

## Rule 4

### 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 a credible showing that a felony conviction or felony probation, either with or without an adjudication of guilt, has been reversed on review by an appellate court, or that an executive pardon has been granted, the Declarant or Applicant shall be permitted to file a Declaration of Intention to Study Law or an Application.
- (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 properly filed an application for re-licensure in the disciplining jurisdiction, in accordance with the procedures established for re-licensure in that jurisdiction, and has obtained a final determination on that application.

Notwithstanding the foregoing provision of this subsection(e)(2) and except as provided in Rule 4(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 re-licensure 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.
- (h) If an Applicant is alleged to have violated the Bar Examination Security Policy, the Executive Director may withhold delivery of the Applicant's exam results until the allegation is resolved by the Board. If, after notice and a hearing, the Board determines that an Applicant violated the policy, the Board may deem the Applicant to have failed the exam and prohibit the Applicant from taking the

exam in the future.

## **Rule 5**

### **Professional Responsibility Examination Requirement**

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.

## **Rule 6**

### **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, employment, experience, and educational qualifications of the Declarant;
- (B) any law school in which the Declarant is or was enrolled;
- (C) the Declarant's criminal history;
- (D) any history of significant mental illness that is related to a history of misconduct;
- (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