances:

(1) when the Board determines that the Applicant suffers from chemical dependency or has been convicted of, or is on probation for, a first offense of driving while intoxicated under Article 6701/-1, V.T.C.A.; or

(2) in other circumstances in which, on the record before it, the Board determines that the protection of the public requires the temporary monitoring of the Applicant in question.

(b) The Board shall not have the authority to refuse to recommend the granting of a Probationary License to an Applicant who has passed the applicable bar examination **solely** because the Applicant suffers from chemical dependency or has been convicted for a first offense for driving while intoxicated under Article 6701/-1, V.T.C.A.

(c) In any order recommending the issuance of a Probationary License to practice law, the Board shall specify the conditions of the license, which may include, but are not limited to, the following:

(1) prohibiting the use of alcohol or controlled substances;

(2) requiring treatment for chemical dependency;

(3) requiring the individual to practice law under the supervision of an attorney admitted to the Texas Bar;

(4) requiring submission to periodic, random drug testing;

(5) requiring the individual to report periodically to the Board;

(6) requiring suspension, for any portion of the probationary period, of an activity for which a license to practice law is required;

(7) requiring the individual to reside continuously in Texas during the period of the Probationary License, unless for good cause shown, the Board waives such requirement; or

(8) requiring the individual to take specific actions designed to cure or end any deficiencies in his or her moral character and fitness, as determined by the Board.

(d) Probationary Licenses shall expire as follows:

(1) A Probationary License issued solely because of the Board's determination that the individual suffers from chemical dependency shall expire on the second anniversary of the date on which it is issued, unless temporarily extended hereunder.

(2) Any other Probationary License shall expire on the date specified by the Board in the Order recommending issuance of the Probationary License, unless temporarily extended hereunder.

(3) The term of a Probationary License may be temporarily extended, upon the request of the Probationary Licensee, in the event that the normal expiration date falls before the Board has had the opportunity to make a redetermination as provided hereunder.

(e) A Probationary Licensee may apply for a renewal of the Probationary License or for a regular license to practice law, by filing a written request therefore, at least sixty (60) days prior to the expiration date of the Probationary License.

(f) The Board shall require any Probationary Licensee issued a Probationary License because of a determination of chemical dependency, prior to the redetermination hearing, to submit to an evaluation, at the sole cost of the Probationary Licensee, by a treatment facility approved by the Board.

(g) After a hearing held subject to the provisions of Rule XV herein on the redetermination of the character and fitness of a Probationary Licensee, the Board may:

(1) recommend, upon a finding of the requisite good moral character and fitness, the issuance of a regular license to practice law in Texas; provided, however, that in any case in which a Probationary License was issued on the basis of chemical dependency, the Board shall not recommend the Probationary Licensee for regular admission until the Board finds that the Probationary Licensee has successfully completed treatment and has been free from chemical dependency for the preceding two years;

(2) recommend, upon a finding that a condition of the Probationary License has been violated:

(A) extension of the Probationary License;

or  
(B) termination or immediate revocation of the Probationary License.

(h) The Board shall initiate and maintain a working relationship with the Lawyers Assistance Program or similar program of the State Bar of Texas in order to provide for the evaluation and referral to treatment for those persons issued a Probationary License hereunder. The treatment and professional evaluation shall be at the sole expense of the Probationary Licensee.

**Rule XVII**

**Issuance of License Certificates and Cancellation of License Unlawfully Obtained**

(a) Upon an Applicant's becoming entitled to a license under these Rules, the Board shall certify such Applicant to the Supreme Court, whose Clerk shall thereupon issue the corresponding license in the form of a written certificate. The license shall be issued only in the name as shown on the Applicant's birth certificate or as changed by the final order of a court of competent jurisdiction or by marriage, except that a given name may be

omitted or represented by initial if the Applicant so requests in writing. No license shall be issued using an alias, assumed name, nickname, or abbreviation of a name.

(b) All law licenses are issued upon the condition that the Applicant has faithfully complied with these Rules. If at any time it appears that an Applicant has obtained a license fraudulently or by willful failure to comply with these Rules, after notice and hearing, the Board may recommend to the Supreme Court that such license be withdrawn and canceled, and the name of the license holder stricken from the roll of attorneys.

(c) No license issued hereunder shall be valid unless the Applicant named therein has paid the required fees and has enrolled in the State Bar of Texas in compliance with the State Bar Rules.

(d) The license certificate belongs to the Supreme Court of Texas and shall be surrendered to the Court upon proper demand.

**Rule XVIII**

**Fees**

(a) The following provisions shall govern the fees charged by the Board:

**FEES RELATING TO DECLARATIONS**

Declaration Investigation Fee .....\$125

Late Filing Fee .....\$150

Fee for Check Returned for Insufficient Funds.....\$ 25

**FEES RELATING TO ELIGIBILITY & EXAMINATIONS**

Texas law student:

\$ 150 Application & Examination Fee

Out-of-state law student:

\$ 150 Application & Examination Fee

150 Investigation Fee

\$ 300

Attorneys licensed in another state for less than one year:

\$ 275 Application Fee

150 Examination Fee

150 Investigation Fee

\$ 575

Attorneys licensed in another state for one year or more (unless a full-time professor in a Texas approved law school OR unless qualified for admission without examination):

\$ 575 Application Fee  
 150 Examination Fee  
150 Investigation Fee  
 \$ 875

Full-time professor in approved Texas law school, unless qualified for admission without examination:

\$ 350 Application Fee  
 150 Examination Fee  
150 Investigation Fee  
 \$ 650

Attorneys qualified for admission without examination under Rule XIII (unless a full-time professor in approved Texas law school):

\$ 625 Application Fee  
150 Investigation Fee  
 \$ 775

Full-time professor in approved Texas law school, qualified for admission without examination:

\$ 400 Application Fee  
150 Investigation Fee  
 \$ 550

Foreign nation attorney:

\$ 575 Application Fee  
 150 Examination Fee  
 150 Investigation Fee  
100 Foreign Nation Inquiry Fee  
 \$ 975

Foreign Legal Consultant:

\$ 700 Application Fee  
 150 Investigation Fee  
100 Foreign Nation Inquiry Fee  
 \$ 950

Foreign Legal Consultant Re-Application Fee:

\$ 150 Re-Application Fee  
150 Supplemental Investigation Fee  
 (every second renewal year only)  
 \$ 300 (\$150 in alternate years)

Supplemental Investigation Fee

(as required under Rule IX) .....\$150

Miscellaneous Fees:

Late Filing Fee .....\$150  
 Re-application Fee .....\$150  
 Fee for Check Returned for Insufficient Funds .....\$ 25  
 MBE Transfer Fee .....\$ 15

(b) No refund of fees will be made in the event of the withdrawal of any Declaration or Application, nor in the event a determination is made by the Board that the Applicant or Declarant does not meet the requirements imposed under these Rules.

(c) Any fee required under these Rules may be waived or lowered by the Board upon written request and proof of indigency.

### Rule XIX

#### Requirements for Participation in Texas Proceedings by a Non-Resident Attorney

(a) A reputable attorney, licensed in another state but not in Texas, who resides outside of Texas may seek permission to participate in the proceedings of any particular cause in a Texas court by filing with the applicable court a written, sworn motion requesting permission to participate. The motion shall contain:

(1) the office address, telephone number, and, if available, the telecopier number of the non-resident attorney movant;

(2) the name and State Bar card number of an attorney licensed in Texas, with whom the non-resident attorney will be associated in the Texas proceedings, and that attorney's office address, telephone number, and, if available, telecopier number;

(3) a list of all cases and causes, including cause number and caption, in Texas courts in which the non-resident attorney has appeared or sought leave to appear or participate within the past two years;

(4) a list of jurisdictions in which the non-resident attorney is licensed, including federal courts, and a statement that the non-resident attorney is or is not an active member in good standing in each of those jurisdictions;

(5) a statement that the non-resident attorney has or has not been the subject of disciplinary action by the Bar or courts of any jurisdiction in which the attorney is licensed within the preceding five (5) years, and a description of any such disciplinary actions;

(6) a statement that the non-resident attorney has or has not been denied admission to the courts of any State or to any federal court during the preceding five (5) years;

(7) a statement that the non-resident attorney is familiar with the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct governing the conduct of members of the State Bar of Texas, and will at all times abide by and comply with the same so long as such Texas proceeding is pending and said Applicant has not withdrawn as counsel therein.

(b) The motion of the non-resident attorney seeking permission to participate in Texas proceedings shall be accompanied by motion of the resident practicing Texas attorney with whom the non-resident attorney shall be associated in the proceeding of a particular cause, which motion shall contain a statement that the resident attorney finds the Applicant to be a reputable attorney and recommends that the Applicant be granted permission to participate in the particular proceeding before the court.

(c) The court may examine the non-resident attorney to determine that the non-resident attorney is aware of and will observe the ethical standards required of attorneys licensed in Texas and to determine whether the non-resident attorney is appearing in courts in Texas on a frequent basis. If the court determines that the non-resident attorney is not a reputable attorney who will observe the ethical standards required of Texas attorneys, that the non-resident attorney has been appearing in courts in Texas on a frequent basis, that the non-resident attorney has been engaging in the unauthorized practice of law in the state of Texas, that other good cause exists, the court or hearing officer may deny the motion.

(d) If, after being granted permission to participate in the proceedings of any particular cause in Texas, the non-resident attorney engages in professional misconduct as that term is defined by the State Bar Act, the State Bar Rules, or the Texas Disciplinary Rules of Professional Conduct, the court may revoke such non-resident attorneys permission to participate in the Texas proceedings and may cite the non-resident attorney as for contempt. In addition, the court may refer the matter to the Grievance Committee of the Bar District wherein the court is located for such action by the Committee as it deems necessary and desirable.

(e) The filing of a motion under this Rule shall constitute submission to the jurisdiction of the Grievance Committee for the District wherein the court is located. The county in which the court is located shall be considered the county of residence of said non-resident attorney for purpose of determining venue in any disciplinary action involving

said attorney.

## **Rule XX Organizational and Miscellaneous Powers of the Board**

(a) Upon completion of the tabulation of grades given on an examination and approval of such tabulation by the Chairman, the grades shall be mailed to the examinees at the addresses given on their Applications. The Deans of the Law Schools in the State of Texas shall be furnished a list of the candidates passing the Bar examination after release of results to the individual candidates. Prior to mailing grades to examinees, no grades shall be given by the Board by telephone to any person, nor shall any Board member or employee of the Board give grades in person to an examinee or anyone inquiring on behalf of an examinee.

(b) Unless the Court designates the member of the Board who shall serve as Chairman, the Board shall have authority to select a Chairman. The Board shall select other officers from its own membership, assign their respective duties, may delegate power and authority to one or more of its members, and shall have authority to formulate the procedure of the Board.

(c) The Board shall keep and maintain its files on Declarants and Applicants until such time as their destruction is authorized, as follows:

(1) Files in which a regular license has been issued shall be destroyed five (5) years from the date the license was issued.

(2) Files in which a Probationary License has been issued but no Regular License has been issued shall be destroyed ten (10) years from the date of the last formal activity on the file (i.e., petition for redetermination, hearing, order, expiration of last term of probationary license, issuance of regular license following redetermination hearing, etc.).

(3) Files in which a Declaration, but not an Application, has been filed shall be destroyed five (5) years from the date the Declaration was filed.

(4) Files in which an Application has been filed, but no Regular or Probationary License issued, shall be destroyed five (5) years from the date of the last formal activity on the file (i.e., Re-Application, examination, hearing, petition for redetermination, etc.), after inputting into the Board's computer data base pertinent and necessary data contained therein.

(d) Insofar as may be consistent with these Rules, the Board is authorized to make all reasonable regulations.

including written interpretations of general application with respect to these Rules or provisions of general application for relevant subjects not covered by these Rules. The Board may also prescribe forms and certificates to be executed by Applicants for admission to the Texas Bar, whether for a first license to practice law or as a practicing attorney of another jurisdiction, or certificates or other forms to be executed by or on behalf of the Board itself.

(e) The Board is given discretion in the interpretation and application of these Rules. For good cause shown to the satisfaction of the Board, upon written request, waivers of specific requirements described in these Rules may be granted, unless it appears therefrom that no exceptions are contemplated by the Supreme Court.

(f) The Board may, in conjunction with its investigation of moral character and fitness or the administration of the bar examination, require Declarants and Applicants to furnish a complete set of fingerprints.

(g) The Board may delegate its duties to a panel of the Board or to the staff, as necessary and where not prohibited by law; provided, however, that the Board shall not delegate to staff its authority to make final determinations that an Applicant or Declarant lacks the requisite good moral character and fitness.

(h) The Supreme Court hereby creates the Board of Law Examiners Fund which shall be comprised of all fees and monies received and interest earned by the Board and shall be used by the Board to administer the functions of the Supreme Court and the Board relating to the licensing of lawyers as directed by the Court. The Fund shall be maintained in one or more financial institutions in Texas, as designated by the Board.

(i) The Board shall have full power to contract for the performance of all of its functions, and any person dealing or contracting with the Board shall be conclusively entitled to rely upon the Board's written determination that the expense thus incurred or contracted is for a proper function of the Board.

(j) The disbursement of funds shall be according to such rules, regulations and budgets as the Board may adopt. The Board shall keep a full record of such receipts and disbursements.

## Appendix A

### Texas Bar Examination Subjects

#### TOPICS COVERED THROUGH FEBRUARY 1999 EXAM

##### *Multistate Subjects*

- Constitutional law
- Contracts
- Criminal law
- Evidence
- Real Property
- Torts

##### *Multistate Performance Test*

Beginning with the February 1998 examination, the Texas Bar Examination will include the Multistate Performance Test (MPT), a skills test designed to assess the examinee's ability to use fundamental lawyering skills in a realistic situation. During the test, each examinee will receive a "file" of source documents and a "library" of cases, statutes, and rules. Using these materials, the examinee will be required to perform an assigned lawyering task, such as writing a memorandum to a supervising attorney, a letter to a client, a contract provision, a proposal for settlement, or a closing argument. Sample MPT exams may be purchased from the National Conference of Bar Examiners, which may be contacted by calling (312) 641-2052.

##### *Texas Essay Subjects*

- Oil and gas
- Uniform Commercial Code
- Business associations (including corporations, agency and partnerships)
- Family law
- Trusts (including resulting and constructive trusts)
- Wills and administration

##### *Procedure And Evidence Subjects*

- Civil procedure (including Federal and Texas court jurisdiction, pleading and practice)
- Criminal procedure
- Evidence

## Appendix B

### Outline of New Subjects to be Added to the Texas Bar Examination, Effective July 1999

#### TOPICS COVERED BEGINNING WITH JULY 1999 EXAM

##### *Multistate Subjects*

- Constitutional law
- Contracts
- Criminal law
- Evidence
- Real property
- Torts

##### *Multistate Performance Test*

Beginning with the February 1998 examination, the Texas Bar Examination will include the Multistate Performance Test (MPT), a skills test designed to assess the examinee's ability to use fundamental lawyering skills in a realistic situation. During the test, each examinee will receive a "file" of source documents and a "library" of cases, statutes, and rules. Using these materials, the examinee will be required to perform an assigned lawyering task, such as writing a memorandum to a supervising attorney, a letter to a client, a contract provision, a proposal for settlement, or a closing argument. Sample MPT exams may be purchased from the National Conference of Bar Examiners, which may be contacted by calling (312) 641-2052.

##### *Texas Essay Subjects*

- Business associations, including agency, corporations, partnerships, limited liability companies and professional associations
- Trusts and guardianships
- Wills and administration
- Family law
- Uniform Commercial Code
- Consumer rights, including DTPA and insurance
- Real property, including oil and gas

##### *Cross-Over Topics*

- Income, estate, and gift tax issues, to be included where appropriate, as an element of questions in other subjects, such as family law, oil and gas, wills, etc.
- Bankruptcy, to be included where appropriate, as an element of questions in other subjects, such as family law, wills and estates, real property, etc.

##### *Procedure And Evidence Subjects*

- Texas civil procedure and evidence, including jurisdiction
- Federal and Texas criminal procedure and evidence

#### I. Consumer Rights

- A. Texas and federal debt collection acts: Federal Fair Debt Collection Practices Act and Texas Debt Collection Practices Act
- B. Texas Deceptive Trade Practices - Consumer Protection Act (DTPA)
- C. Other Texas statutes specifically providing that a violation of the statute is likewise a violation of the DTPA, including:
  1. Texas Revised Civil Statutes Annotated Article 5069, Ch. 13 (Home Solicitation Transactions)
  2. Texas Revised Civil Statutes Annotated Article 5069, Ch. 16 (Business Opportunity Act)
  3. Texas Revised Civil Statutes Annotated Article 5069, Ch. 18 (Telephone Solicitation)
- D. Insurance law issues, including:
  1. Texas Insurance Code, Articles 21.21 and 21.55, and the insurer's common law duty of good faith and fair dealing
  2. Basic rights and obligations as between insurer and insured arising from standard policies as well as statute and common law

#### II. Real Property

- A. Homesteads
- B. Conveyances
- C. Types of estates
- D. Statute of frauds
- E. Limitations and adverse possession
- F. Essential terms
- G. Liens, including:
  1. Mechanics' liens
  2. Deeds of trust and vendors' liens
  3. Foreclosure
- H. Landlord and tenant
- I. Oil and gas

- III. Guardianship (as a new component of the Trusts and Guardianship topic)
  - A. Jurisdiction and venue
  - B. Appointment and qualification of guardian
  - C. Administration of guardianship
  - D. Compensation
  - E. Role of guardian ad litem
- IV. Taxation, as a cross-over topic, to be included where appropriate, as an element of questions in other subjects, such as family law, oil and gas, trusts, wills and estates, etc.
- V. Bankruptcy, as a cross-over topic, to be included where appropriate as an element of questions in other subjects, such as family law, wills and estates, real property, etc.

## Appendix C

### Short Form Examination Outline

Attorneys eligible for the Short Form Examination should be prepared for testing on Texas substantive law and procedure, including but not limited to the following areas, and should review the appropriate provisions of the Texas Constitution, statutes, and rules:

- I. Original, concurrent, and appellate jurisdiction of Texas courts:
  - A. District courts
  - B. County courts
  - C. Courts of appeals
  - D. Supreme court
  - E. Other courts, including:
    - 1. Justice courts
    - 2. Municipal courts
    - 3. Small claims courts
    - 4. Probate courts
    - 5. Family district courts
- II. Texas Rules of Civil Procedure
  - A. General rules
  - B. Rules of practice in district and county courts
  - C. Rules of practice in justice courts
  - D. Rules relating to ancillary proceedings
  - E. Rules relating to special proceedings
- III. Texas Rules of Appellate Procedure
- IV. Texas Rules of Evidence
- V. Venue
- VI. Service of process upon foreign corporations and non-residents
- VII. Receivers
- VIII. Injunctions -- Civil Practice and Remedies Code
- IX. Husband and wife -- Family Code
  - A. The marriage relationship
  - B. Property rights and liabilities



- X. Parent and child -- Family Code
  - A. The parent-child relationship
  - B. Suit affecting the parent-child relationship
  - C. Miscellaneous provisions
- XI. Homesteads and homestead rights -- Property Code: Family Code
  - A. Definition of family and business homesteads
  - B. Amount and value of homesteads; uses
  - C. Protection of homestead from forced sale; mortgages; trust deeds and liens
  - D. Mechanic's liens on homesteads
  - E. Sale, conveyance, or encumbrance of homestead
  - F. Descent and distribution of homestead; restrictions on partition
  - G. Personal property exempt from satisfaction of liabilities
- XII. Business associations
  - A. Texas Business Corporation Act
  - B. Texas Miscellaneous Corporation Laws Act
  - C. Texas Uniform Partnership Act
  - D. Texas Revised Limited Partnership Act
  - E. Texas Limited Liability Company Act
  - F. Texas Revised Partnership Act
- XIII. Conveyances -- Property Code, including, but not limited to the following:
  - A. Instruments of conveyance
  - B. Fee simple estate
  - C. Abolition of rule in Shelly's case, rule forbidding remainder to grantor's heirs, and doctrine of worthier title
  - D. Form of conveyance
  - E. Other covenants and clauses
  - F. Invalidity of deed restrictions based on race, color, religion or national origin
  - G. Execution and acknowledgment
  - H. Estate in futuro
  - I. Implied covenants
  - J. Encumbrances
  - K. Condominium Act
  - L. Mortgages, vendor's liens and deeds of trust
  - M. Sales under deed of trust
  - N. Acknowledgments and proof for record
  - O. Effect of recording
  - P. Validity of deed, etc., against subsequent creditors

- XIV. Trusts, wills, and administration -- Probate Code; Trust Code
  - A. Jurisdiction of county court with respect to probate proceedings
  - B. Jurisdiction of district court with respect to probate proceedings
  - C. Venue for probate of wills and administration of estate of decedents
  - D. Effect of disability on power of attorney
  - E. Descent and distribution
  - F. Determination of heirship
  - G. Execution and revocation of wills
  - H. Probate and grant of administration
  - I. Procedure pertaining to foreign wills
  - J. Small estates
  - K. Independent administration
  - L. Administration of community property
  - M. Creation, administration, and termination of trusts
- XV. Limitations -- Civil Practice and Remedies Code
  - A. Real property actions
  - B. Personal actions
- XVI. Fraud in real estate and stock transactions -- Business and Commerce Code
- XVII. Liens -- Texas Property Code
- XVIII. Statute of frauds -- Business and Commerce Code

**Texas Constitutional Provisions  
and  
Civil Statutes Relating to Admission to the Bar**

**Constitutional Provisions  
Article II  
The Powers of Government**

1. Division of powers: three separate departments; exercise of power properly attached to other departments.

Section 1. The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

**Government Code - Title 2  
Judicial Branch**

**Chapter 82. Licensing of Attorneys  
Subchapter A. Board of Law Examiners**

**Sec. 82.001. Board of Law Examiners**

(a) The Board of Law Examiners is composed of nine attorneys who have the qualifications required of members of the supreme court.

(b) The supreme court biennially shall appoint the members of the board for two-year terms that expire August 31 of each odd-numbered year. A member is subject to removal by the supreme court as provided by Section 82.0021.

(c) Appointments shall be made without regard to race, creed, sex, religion, or national origin.

**Sec. 82.002. Conflict of Interest**

(a) A member of the Board of Law Examiners who has a financial interest, other than a remote financial interest, in a decision pending before the board is disqualified from participating in the decision.

(b) A member or employee of the board may not be an employee or paid consultant of a trade association in the field of board interest.

(c) A person who is required to register as a lobbyist under Chapter 305 may not act as general counsel to the board or serve as a member of the board.

**Sec. 82.0021. Removal of Board Members**

(a) It is a ground for removal from the Board of Law Examiners if a member:

(1) does not have, at the time of appointment, the qualifications required by Section 82.001;

(2) does not maintain during service on the board the qualifications required by Section 82.001;

(3) violates a prohibition established by Section 82.002;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability;

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend in a calendar year unless the absence is excused by a majority vote of the board;

(6) is incompetent; or

(7) is inattentive to the member's duties.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground from removal of a board member exists.

(c) If the executive director of the board has knowledge that a potential ground from removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the supreme court that a potential ground for removal exists.

**Sec. 82.003. Open Records and Open Meetings**

(a) Except as provided by Subsections (b) and (c), the Board of Law Examiners is subject to the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

(b) Examination questions that may be used in the future and examinations other than the one taken by the person requesting it are exempt from disclosure.

(c) Deliberations relating to moral character and fitness of an applicant may be closed to the public, and records relating to these subjects are exempt from disclosure. On the written request of an applicant, however, the applicant is entitled to have disclosed to the applicant records relating to the applicant's own moral character and fitness unless the person who supplied the information has requested that it not be disclosed. The board shall not inquire of a person who supplies information whether the person objects to disclosure nor inform the person of the

right to object.

**Sec. 82.004. Board Duties**

(a) The Board of Law Examiners, acting under instructions of the supreme court as provided by this chapter, shall determine the eligibility of candidates for examination for a license to practice law in this state.

(b) The board shall examine each eligible candidate as to the candidate's qualifications to practice law.

(c) The board may not recommend any person for a license to practice law unless the person has shown to the board, in the manner prescribed by the supreme court, that the person is of the moral character and of the capacity and attainment proper for that person to be licensed.

(d) On written request of an applicant who fails an examination administered by the board, the board shall give the applicant an oral or written analysis of the applicant's performance on the examination. The applicant may record an oral analysis.

(e) In each city in which an examination is administered, the board shall provide facilities that enable persons having physical, mental, or developmental disabilities to take the examination.

**Sec. 82.005. Board Compensation**

(a) The supreme court shall set the compensation of each member of the Board of Law Examiners, excluding reasonable and necessary actual expenses, at an amount that does not exceed \$20,000 a year.

(b) Chapter 46, Acts of the 59th Legislature, Regular Session, 1965 (Article 6813b, Vernon's Texas Civil Statutes), does not apply to the compensation set under this section.

**Sec. 82.006. Sunset Provision**

The Board of Law Examiners is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2003.

**Sec. 82.007. Personnel**

(a) The executive director of the Board of Law Examiners or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be

based on the system established under this subsection.

(c) The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this subchapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(d) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

(e) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or natural origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the board's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the board's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underutilization.

(f) A policy statement prepared under Subsection (e) must cover an annual period, be updated at least annually, and be filed with the supreme court and the governor's office.

(g) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (f). The report may be made separately or as a part of other biennial reports made to the legislature.

**Sec. 82.008. Public Information**

(a) The Board of Law Examiners shall prepare information of public interest describing the functions of the board. The board shall make the information available to the public and appropriate agencies.

(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board. However, the board may prohibit public testimony that would reveal the examination questions described by Section 82.003(b) or would relate to the moral character or fitness of an applicant for a license.

**Sec. 82.009. Program Accessibility**

The Board of Law Examiners shall prepare and maintain a written plan that describes how a person who has a physical, mental, or developmental disability can be provided reasonable access to the boards programs.

**Subchapter B. Licensing of Attorneys**

**Sec. 82.021. Supreme Court Authority**

Only the supreme court may issue licenses to practice law in this state as provided by this chapter. The power may not be delegated.

**Sec. 82.022. Supreme Court Rulemaking**

(a) The supreme court may adopt rules on eligibility for examination for a license to practice law and on the manner in which the examination is conducted. The rules may include:

- (1) provisions to ensure:
  - (A) good moral character of each candidate

for a license:

- (B) adequate prelegal study and attainment; and

- (C) adequate study of the law for at least two years, covering the course of study prescribed by the supreme court or the equivalent of that course;

- (2) the legal topics to be covered by the course of study and by the examination;

- (3) the times and places for holding the examination;

- (4) the manner of conducting the examination;

- (5) the grades necessary for licensing; and

- (6) any other matter consistent with this chapter

desirable to make the issuance of a license to practice law evidence of good character and fair capacity and attainment and proficiency in the knowledge of law.

(b) The supreme court shall adopt rules necessary to administer its functions and to govern the administration of the Board of Law Examiners function relating to the licensing of lawyers.

(c) The supreme court may adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a loan guaranteed under Chapter 57, Education Code, by the Texas Guaranteed Student Loan Corporation.

**Sec. 82.023. Declaration of Intention to Study Law**

(a) Each person intending to apply for admission to the bar must file with the Board of Law Examiners, on a form provided by the board, a declaration of intention to

study law.

(b) The form for the declaration must clearly identify those conditions of character and fitness set out in Section 82.027 that may be investigated by the board and that may result in the denial of the declarant's application to take the examination.

(c) The board shall notify each first-year law student who files the declaration on or before January 1 of the year in which the student begins law school, not later than August 1 of the following year, of the board's decision as to the student's acceptable character and fitness. The board shall notify all other declarants not later than the 270th day after the date the declaration was filed whether or not it has determined that the declarant has acceptable character and fitness.

(d) If the board determines that an applicant does not have acceptable character and fitness, the notice of the decision must be accompanied by an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(e) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to meet with representatives of the Lawyers Assistance Program of the State Bar of Texas or a similar program of the state bar and may require the applicant to submit to a treatment facility for evaluation.

(f) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers Assistance Program of the State Bar of Texas or a similar program of the state bar.

(g) In this section:

- (1) "Chemical dependency" has the meaning assigned by Section 82.038.

- (2) "Treatment facility" has the meaning assigned by Section 462.001, Health and Safety Code.

**Sec. 82.024. Law Study Requirements; Eligibility for Examination**

A person who has completed the prescribed study in an approved law school has satisfied the law study requirements for taking the examination for a license to practice law and is eligible to take the bar examination. An approved law school is one that is approved by the supreme court for the time period designated by the court as maintaining the additional standards to retain approval.

**Sec. 82.0241. Unaccredited Schools of Law**

All matters relating to licensing of persons who were enrolled at unaccredited schools of law in this state are within the exclusive jurisdiction of the Supreme Court of the State of Texas.

**Sec. 82.025. Exemption for Legislative Service**

(a) The following legislative service or service and education may be substituted for the prelegal study and training and study of law required of candidates for the examination for a license to practice law:

- (1) membership in the legislature for 12 consecutive years;
- (2) membership in the legislature for eight consecutive years and a bachelor's degree or its equivalent;
- (3) membership in the legislature for four consecutive years, a bachelor's degree or its equivalent, and adequate study of the law for at least two years at an approved law school; or
- (4) service in both houses of the legislature and a masters degree or its equivalent.

(b) A person applying for an exemption under this section must meet the requirements of Subsection (a) before applying to take the examination.

(c) A person applying for an exemption under this section has given sufficient notice if the person gives to the clerk of the supreme court 30 days notice of intention to take the examination.

(d) This section does not affect the supreme court requirements relating to moral character.

(e) This section applies only to persons who were members of the legislature before the 64th Legislature, Regular Session, convened in January 1975.

(Sec. 82.026; repealed effective September 1, 1991.)

**Sec. 82.027. Application for Examination**

(a) Each applicant to take a bar examination must file an application with the Board of Law Examiners not later than the 180th day before the first day of the examination for which the person is applying.

(b) The application consists of a verified affidavit stating that since the filing of the applicants original declaration of intention to study law, the applicant:

- (1) has not been formally charged with any violation of law, excluding:
  - (A) cases that have been dismissed for reasons other than technical defects in the charging instrument;

- (B) cases in which the applicant has been found not guilty;
  - (C) minor traffic violations;
  - (D) cases in which the record of arrest or conviction was expunged by court order;
  - (E) pardoned offenses; and
  - (F) Class C misdemeanors;
- (2) is not mentally ill;
  - (3) has not been charged with fraud in any legal proceeding; and
  - (4) has not been involved in civil litigation or bankruptcy proceedings that reasonably bear on the applicants fitness to practice law.

**Sec. 82.0271. Residency or Citizenship Status of Applicant**

A person who has applied to take the bar examination may not be denied admission to the bar examination based on the applicant's lack of:

- (1) permanent residency in the United States; or
- (2) United States citizenship.

**Sec. 82.028. Moral Character and Fitness of Applicant**

(a) The Board of Law Examiners may conduct an investigation of the moral character and fitness of each applicant for a license.

(b) The board may contract with public or private entities for investigative services relating to the moral character and fitness of applicants.

(c) The board may not recommend denial of a license and the supreme court may not deny a license to an applicant because of a deficiency in the applicant's moral character or fitness unless:

(1) the board finds a clear and rational connection between a character trait of the applicant and the likelihood that the applicant would injure a client or obstruct the administration of justice if the applicant were licensed to practice law; or

(2) the board finds a clear and rational connection between the applicant's present mental or emotional condition and the likelihood that the applicant will not discharge properly the applicant's responsibilities to a client, a court, or the legal profession if the applicant is licensed to practice law.

(d) The board shall limit its investigation under this section to those areas clearly related to the applicant's moral character and present fitness to practice law.

**Sec. 82.029. Access to Criminal History Records**

(a) The Board of Law Examiners is authorized to obtain criminal history record information (CHRI) relating to an applicant that is maintained by the Texas Department of Public Safety or the Federal Bureau of Investigation identification division.

(b) The board may obtain criminal history record information from any law enforcement agency.

(c) The criminal history record information obtained under this section is for the exclusive use of the board and is privileged and confidential. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order or consent of the applicant. Immediately following the board's decision on recommending the applicant, the board shall collect and seal all criminal history record information obtained under this section.

(d) Except as authorized by Subsection (c), a person commits an offense if the person intentionally or knowingly releases or discloses criminal history record information obtained under this section. An offense under the subsection is a Class B misdemeanor.

**Sec. 82.030. Board Assessment of Moral Character and Fitness**

(a) The Board of Law Examiners shall assess each applicant's moral character and fitness based on:

(1) the investigation of character and fitness performed after the filing of the declaration of intention to study law; and

(2) the filing of the affidavit required by Section 82.027 and the board's investigation into the accuracy and completeness of the affidavit.

(b) If the board determines that the applicant does not have the requisite good moral character and fitness, the board, not later than the 150th day after the day on which the application is filed, shall furnish the applicant an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(c) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to submit to a treatment facility for evaluation.

(d) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers Assistance Program of the State Bar of Texas or a similar program of the state bar.

(e) The board may not deny an applicant the opportunity to take the bar examination solely because the applicant:

(1) suffers or appears to suffer from chemical dependency; or

(2) has been convicted of or is on probation for a first offense of driving while intoxicated under Article 6701-1, Revised Statutes.

(f) In this section:

(1) "Chemical dependency" has the meaning assigned by Section 82.038.

(2) "Treatment facility" has the meaning assigned by Section 462.001, Health and Safety Code.

**Sec. 82.031. District Committee on Admissions**

(a) The supreme court shall appoint a district committee on admissions in each of the state bar districts to investigate qualifications for admission to the bar. A district committee must be composed of at least 15 members. In making the appointments, the supreme court shall attempt to ensure full and fair representation of the general public, including women, minorities, and retired persons who are at least 55 years of age. Each appointment must be made without regard to race, creed, sex, religion, or national origin.

(b) Three members of each district committee must be, at the time of appointment, representatives of the general public who do not have, other than as consumers, a financial interest in the practice of law. Three members must be, at the time of appointment, lawyers who are licensed to practice law in this state. Except as provided by Subsection (c), the remaining members must be either similarly qualified representatives of the general public or lawyers.

(c) In a bar district in which a law school approved by the supreme court is located, three members of the committee must be, at the time of appointment, law students who are enrolled in a law school in the bar district approved by the supreme court.

(d) Members of a district committee on admissions serve two-year terms that expire January 21 of each odd-numbered year.

(e) The supreme court shall appoint a chairman of each district committee on admissions.

(f) Five members of a district committee on admissions constitute a quorum.

**Sec. 82.032. District Committee Investigation**

(a) The district committee shall aid the board in investigating the moral character and fitness of persons filing

declarations of intention to study law. The district committee on admissions investigates the qualifications of a person for admission to the bar only at the time of filing of the declaration of intention to study law.

(b) The supreme court shall adopt rules that:

(1) require the district committees to treat uniformly and impartially persons filing declaration of intention to study law;

(2) establish uniform practices and procedures for the district committees; and

(3) provide for guidance and oversight of the committees by the board.

#### **Sec. 82.033. Fees**

(a) The supreme court shall set the fee for the investigation of the moral character and fitness of each candidate at an amount that does not exceed \$150. The candidate must pay the investigation fee to the Board of Law Examiners at the time it is requested by the board.

(b) The supreme court shall set the fee for any examination given by the board at an amount that does not exceed \$150. The candidate must pay the fee to the board at the time the candidate applies for examination.

(c) The supreme court may set an application fee for foreign attorneys at an amount that does not exceed \$700.

(d) The supreme court may set reasonable fees for additional services provided by the board, but the fee for any single additional service may not exceed \$150.

(e) The fees set by the supreme court must be sufficient to pay all costs of the board, including staff salaries, compensation to members of the board, and costs of investigation and administering the examinations, so that state general revenue funds are not necessary to operate the board.

(f) The board may adopt rules that provide for waiving or lowering for indigent persons a fee required by this section.

#### **Sec. 82.034. Use of Funds**

Fees received by the Board of Law Examiners shall be deposited in a fund established by the supreme court. The fund may be used only to administer the functions of the supreme court and the board relating to the licensing of lawyers. The fund shall be used as directed by the supreme court and under supreme court rules.

#### **Sec. 82.035. Audit: Financial Report**

(a) The financial transactions of the Board of Law Examiners are subject to audit by the state auditor in

accordance with Chapter 321.

(b) The board shall file annually with the supreme court, the governor, and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received or disbursed by the board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

#### **Sec. 82.036. Foreign Attorneys**

The supreme court shall make such rules and regulations as to admitting attorneys from other jurisdictions to practice law in this state as it shall deem proper and just. All such attorneys shall be required to furnish satisfactory proof as to good moral character.

#### **Sec. 82.037. Oath of Attorney**

(a) Each person admitted to practice law shall, before receiving a license, take an oath that the person will:

(1) support the constitutions of the United States and this state;

(2) honestly demean himself in the practice of law; and

(3) discharge the attorney's duty to his client to the best of the attorney's ability.

(b) The oath shall be endorsed on the license, subscribed by the person taking the oath, and attested by the officer administering the oath.

#### **Sec. 82.038. Probationary License for Applicant Suffering from Chemical Dependency**

(a) If, after a moral character and fitness assessment, the Board of Law Examiners determines that the applicant suffers from chemical dependency, the board shall notify the applicant of its determination and of the applicant's rights under this section.

(b) To obtain judicial review of the board's determination that the applicant suffers from chemical dependency, an applicant must file a petition in the district court of Travis County before the 60th day after the date that the board delivers notice of its determination. The petition must name the board as a defendant and be served on the executive director of the board. Before the date on which the applicant may obtain a default judgment against the board, the board shall file with the district court a certified record of the proceedings before the board.

(c) A party is not entitled to a jury in a judicial review of the board's determination that an applicant suffers from chemical dependency. The court may not substitute its

judgment for that of the board as to the weight of the evidence on questions submitted to the board's discretion but shall affirm the board's decision if the decision is reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole.

(d) The board may not deny a person who successfully takes the bar examination a probationary license to practice law solely because the person:

- (1) suffers from chemical dependency; or
- (2) has been convicted of or is on probation for a first offense of driving while intoxicated under Article 6701/-1, Revised Statutes.

(e) The board shall specify the conditions of a probationary license to practice law, which must be designed to protect the public from the potential harm the person might cause. Conditions of a probationary license may include one or more of the following:

(1) prohibiting the person from using alcohol or controlled substances;

(2) treatment for chemical dependency;

(3) supervision of the persons work by a licensed attorney;

(4) submissions to periodic drug testing;

(5) periodic reporting by the person to the board; or

(6) suspension, for a portion of the probationary period, of an activity for which a license to practice law is required.

(f) A probationary license issued under this section expires on the second anniversary of the date on which the license is issued. A person who holds a probationary license may apply for a renewal of the probationary license or for a regular license to practice law. The board, after redetermination of the character and fitness of a person who holds a probationary license, may recommend to the supreme court that it grant the person a regular license to practice law. The redetermination must include an evaluation of the person by a treatment facility. The board may not recommend to the supreme court that the person be granted a regular license to practice law unless the board finds that the person has successfully completed treatment and has been free from chemical dependency for the preceding two years.

(g) The supreme court shall adopt rules under which the board and the State Bar of Texas jointly develop and fund a program for evaluation and referral to treatment for persons who have been issued a probationary license under this section.

(h) A probationary license may be immediately revoked if the person violates a condition of probation

imposed by the board.

(i) In this section:

(1) "Chemical dependency" means:

(A) the abuse of alcohol or a controlled substance;

(B) a pathological use of alcohol or a controlled substance that chronically impairs the applicants ability to competently provide legal advice or services; or

(C) a physiological or physical dependence on alcohol or a controlled substance.

(2) "Controlled substance", "treatment facility", and "treatment" have the meanings assigned by Section 462.001, Health and Safety Code.