

- (b) A Foreign Legal Consultant may renew his or her certification by submitting to the Board at least 60 days before the certification expires:
- (1) a written request for renewal of the certification;
  - (2) The renewal fee required by Rule 18(a);
  - (3) Proof that the Applicant completed three hours of minimum continuing legal education in ethics courses accredited by the Bar; and
  - (4) a written statement, signed by the Applicant under oath, that the Applicant complied with the terms of the certificate and this Rule during the certification period.
- (c) The Board must grant the Applicant's request unless it determines that the Applicant is not entitled to renew his or her certification under this Rule.
- (d) If the renewal application is timely submitted, the Board must notify the Applicant of the Board's decision before the Applicant's certification expires. If the renewal application is not timely submitted, the Applicant, upon a showing of good cause, may submit a renewal application up to 180 days after the Applicant's certification expires. After the 180-day grace period has passed, an Applicant must reapply for certification under Section 2.

## **§7 Revocation of Certification**

If the Board determines that a person certified as a Foreign Legal Consultant under this Rule no longer meets the requirements for certification set forth in Section 1, the Board must recommend to the Court that the person's certification be revoked, unless the Board waives under Rule 20(e) the requirements that are lacking.

## **§8 Admission to Bar**

If a person certified as a Foreign Legal Consultant under this Rule is subsequently admitted to the Bar under other provisions of these Rules, the certification to practice as a Foreign Legal Consultant is superseded by the license to practice law as a person admitted to the Bar.

## **Rule 15 Hearings**

- (a) The Board shall set a time and place for a 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 an adverse preliminary character and fitness determination files a written request for such a hearing

within 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 Applicant or Declarant files a timely request for hearing.
- (b) If there are pending proceedings involving the Applicant or Declarant, the resolution of which could affect 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) Board hearings, deliberations, and determinations relating to the moral character and fitness of an Applicant or Declarant shall be closed to the public and records relating to these subjects are confidential. On written request of an Applicant or Declarant, however, the Applicant or Declarant is entitled to have the hearing open to persons designated by the Applicant or Declarant.
  - (d) Reasonable notice of the time and place for the hearing may be served electronically if the email address of the party or attorney to be served is on file with the Board. Any notice not served electronically may be served in person, by mail, by commercial delivery service, by fax, by email or by such other means as the Board may direct.
  - (e) 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.
  - (f) At the hearing:
    - (1) The Board 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.

- (g) 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.
- (h) 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 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 Rule 16, 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 Bar;
  - (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; or
  - (6) in the case of a 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.
- (i) 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. The Board's order may be served electronically if the email address of the party or attorney to be served is on file with the Board. Any notice not served electronically may be served in person, by mail, by commercial delivery service, by fax, by email or by such other means as the Board may direct.

- (j) An individual who has been the subject of a Board order containing an adverse character and fitness determination may petition the Board in writing for a redetermination hearing subject to Rule 15 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 12 months from the date of the hearing), nor more often than once every 12 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 30 days of the filing of the redetermination petition.
  - (4) This subsection shall not apply to character and fitness redeterminations in Probationary License cases, which are governed under Rule 16.
- (k) 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 60 days after the date the written decision is sent 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 Board's 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 Board's 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.
- (l) The Board shall have the authority to adopt such other rules of procedure for character and fitness hearings, not inconsistent with these Rules, as the Board deems necessary or appropriate to implement these Rules.
- (m) Decisions of the Board on matters other than character and fitness following a hearing under this Rule shall not be subject to judicial review unless another statute

or rule specifically provides to the contrary.

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

## **Rule 16**

### **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 Texas Penal Code §49.04; 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 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 Texas Penal Code §49.04.
- (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 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