# Board of Law Examiners

Appointed by the Supreme Court of Texas

## Guidelines for Evaluating Rule 13 Practice Time

### 1. Adoption

The Board of Law Examiners has adopted these guidelines to replace and supersede:

- Policy Statement on Practice Requirements for Rule XIII, as amended by the Board in March 2008; and
- Policy to reduce fees for admission without examination if an applicant re-applies within six months of being denied, approved by the Board in March 2000.

### 2. Introduction

Some applicants seeking admission to the Texas bar under an exception in Rule 13 of the Rules Governing Admission to the Bar of Texas must demonstrate that they have been "actively and substantially engaged in the lawful practice of law as their primary business or occupation" for a certain number of years. Staff will use these guidelines to determine whether these applicants have met this Rule 13 practice requirement.

These guidelines should not be used to provide general or specific opinions as to the lawfulness of activities that may be undertaken in Texas by non-lawyers or by attorneys from other jurisdictions without a Texas law license.

### 3. Active and substantial engagement

To be actively and substantially engaged in the practice of law, an applicant must have practiced law an average of at least 30 hours a week during the relevant period.

### 4. Activities that do not constitute the practice of law

The following activities, whether performed in Texas or any other jurisdiction, are examples of activities that do not count toward the Rule 13 practice requirement:

4.1. Work under the supervision of an attorney, including the following:

a. Work as a legal assistant, paralegal, paraprofessional, clerk, intern, extern, or any other law-related position.

b. Work under a temporary, provisional, limited, or other license that requires an attorney to supervise any part of the applicant's work.

c. Work as a law student in a law school clinic.

d. Work under a supervised practice card obtained through the Supreme Court of Texas Rules Governing the Supervised Practice of Law by Qualified Law Students and Qualified Unlicensed Law School Graduates in Texas or a similar authorization from another jurisdiction.

4.2. Work as a "landman," unless the employer confirms to the Board that when the individual was hired, the job required both a law degree and a valid active law license.

4.3. Work as a trust officer, unless the employer confirms to the Board that when the individual was hired, the job required both a law degree and a valid active law license.

4.4. Work as a public adjuster.

4.5. Work as an insurance adjuster.

**5. Work performed in a "J.D.-preferred" position**

Work performed in a "J.D.-preferred" position may count toward the Rule 13 practice requirement – even if the employer states that a law license was not required for the position – if staff determines:

5.1. the applicant was authorized to practice law in the jurisdiction in which the work was performed; and

5.2. a significant portion of the work required the applicant to apply law to facts or otherwise use legal judgment; and

5.3. the employer did not require the applicant's work to be supervised by an attorney; and

5.4. the laws of the jurisdiction in which the work was performed did not require the applicant's work to be supervised by an attorney; and

5.5. the work did not involve activities described in 4 above.

**6. Lawful practice of law**

If an applicant worked in a jurisdiction without being authorized to practice law in that jurisdiction, then the applicant was not engaged in the

lawful practice of law.

Generally, to be authorized to practice law in a jurisdiction, an applicant must hold a valid active license issued by the jurisdiction authorizing the applicant to practice law without supervision.

If an applicant worked in a jurisdiction without holding such a license, the work will not count toward the Rule 13 practice requirement unless the applicant demonstrates to the staff's satisfaction that the applicant was otherwise authorized to practice law in the jurisdiction.

**7. Practicing law in Texas without being licensed in Texas**

7.1. Subject to 7.5 below, providing legal services in Texas solely to an employer or its organizational affiliates without being licensed in Texas may count toward the practice requirement if the applicant:

a. was authorized to practice law in another jurisdiction; and

b. was not disbarred or suspended from practice or the equivalent thereof in any jurisdiction; and

c. complied with the Texas Disciplinary Rules of Professional Conduct, including Rule 5.05.

7.2. Subject to 7.5 below, practicing exclusively federal law in Texas without being licensed in Texas may count toward the practice requirement if the applicant was authorized to practice law in another state, the District of Columbia, or any U.S. territory.

7.3. Subject to 7.5 below, providing legal services remotely from a temporary or permanent residence or other location in Texas without being licensed in Texas may count toward the practice requirement if the applicant:

a. was authorized to practice law in one or more jurisdictions; and

b. did not use advertising, oral representations, business letterhead, websites, signage, business cards, email signature blocks, or other communications to hold themselves out, publicly or privately, as authorized to practice law in Texas or as having an office for the practice of law in Texas; and

c. did not solicit or accept Texas residents or citizens as clients on matters that the applicant knew primarily required advice on the state or local law of Texas, except as permitted by

Texas or federal law; and

d. if the applicant knew or reasonably should have known that a person with whom the applicant was dealing mistakenly believed that the applicant was authorized to practice law in Texas, the applicant made diligent efforts to correct that misunderstanding; and

e. complied with the Texas Disciplinary Rules of Professional Conduct, including Rule 5.05.

7.4. Subject to 7.5 below, providing legal services in Texas as a military attorney with the United States Armed Forces may count toward the Rule 13 practice requirement.

7.5. The following activities performed in Texas without a Texas law license will not count toward the Rule 13 practice requirement:

a. Appearing in Texas courts, either in person or by signing pleadings.

b. Interpreting Texas law or giving any advice concerning Texas law for anyone other than the applicant's employer or the employer's organizational affiliates, except as allowed by Rule 14 § 3(e)(1).

c. Participating in the representation in any manner of any client in a matter involving Texas law, including in federal courts.

d. Preparing any legal instrument affecting title to real property, including, but not limited to, a deed, deed of trust, note, mortgage, or transfer or release of lien, as prohibited by Texas Government Code § 83.001.

e. Rendering to anyone other than an employer or the employer's organizational affiliates any service requiring the use of legal skill or knowledge or performing any other act constituting the practice of law under Texas Government Code § 81.101.

7.6. If an applicant performs any of the following activities without a Texas law license, staff will investigate for character and fitness concerns:

a. Using advertising, oral representations, business letterhead, websites, signage, business cards, email signature blocks, or other communications to hold themselves out, publicly or

privately, as authorized to practice law in Texas, or as having an office for the practice of law in Texas.

b. Soliciting or accepting Texas residents or citizens as clients on matters that the applicant knows primarily require advice on the state or local law of Texas, except as permitted by Texas or federal law.

c. Holding themselves out in any way as a member of the Texas bar.

d. Otherwise engaging in the unauthorized practice of law.

**8. Practicing law in another jurisdiction without being licensed in that jurisdiction**

If an applicant worked in a jurisdiction without being licensed in that jurisdiction, the work will not count toward the Rule 13 practice requirement unless the applicant demonstrates to the satisfaction of the staff that:

8.1. the applicant was authorized to practice law in another jurisdiction; and

8.2. the work performed was the lawful practice of law under both the laws of the jurisdiction in which the work occurred and the laws of the jurisdiction in which the applicant was authorized to practice.

**9. Providing legal services exclusively to an employer or its organizational affiliates**

Providing legal services exclusively to an employer or its organizational affiliates in any jurisdiction without being authorized to practice law in a jurisdiction will not count towards the Rule 13 practice requirement.

If another jurisdiction requires licensure, limited licensure, registration, or something similar to provide legal services to an employer or its organizational affiliates in the jurisdiction, providing such services in the jurisdiction without satisfying that requirement will not count toward the Rule 13 practice requirement.

**10. Practicing exclusively federal law**

Practicing exclusively federal law in any U.S. jurisdiction may count toward the practice requirement if the applicant was authorized to practice law in at least one U.S. jurisdiction.

Exclusively federal law includes, but is not limited to, immigration, bankruptcy, federal taxation, and federal patent law.

Practicing in a federal court is not practicing exclusively federal law.

**11. Clerking for a judge**

Clerking for a judge – whether federal, state, county, or local – may count toward the Rule 13 practice requirement if the applicant was authorized to practice law in a jurisdiction, even if the judge does not require clerks to be authorized to practice law in the jurisdiction where the court is located.

Clerking for a judge without being authorized to practice law in a jurisdiction will not count toward the practice requirement.

**12. Applicants have the burden to document their practice time**

Staff has discretion to determine whether an applicant's documentation is sufficient to show that the applicant has been actively and substantially engaged in the lawful practice of law as their principal business or occupation for the requisite time.

Applicants are expected to provide sufficient documentation to the Board to establish their claimed practice time. Billing records are useful evidence to demonstrate this requirement, but an applicant may establish that hours worked exceed hours billed. Proof of a certain level of income derived from a law practice may be adequate to demonstrate that an applicant has been actively and substantially engaged in the practice of law but is not required. For example, an applicant who works on a contingency may not have any income to show for a given period but would still be actively and substantially engaged in the practice of law. Applicants with comparatively low income may be actively and substantially engaged in the practice of law involving pro bono, volunteer, or other unpaid work, which can count toward the Rule 13 practice requirement if the applicant can otherwise document the time commitment involved in this work.

**13. Miscellaneous**

13.1. Document review

There are no special guidelines for assessing document review work. Such work will be analyzed under the guidelines set out above.

13.2. Foreign Legal Consultants

Work as a Foreign Legal Consultant generally counts towards the practice requirement, if all other requirements are met.

13.3. Waiver of up to 30 days of required practice time

The Board delegates to the Executive Director the authority to waive up to 30 days of the Rule 13 practice requirement for good cause.

13.4. Refunds; reduced fee for re-applying

a. Per Rule 18, "No refund or transfer 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."

b. If an application for admission without examination (AWOX) is terminated for not meeting the requirements of the Rules and the applicant submits another AWOX application within six months, the Board authorizes the Executive Director to reduce the AWOX fee to a fee equal to the fee to re-apply for admission by examination.

Adopted on the 11th day of January, 2025.