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STATE OF NORTH DAKOTA

ADMISSION TO PRACTICE RULES

Rule 1. General Requirements for Admission

A. No person may be admitted to practice as an attorney and counselor at law in this state unless the person:

1. is at least eighteen (18) years of age;
2. is of good moral character and fit to practice law;
   a. The State ~~Bar~~ Board of Law Examiners will determine that an applicant's moral character is such as permits a positive recommendation when the applicant's record of conduct indicates that the applicant is presently honest, trustworthy, diligent, and reliable. Those traits in an applicant suggest that the applicant is one who, if otherwise admissible, will properly perform the obligations a member of the bar owes to clients, the courts, opposing parties and counsel, and the public generally. It is the duty of the applicant to supply information sufficient to enable the Board to review the applicant's conduct.
   b. When an applicant's record of conduct includes inappropriate behavior - such as, for example, an instance of any of the items listed below - the ~~State Bar~~ Board will make further inquiry before deciding whether the applicant possesses the good moral character and fitness to practice law required for a positive recommendation:
      (1) unlawful conduct;
      (2) academic misconduct;
      (3) making false statements;
      (4) misconduct in employment;
      (5) acts involving dishonesty, fraud, deceit or misrepresentation;
      (6) abuse of legal process:
      (7) neglect of financial responsibilities;
      (8) neglect of professional obligations;
      (9) violation of an order of a court;
      (10) evidence of mental or emotional instability;
      (11) evidence of drug or alcohol dependency;
      (12) denial of admission to the bar in another jurisdiction;

(13) disciplinary action by a lawyer disciplinary agency or other professional agency of any jurisdiction.

c. In determining whether the present moral character and fitness of an applicant qualifies her or him for a positive recommendation, the ~~State Bar~~ Board will assess the weight and significance of any inappropriate conduct by considering the following factors:
   (1) the applicant's age at the time of the conduct;
   (2) the recentness of the conduct;
   (3) the reliability of the information concerning the conduct;
   (4) the seriousness of the conduct;
   (5) the factors underlying the conduct;
   (6) the cumulative effect of conduct or information;
   (7) the evidence of rehabilitation;
   (8) the applicant's positive social contributions since the conduct;
   (9) the applicant's candor in the admissions process;
   (10) the materiality of any omissions or misrepresentations.

d. The ~~State Bar~~ Board may employ such assistance in conducting the character and fitness investigation as it deems necessary, including a character report by the National Conference of Bar Examiners or further investigation by the Character and Fitness Committee.

e. At any stage of the registration or application proceedings, the ~~State Bar~~ Board may request the applicant to appear before ~~the Board~~ it or a designated Board member ~~designated by the Board~~ to answer any questions ~~the Board may have~~.

3. has designated the Clerk of the Supreme Court as the applicant's agent for service of process for all purposes;
4. has received a juris doctor or equivalent degree from a law school approved or provisionally approved for accreditation by the American Bar Association;
5. has complied with either Rule 5 or Rule 6; and
6. has paid all required fees.

Rule 2. Character and Fitness Committee

To assist the ~~State Bar~~ Board in conducting such character and fitness investigation as it deems necessary, the Board may appoint a Character and Fitness Committee.

A. The Committee shall consist of five persons no more than three of whom may be lawyers currently licensed to practice law in North Dakota. Committee members shall be appointed to five-year terms from a list of nominees submitted by the State Bar Association on an annual basis. Upon the initial appointment of the Committee, its members shall determine by lot the term length of each member. From its members, on an annual basis, the ~~State Bar~~ Board shall select a Chairperson. Committee members shall serve without compensation except that they shall be reimbursed their actual expenses incurred in attending Committee meetings.

B. The Character and Fitness Committee shall investigate the character, fitness and moral qualifications of a registrant or an applicant for admission upon the request of the ~~State Bar~~ Board. Upon receipt of such a request, accompanied by all information regarding the registrant or applicant as obtained by the ~~Bar~~ Board, the Character and Fitness Committee shall conduct such investigation as it deems necessary in order to report its findings and recommendations to the ~~Bar~~ Board. The Committee shall conduct a personal interview with the registrant or applicant in order to determine whether, considering all information in the possession of the ~~Bar~~ Board, the registrant or applicant possesses the requisite character, fitness and moral qualifications for admission to the ~~B~~bar.

C. The Character and Fitness Committee shall determine a registrant's or an applicant's character, fitness and moral qualifications in accordance with:
   1. The provisions of this Rule.
   2. The provisions of Rule 1.A.2.
   3. The applicable decisions of the Supreme Court of North Dakota and the Supreme Court of the United States.

D. Upon completion of the investigation the Committee shall submit to the ~~Bar~~ Board its written findings and recommendations concerning the registrant's or applicant's character, fitness and moral qualifications.

Rule 3. Limited Admission of Nonresident Attorneys

A nonresident attorney admitted and licensed to practice law in another state or the District of Columbia. but not licensed in North Dakota, may occasionally be permitted to appear as counsel in a proceeding in a court of this state if the attorney:

1. complies with the requirements of Rule 11.1 of the North Dakota Rules of Court;
2. is not under any restriction or probation in the practice of law in any jurisdiction in which the attorney is licensed; and

3. has not been disbarred or is not currently under suspension from the courts of any state or the District of Columbia.

Rule 3 amended effective March 1, 2000.

Rule 4. Law Student Registration Requirements - (Effective with the first year class entering law school in the fall of 1993.)

A. Except as provided in D., no person shall be entitled to write an examination for admission to practice law in this state unless such person has filed with the ~~State Bar~~ Board a Law Student Registration Application by October 1 of the applicant's second year of law school or in no event later than 14 months after the applicant's first day of the first year of law school.

B. The application shall be submitted on forms provided by the ~~State Bar~~ Board and shall be accompanied by the required fees.

C. The filing of a Law Student Registration Application does not constitute the filing of a bar examination application.

D. Upon payment of a late registration fee as required by the ~~State Bar~~ Board, a person who does not comply with section A. shall be permitted to file a late application not later than the last established filing date of application for the bar examination.

Rule 5. Admission by Bar Examination

A. All applicants for admission by bar examination:
   1. must meet the requirements of Rule 1 and Rule 4;
   2. shall apply to take the examination on forms provided by the ~~State Bar~~ Board.

B. Upon acceptance and approval of the application by the ~~State Bar~~ Board and the payment of the required fees, the applicant may take the bar examination. This general permission to the take the examination does not imply that an applicant has met all the requirements for admission to the ~~B~~bar of North Dakota.

C. The ~~State Bar~~ Board shall set the date, time, place and content of each examination.

D. Taking into consideration the results of the bar examination, along with the applicant's moral character, the ~~State Bar~~ Board shall make a recommendation to the Supreme Court regarding the admission of each applicant to the bar.

Rule 6. Admission by Motion

A. Eligibility by Practice.

1. Any person who is a member of the bar of another state or the District of Columbia may apply for admission by motion if that person:
   a. meets the requirements of Rule 1;
   b. has been a member of the bar of another state or the District of Columbia for at least five (5) years;
   c. has for at least four (4) of the last five (5) years immediately preceding the application for admission on motion been actively engaged, to an extent deemed by the ~~State Bar~~ Board to demonstrate competency in the practice of law, in one or more of the following:
      (1) the private practice of law;
      (2) service as a judge of a court of record.
      (3) the teaching of law as a full-time instructor in a law school or schools accredited by the American Bar Association; or
      (4) the performance of full-time legal work in a legal capacity.
2. The application for admission by motion shall be filed with the Clerk of the Supreme Court. The application must be accompanied by:
   a. an affidavit identifying all other jurisdictions in which the applicant has applied for admission and the final decision of the admitting authority in each jurisdiction;
   b. certification of admission to practice by the admitting authority in each jurisdiction that the applicant has identified in a. as having admitted the applicant to the bar;
   c. an affidavit disclosing the place or places in the other state or states or the District of Columbia where the applicant has practiced law;
   d. the name and post office address, whenever possible, of at least one judge of a court of general jurisdiction who, during the specified period, has presided in a court before which the applicant has practiced law;
   e. certification by the attorney disciplinary authority in each jurisdiction where the applicant has been admitted to the bar that there are no prior or pending proceedings of disbarment or suspension of the applicant's license to practice law against the applicant in that jurisdiction;
   f. the affidavits of at least two attorneys from another jurisdiction where the applicant has been admitted to the bar which attest to the applicant's good moral character and fitness to practice law. The affidavits must be from attorneys who practiced law contemporaneously with the applicant; and

g. verification of 45 hours of approved or approvable course work in Continuing Legal Education, three hours of which shall be in the area of ethics or course work commonly considered professional responsibility, during the three years immediately preceding the application for admission to the bar of this state.

3. If the ~~State Bar~~ Board determines that the applicant's legal experience does not demonstrate sufficient competency in the practice of law, it shall require the applicant to take an attorney's examination. The ~~State Bar~~ Board shall set the date, time, place and content of each examination.

B. Eligibility by Test Score.

1. An applicant may be eligible for admission by motion provided the applicant:
   a. meets the requirements of Rule 1;
   b. has received a scaled score of 150 or above on the Multistate Bar Examination (MBE) taken as a part of and at the same time as the essay or other written bar examination given by another jurisdiction:
   c. has received a scaled score of 80 on the Multistate Professional Responsibility Examination (MPRE) given under the auspices of the National Conference of Bar Examiners;
   d. has been admitted to the ~~B~~bar of the jurisdiction in which the MBE examination was written.
2. Proof of the MBE score and a completed application must be received at the offices of the ~~State Bar~~ Board within two years of the date of the examination in the jurisdiction of admission.

C. The application for admission by motion must be referred to the ~~State Bar~~ Board which shall investigate the same and its sufficiency, including the moral character of the applicant.

D. Taking into consideration each applicant's moral character, and the results of the attorney's examination, if required, the ~~State Bar~~ Board shall make a recommendation to the Supreme Court regarding the admission of each applicant to the bar.

E. Upon the report of the ~~State Bar~~ Board recommending an applicant's admission, a written motion for admission may be considered by the Supreme Court. The motion must be:

1. made by a member of the North Dakota bar; and
2. filed with the Clerk of the Supreme Court.

Rule 7. Licensure of Inactive Attorneys

A. Any person applying for a license to practice law who has been previously admitted to the bar of North Dakota, but has not secured a license for more than one year anytime after the date of the person's admission to the bar of North Dakota, shall file an application for licensure with the ~~State Bar~~ Board. This application must be accompanied by:

1. an affidavit stating:
   a. if the applicant has not been licensed for a period of less than two years, that the applicant has received 15 hours of approved or approvable course work in Continuing Legal Education, one hour of which shall be in the area of ethics or course work commonly considered professional responsibility, in the year immediately preceding the application;
   b. if the applicant has not been licensed for a period of more than two years but less than three years, that the applicant has received 30 hours of approved or approvable course work in Continuing Legal Education, two hours of which shall be in the area of ethics or course work commonly considered professional responsibility, during the two years immediately preceding the application; or
   c. if the applicant has not been licensed for a period of three or more years, that the applicant has received 45 hours of approved or approvable course work in Continuing Legal Education, three hours of which shall be in the area of ethics or course work commonly considered professional responsibility, during the three years immediately preceding the application:
2. certification of admission to practice by the admitting authority in each jurisdiction where the applicant has been admitted to the bar;
3. certification by the attorney disciplinary authority in each jurisdiction where the applicant has been admitted to the bar that there are not prior or pending proceedings of disbarment or suspension of the applicant's license to practice law against the applicant in that jurisdiction;
4. an affidavit containing the following information:
   a. the specific dates of nonlicensure in North Dakota;
   b. the applicant's reasons for not seeking a license to practice law in North Dakota during the period identified in a.; and
   c. the applicant's employment and legal activities during the period identified in a.; and
5. payment of a licensure investigation fee set by the ~~State Bar~~ Board.

B. The ~~State Bar~~ Board shall investigate the applicant's application and its sufficiency, including the moral character of the applicant. In its investigation of the applicant's application the ~~State Bar~~ Board shall give consideration to the following factors:

1. the applicant's work experience during the period of nonlicensure in North Dakota;
2. the length of time during which the applicant did not secure a license to practice law in North Dakota;
3. the applicant's continued licensure in another jurisdiction during the period of nonlicensure in North Dakota;
4. the number of hours of approved or approvable course work in Continuing Legal Education received during the period of nonlicensure in North Dakota; and, if the applicant has been previously licensed in North Dakota, the number of hours of approved or approvable course work in CLE received during the three year period preceding the period of nonlicensure.

C. If the ~~State Bar~~ Board determines that the applicant's legal experience during the nonlicensure does not demonstrate sufficient competency in the practice of law, it shall require the applicant to take an attorney's examination. The ~~State Bar~~ Board shall set the date, time, place, and content of each examination.

D. Based upon the results of the investigation of the applicant's application and the attorney's examination, if required, the ~~State Bar~~ Board may issue a license to practice law to the applicant upon the applicant's payment of the license fee established by Section 27-11-11, N.D.C.C., to the Secretary-Treasurer of the State ~~Bar~~ Board of Law Examiners.

E. The Board may issue a conditional license under the provisions of Rule 8.

Rule 8. Conditional Admission/License

A. The Board may, in light of an applicant's physical or mental disability, present or past use or abuse of drugs or alcohol, neglect of financial responsibilities, or other circumstances in which the Board determines the protection of the public requires it, recommend admission or licensure to the bar conditional upon the applicant's compliance with relevant conditions prescribed by the Board.

B. The Board may recommend specific conditions of admission or licensure, including, but not limited to, requiring alcohol or drug treatment, medical care, psychological or psychiatric care, professional office practice or management counseling, practice supervision, and/or professional audits or reports. The Board may recommend persons to supervise the applicant and may recommend that cooperation with such supervisors be a condition. All costs related

to any condition are the responsibility of the applicant. The Board shall recommend a specific duration for the conditions.

C. If the applicant is granted conditional admission or licensure by the Court, the terms and conditions of the applicant's admission or licensure shall be administered and monitored by the Board. During the period of conditional admission or licensure, the Board shall be notified of any disciplinary proceedings and shall have access to all information relating to any disciplinary complaint filed against the applicant.

D. At the end of the specified period, the Board shall file a report with the Court and recommend entry of an order lifting the conditional admission or licensure and allowing the applicant to practice law without restrictions, continuing the conditions, or amending the conditions.

E. If the applicant violates any conditions of admission or licensure, the Board is authorized to institute proceedings for revocation of the conditional admission or license under Rule 10 or 11 and shall notify the applicant and the disciplinary authority of its intent. The applicant's notice shall be by certified mail directed to the applicant at the last known address of the applicant.

F. The fact an individual is conditionally admitted is a matter of public record. All other information relating to conditional admission or licensure of an applicant shall remain confidential unless otherwise ordered by the Court.

G. Nothing in these rules diminishes the authority of the Disciplinary Board of the Supreme Court to address violations of the North Dakota Rules of Professional Conduct by an applicant. However, the ~~Bar~~ Board shall have the responsibility for administering, monitoring and recommending appropriate action for noncompliance with any conditions.

Rule 9. Review Procedures

A. Informal Interview

At any stage of the application proceedings, the ~~State Bar~~ Board may request the applicant to appear before ~~the Board~~ it or a designated Board member ~~designated by the Board~~ to answer any questions ~~the Board may have~~.

B. Formal Hearing

1. If the ~~State Bar~~ Board makes a recommendation for conditional admission or licensure, a negative recommendation for admission to the bar or a negative decision on licensure for any reason, it shall so notify the applicant by certified mail directed to the applicant at

the mailing address appearing on the applicant's application. The notice must specify the grounds for the recommendation or decision by the ~~State Bar~~ Board.

If a negative recommendation or decision is based on the grounds that the applicant has failed to pass a portion of the examination or the attorney's examination, upon written request. and payment of a reasonable copying fee, as applicable:

a. the applicant must be furnished with a copy of any essay portion of the applicant's examination and a copy of a set of model essay examination analyses prepared by or under the supervision of the ~~State Bar~~ Board; or

b. if any part or all of the exam is prepared by or under the supervision of the National Conference of Bar Examiners, the applicant shall be given the opportunity to inspect that part of the examination and the appropriate grading key, point sheet or model analyses, prepared by or under the supervision of the National Conference of Bar Examiners, for that part of the applicant's examination. Inspection and copying of the examination prepared and scored by or under the supervision of the National Conference of Bar Examiners will be as permitted by the guidelines and limitations prescribed by the National Conference of Bar Examiners or its designee.

2. Within 30 days after the mailing of the notification. the applicant may demand a formal hearing by written petition directed to the ~~State Bar~~ Board.
3. At least 20 days before the hearing, the ~~State Bar~~ Board shall notify the applicant of the time and place of the hearing and shall inform the applicant of the applicant's right to be represented by counsel and to present any witnesses as the applicant may choose.
4. The hearing must be on the record and, at the discretion of the ~~State Bar~~ Board, may be held before the ~~State Bar~~ Board or a hearing examiner appointed by the ~~State Bar~~ Board to conduct the hearing. The Board shall set forth its findings of fact and its conclusions. If a hearing examiner is appointed to conduct the hearing, the findings and conclusions of the hearing examiner, to the extent that the Board adopts them, become the findings and conclusions of the Board.
5. The ~~State Bar~~ Board shall notify the applicant by certified mail of its findings of fact and its conclusions.

C. Supreme Court Consideration

1. An applicant who, after formal hearing, receives notice that the ~~State Bar~~ Board will recommend conditional admission or licensure, or has given a negative recommendation

or decision on admission or licensure, may request review of that recommendation or decision by the Supreme Court. The review may be requested by written petition directed to the Clerk. The petition must be filed within 30 days after the Board's mailing of the notice of the results of the formal hearing.

2. The Clerk, upon receipt of a petition, shall notify the ~~State Bar~~ Board to prepare and file with the Clerk of the Supreme Court the record and files, including the transcript of the hearing, its findings of fact, and its recommendation. The cost of the transcript of the hearing, if any, shall be the responsibility of the petitioner.
3. To the extent appropriate, all proceedings before the Supreme Court must conform to the North Dakota Rules of Appellate Procedure. The ~~State Bar~~ Board shall participate in the briefing and oral argument before the Supreme Court.
4. The applicant has a burden of proof by a preponderance of the evidence.

Rule 10. Interim Revocation of Conditional Admission/License

A. Upon receiving sufficient evidence demonstrating that an applicant:
(1) has not complied with any condition and
(2) poses a substantial threat of irreparable harm to the public,
The Board shall transmit the evidence to the Supreme Court together with a proposed order for interim revocation of the conditional admission or license.

B. At any stage, the Supreme Court may enter an interim order immediately revoking the conditional admission or license of an applicant pending final disposition of the proceedings predicated upon the noncompliance with conditions and conduct causing harm or may order such other action as deemed appropriate. Upon the request of the applicant who is subject to the Board's request for interim revocation, the Supreme Court may provide the applicant an opportunity to be heard before determining the Board's request. Upon request by the Board or the applicant after entry of an interim revocation order, the Supreme Court shall within ten days provide an opportunity for the applicant to demonstrate that the order should not remain in force.

Rule 11. Revocation of Conditional Admission/License

A. Within 60 days after the mailing of the notification of intent to revoke the conditional admission or license, the Board shall set a hearing on the revocation and inform the applicant of the time and place of the hearing and the applicant's right to be represented by counsel and to present any witnesses as the applicant may choose.

B. The hearing on the revocation shall be limited to the issue of whether any condition of admission or licensure has been violated by the applicant.

C. The hearing must be on the record and, at the discretion of the Board, may be held before the Board or a hearing examiner appointed by the Board. The Board shall set forth in a report its findings of fact, conclusions and recommendation to the Supreme Court. If a hearing examiner is appointed to conduct the hearing, the findings and conclusions of the hearing examiner. to the extent that the Board adopts them, become the findings and conclusions of the Board.

D. The Board shall notify the applicant by certified mail of its findings of fact, conclusions and recommendation and shall also file the report with the Supreme Court.

E. Within 20 days of service of the report, objections to the report may be filed with the Supreme Court. Within 50 days after service of the report, briefs limited to the filed objections may be filed. Oral argument may be requested only if objections are filed, or may be set upon the court's own motion. Briefing and oral argument will be as provided in the North Dakota Rules of Appellate Procedure.

F. An applicant who has had a conditional admission or license revoked is not eligible to apply for admission or licensure for a period of five years from the Order of Revocation.

Rule 12. Public Records

A. All records maintained by the ~~State Bar~~ Board regarding applications for admission to practice law, all examination materials, and all proceedings by the ~~State Bar~~ Board shall be confidential except as provided by these rules. The following records shall be maintained as public records:

1. the name, address, marital status, and date and place of birth of each applicant;
2. name of high schools attended by applicant and date of graduation:
3. pre-legal colleges attended by each applicant;
4. law schools attended by each applicant;
5. whether applicant has ever been admitted to practice under rule for Limited Practice of Law by Law Students (Senior Practice Rule);
6. names and addresses of persons who have passed the examination and have met all the requirements for admission to practice; and
7. whether applicant has been admitted with conditions; and
8. statistical summaries as may be authorized by the Supreme Court.

B. Upon written request information may be exchanged with an authorized lawyer discipline agency and released to bar admission authorities in jurisdictions where an application for admission is pending.

C. Application information may be released to agencies authorized by the ~~State Bar~~ Board to investigate moral character.

D. If the ~~State Bar~~ Board makes a negative recommendation for admission to practice based upon lack of good moral character, the applicant is entitled to disclosure of records pertaining to the applicant's moral character.

E. Upon an applicant's request for Supreme Court review of a negative recommendation for admission or licensure, the records pertaining to an applicant shall be public records.

Rule 13. Withdrawal of Application

An application for admission is deemed withdrawn, unless good cause is shown, if not completed within 24 months of the date of the filing of the application.

Rule 14. Disqualification of Members

Upon the disqualification of a member of the ~~State Bar~~ Board from consideration of an application for admission or relicensure, the Supreme Court may, at the request of the Board, appoint a resident licensed member of the bar, including a former member of the Board, to serve temporarily in the disqualified member's place.

Rule 15. Immunity

Communications to the ~~State Bar~~ Board, its committees, secretary or staff relating to an applicant's admission to the bar or character and fitness to practice law, as well as testimony given in a formal proceeding, are absolutely privileged, and no civil proceeding predicated thereon may be instituted against any person providing information to the Board. Members of the Board, the Board's committees, secretary and staff are absolutely immune in any civil proceeding for all conduct in the course of their official duties.

Rule 16. Power of Court to Revoke or Suspend Admission

Nothing in these rules shall be considered as a limitation upon the power and authority of the Supreme Court to revoke or suspend, after due notice and hearing, the admission of an attorney to practice in this state for fraud or material misrepresentation in the procurement of admission or license to practice.

Rule 17. Title and Citation

These rules are titled, "Admission to Practice Rules," and may be cited as "Admission to Practice R."