

Joint Committee on Attorney Standards

North Dakota Supreme Court
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September 30, 2008

Honorable Gerald W. VandeWalle
Chief Justice
North Dakota Supreme Court
600 E. Boulevard, Dept. 180
Bismarck, ND 58505-0530

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

OCT 2 2008

STATE OF NORTH DAKOTA

Re: Admission to Practice Rules - Proposed Amendments

Dear Chief Justice VandeWalle:

The Joint Committee on Attorney Standards has reviewed proposed amendments to the Admission to Practice Rules prepared by the Board of Law Examiners and subsequently referred to the Joint Committee by the Supreme Court. At its June meeting, the Joint Committee considered the proposed amendments, assisted by a thorough review of the amendments by Penny Miller, Secretary-Treasurer of the Board of Law Examiners. The proposed amendments are regarded as generally unexceptional and directed at harmonizing, restructuring, and enhancing rule provisions concerning the admission to practice process. Ms. Miller explained that the amendments that may be considered most noteworthy are with respect to the proposed essential eligibility requirements [Rule 2], changing the MBE waive-in score from 150 to 145 [Rule 7B(1)(b)], and changes concerning the public nature of conditional admissions [Rule 9F].

Following discussion and consideration of the proposed amendments, the Joint Committee approved the amendments for submission to the Supreme Court pending review and comment by the SBAND Board of Governors as required under Administrative Rule 38. The Board of Governors has completed its review of the proposed amendments and supports them, as reflected in the attached letter. The proposed amendment package, including a detailed summary of the changes, is attached following the letter.

If you should have any questions concerning the Joint Committee's submission, please contact me at your convenience.

Sincerely,



Sandi Tabor, Chair
Joint Committee on Attorney Standards

ST/
Enclosures
cc: Jim Ganje



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William A. Neumann

September 19, 2008

Ms. Sandi Tabor

Chair, Joint Attorney Standards Committee
600 East Boulevard Ave. Dept. 180
Bismarck ND 58505-0530

RE: Admission to Practice Rule Amendments

Dear Ms. Tabor:

The Bar Association Board of Governors met September 13, 2008, and considered the proposed amendments to the Admission to Practice Rules. The Board of Governors supports the proposed amendments, and thanks the Committee for its fine work on behalf of our profession.

Sincerely,

William A. Neumann
Executive Director

WAN:jrs

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STATE OF NORTH DAKOTA

Summary of Proposed Amendments

The overall goals of the State Board of Law Examiners in proposing the amendments were cleaning up inconsistent language, conform the rules to the long term practice of the Board, and bring more transparency of the process to the applicants.

The proposed amendments, if adopted, would not be unique to North Dakota. Rules in Minnesota, Florida, Ohio, Colorado, West Virginia and Kentucky were frequently consulted and their language used.

Rule 1 - The deleted language in lines 6-50 is slightly modified and moved to Rule 2, lines 102-148. The new language at lines 59-70 reiterates the responsibilities of an applicant under Rule 8.1, Rules of Professional Conduct, and puts an applicant on notice of the consequences of not timely complying with Board requests. _____

Lines 71-80 include new language that affect both applicants and attorneys. There has been an assumption, by some members of the Court and others, that an admitted attorney is required to keep his/her address updated with the Board. Under the current rule, an applicant is required to designate the Clerk of the Supreme Court as the applicant's agent for service of process for all purposes. In light of this, a requirement to update addresses and names should be included.

Rule 2 - The Board considers the Essential Eligibility Requirements at lines 83-100 those attributes that all applicants must possess to be admitted to practice law.

An explanation of fitness is included at line 107-111. The term "fitness" is currently used in the rule in conjunction with good moral character. The requested language clearly indicates that fitness is about an assessment of mental and emotional health.

Lines 149-157 allow the Board to require an applicant to undergo an independent medical evaluation. The Board believes it is already within their investigative authority to require a medical evaluation. However, because of past questions and concerns, the Board would like a rule to put applicants clearly on notice of the Board's authority. Note the Board is willing to pay the costs for any required independent medical evaluation, which is one of the concerns frequently raised.

Lines 158-191 clarify the role of the Character and Fitness Committee as a resource and working committee for the Board. The Board recommends the State Bar Association of North Dakota, (SBAND), no longer be required to provide a list of potential committee members from which the Board appoints a member. While SBAND has willingly accepted the Board's suggestions on the background credentials for potential members, this has delayed the appointment process. It is unnecessary for members of a working committee to be nominated by SBAND. The members of the Board, who make the final committee appointment and fully understand the needs of the Board and the standards for admission, are nominated by SBAND.

Lines 192-197 include new language should an applicant be denied based on lack of character and/or fitness wish to reapply.

Rule 4 - Line 368 clarifies where an application for a foreign legal consultant is to be filed. Lines 382-383 and 467-470 establishes the amount of application and license fees for foreign legal consultants the same as motion applicants, and distributes the fees in the same manner. Lines 418, 438 and 441 clarify that it is the North Dakota Rules of Professional Conduct a foreign legal consultant must observe.

Rule 5 - Lines 486-487 are clean-up.

Rule 6 - Lines 503-505 and 508-511 codify the present procedures and exam components.

Lines 506-507 places the Multistate Professional Responsibility Exam, (MPRE), requirement for bar exam applicants in the rule, rather than having it in the pass/fail policy, and increases the MPRE required score. The current passing score of 80 is one of the lowest in the nation. If the Court wants to emphasize the importance of ethics for new lawyers, our required score should be increased to no less than 85.

Lines 512-518 provide a procedure for someone who has already taken the Multistate Bar Exam, (MBE), in another jurisdiction within two years of applying to North Dakota, and has been admitted to that jurisdiction, to carry his/her MBE score to North Dakota and sit for the essay. Many states allow the portability of an MBE score. Based on conversations with the testing experts at the National Conference of Bar Examiners, (NCBE), the Board is comfortable that the reliability and validity of the exam will not be affected if the Court allows this.

Lines 524-527 clarify when and how a person with a disability requests testing accommodations. The Board's current forms and internal policy on the handling of such requests are included as Appendix A and B for the Court's reference.

Rule 7 - The additions at line 571 are clean-up.

Lines 583-584 can also be considered clean-up. All other forms of applications for admission and licensure are filed with the Board. There is no reason to handle motion applicants in a different office.

Line 612 is clean-up.

Line 613 proposes decreasing the MBE score necessary to motion in without necessity of sitting for another bar exam. When 150 was first set, there were two states, Minnesota and Colorado, and the District of Columbia, that permitted this. Our score was set between Minnesota and Colorado. Colorado no longer allows this method of admission, so the Board is suggesting a score of 145, which is the same as Minnesota. The District of Columbia is 133. In the Board's

experience, a 145 is still considered an above average score on the MBE.

Line 616 increases the passing MPRE score to 85, which is consistent with the amendment in Rule 6.

Lines 629-632 deletes a procedure that has not been used for well over 20 years. If the Board approves an applicant for admission, that serves as a "motion".

Rule 9 - The deletion at line 718 takes away the public aspect of a conditional admission. The Board's limited experience in this area leads us to believe it hampers rehabilitation, as well as employment opportunities for some applicants, because of the unfamiliarity with what conditional admission means.

Rule 10 - The deletions at lines 738-743, and the consistent additions, conform the rule to reality. The Board only use products created by the NCBE, and no longer write local essays.

The proposed language at lines 749-752 includes language normally found in the pass/fail policy adopted before each exam, and incorporates an internal policy of the Board.

The proposed language at lines 764-765 reiterates the standard of proof before the Board and is consistent with the stated standard of proof before the Supreme Court at line 782.

Rule 13 - The deletion at line 829 is to conform the available information to reality. The records in the Clerk's office are incomplete and would not allow such an inquiry. The Clerk's office, however, could confirm or deny whether someone with an application pending (an applicant) is currently licensed under the Senior Practice Rule.

The deletion at line 833 is consistent with the proposal at line 718.

If there are questions concerning any of the proposed amendments, Penny Miller, who serves as Secretary-Treasurer of the Board, can provide additional insight.

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 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 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;~~

- 28 ~~(11) evidence of drug or alcohol dependency;~~
29 ~~(12) denial of admission to the bar in another jurisdiction;~~
30 ~~(13) disciplinary action by a lawyer disciplinary agency or other professional agency~~
31 ~~of any jurisdiction.~~

32 ~~c. In determining whether the present moral character and fitness of an applicant~~
33 ~~qualifies her or him for a positive recommendation, the Board will assess the weight~~
34 ~~and significance of any inappropriate conduct by considering the following factors:~~

- 35 ~~(1) the applicant's age at the time of the conduct;~~
36 ~~(2) the recentness of the conduct;~~
37 ~~(3) the reliability of the information concerning the conduct;~~
38 ~~(4) the seriousness of the conduct;~~
39 ~~(5) the factors underlying the conduct;~~
40 ~~(6) the cumulative effect of conduct or information;~~
41 ~~(7) the evidence of rehabilitation;~~
42 ~~(8) the applicant's positive social contributions since the conduct;~~
43 ~~(9) the applicant's candor in the admissions process;~~
44 ~~(10) the materiality of any omissions or misrepresentations.~~

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

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

- 51 3. has designated the Clerk of the Supreme Court as the applicant's agent for service of
52 process for all purposes;
53 4. has received a juris doctor or equivalent degree from a law school approved or
54 provisionally approved for accreditation by the American Bar Association;
55 5. has complied with either Rule 6 or Rule 7; and

56 6. has taken the oath and pledge required by Section 27-11-20, North Dakota Century Code;
57 and
58 67. has paid all required fees.

59 B. Duty to Cooperate. An applicant has the duty to cooperate with the State Board of Law
60 Examiners (Board) by timely complying with requests, including requests to:

- 61 1. provide complete information, documents and signed authorizations for release of
62 information;
- 63 2. obtain reports or other information necessary for the Board to properly evaluate the
64 applicant's character and fitness to practice law; and
- 65 3. appear for interview to determine eligibility for admission or facilitate the background
66 investigation.

67 An applicant shall not discourage a person from providing information to the Board or
68 retaliate against a person for providing information to the Board.

69 An applicant who violates this rule may be denied an opportunity to test or may be denied
70 admission.

71 C. Continuing Obligation.

- 72 1. An applicant has a continuing obligation to update the application with respect to all
73 matters inquired of on the application. This obligation continues during the pendency of
74 the application, including the period when the matter is on review to the Board or the
75 Supreme Court.
- 76 2. Whenever a attorney admitted to practice in this state moves from the address listed in
77 the Board of Law Examiners records or when the name of a attorney is changed by
78 marriage or otherwise, that attorney shall within ten days thereafter notify the Board or
79 the Clerk of the Supreme Court, in writing, of that person's old and new addresses or of
80 such former and new names held by that attorney.

81
82 **Rule 2. Character and Fitness Committee Standards for Admission**

83 A. Essential Eligibility Requirements. Applicants must meet the following essential eligibility
84 requirements for the practice of law:

1. The ability to be honest and candid with clients, attorneys, courts, the Board, and others;
2. The ability to reason, recall complex factual information, and integrate that information with complex legal theories;
3. The ability to communicate with clients, attorneys, courts, and others with a high degree of organization and clarity;
4. The ability to use good judgment on behalf of clients and in conducting one's professional business;
5. The ability to conduct oneself with respect for and in accordance with the law;
6. The ability to avoid acts which exhibit disregard for the rights or welfare of others;
7. The ability to comply with the requirements of the North Dakota Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes and any applicable order of a Court or tribunal;
8. The ability to act diligently and reliably in fulfilling one's obligations to clients, attorneys, courts, and others;
9. The ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; and
10. The ability to comply with deadlines and time constraints.

B. Character and Fitness Standards and Investigation

1. The applicant shall have the burden of proving that he or she possesses good moral character and fitness to practice law.
 - a. The Board shall determine whether 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.
 - b. The Board shall determine whether an applicant possesses the present fitness to carry out professional duties to clients, courts and the profession. Fitness is the assessment of mental and emotional health as it affects the competence of a prospective attorney. An applicant may be of good moral character, but may be incapacitated from proper discharge of the duties as a attorney by a mental or emotional illness or condition.

- c. When an applicant's record of conduct includes inappropriate behavior - such as, for example, an instance of any of the items listed below - the 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 attorney disciplinary agency or other professional agency of any jurisdiction.
- d. In determining whether the present moral character and fitness of an applicant qualifies her or him for a positive recommendation, the 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;

142 (9) the applicant's candor in the admissions process;

143 (10) the materiality of any omissions or misrepresentations.

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

148 3. At any stage of the registration or application proceedings, the Board may request the
149 applicant to appear before it or a designated Board member to answer any questions.

150 C. Independent Medical Evaluation. The Board may require further evidence of an applicant's
151 mental stability and fitness to practice law reasonably related to the standards for admission,
152 which may require the applicant to undergo an independent medical evaluation by a licensed
153 professional selected by the Board. The applicant shall be required to complete any
154 necessary medical releases to facilitate the evaluation. The Board shall request a written
155 report from the professional, including results of all tests made, diagnoses and conclusions.
156 After the Board has received and considered the report, a copy shall be provided to the
157 applicant. The cost of any independent medical evaluation required under this Rule shall be
158 the responsibility of the Board.

159 D. Character and Fitness Committee. To assist the Board in conducting such character and
160 fitness investigation as it deems necessary, the Board may appoint a Character and Fitness
161 Committee.

162 A1. The Committee shall consist of five persons no more than three of whom may be lawyers
163 attorneys currently licensed to practice law in North Dakota. Committee members shall
164 be appointed to five-year terms from a list of nominees submitted by the State Bar
165 Association on an annual basis. Upon the initial appointment of the Committee, its
166 members shall determine by lot the term length of each member. From its members, on
167 an annual basis, the Board shall select a Chairperson. Committee members shall serve
168 without compensation except that they shall be reimbursed their actual expenses incurred
169 in attending Committee meetings.

170 B2. The Character and Fitness Committee shall investigate issues concerning the moral
171 character and fitness and moral qualifications of a registrant or an applicant for admission
172 upon the request of as referred by the Board. Upon receipt of such a request referral,
173 accompanied by all information regarding the registrant or applicant as obtained by the
174 Board, the Character and Fitness Committee shall review the information and conduct
175 such additional investigation as it deems necessary in order to make its report its findings
176 and recommendations to the Board. The Committee shall conduct a personal interview
177 with the registrant or applicant regarding the issues referred by the Board in order to
178 determine whether, considering all information in the possession of the Board, the
179 registrant or applicant possesses the requisite character, fitness and moral qualifications
180 for admission to the bar.

181 E3. The Character and Fitness Committee shall consider the issues referred by the Board
182 determine a registrant's or an applicant's character, fitness and moral qualifications in
183 accordance with:

184 1a. The provisions of this Rule; and

185 2. ~~The provisions of Rule 1.A.2.~~

186 3b. The applicable decisions of the Supreme Court of North Dakota and the Supreme Court
187 of the United States.

188 D4. Upon completion of the investigation the Committee shall submit to the Board its written
189 report findings and recommendations concerning the registrant's or applicant's character,
190 fitness and moral qualifications issues referred by the Board. After review by the Board,
191 a copy of the report shall be forwarded to the applicant only if the Board recommends a
192 conditional admission or makes a negative recommendation.

193 E. Reapplication and Rehabilitation. Any applicant who receives a negative recommendation
194 for admission based on the lack of moral character and/or fitness, that has not been rejected
195 by the Supreme Court, may reapply for admission by filing a new application 2 years after
196 the date of the Board's negative recommendation or such other period as may be set by the
197 Board or the Court. The applicant shall produce clear and convincing evidence of the
198 applicant's rehabilitation and present moral character and fitness to practice law.

199
200 **Rule 3. Pro Hac Vice Admission and Registration of Nonresident Attorneys**

201 A. Pro Hac Vice Admission. Pro hac vice admission is required for all nonresident attorneys
202 admitted and licensed to practice law in another state or the District of Columbia, but not
203 licensed in North Dakota, and who engage in the practice of law in this state by appearing,
204 either in person, by signing pleadings, or by being designated as counsel in actions filed in
205 state courts, administrative agencies, or tribunals.

206 1. Filing Requirements.

207 a. A nonresident attorney may occasionally be permitted to appear as counsel in an
208 action in a trial court of this state or before an administrative agency or tribunal in
209 this state if the attorney first:

210 (1) designates an associate attorney admitted and licensed to practice law in this
211 state;

212 (2) files a motion requesting permission to appear and an affidavit in support of the
213 motion with the clerk of the trial court, the hearing officer of the administrative
214 agency matter, or the presiding officer of the tribunal;

215 (3) files a copy of the motion and affidavit with the State Board of Law Examiners at
216 the same time they are filed with the appropriate individual identified in
217 Section A(1)(a)(2);

218 (4) remits to the State Board of Law Examiners the fee required for an attorney who
219 has been licensed in this state for five years or more or certifies the attorney has
220 paid the fee to the State Board of Law Examiners during that calendar year; and

221 (5) obtains permission from the court, hearing officer, or presiding officer.

222 b. In the affidavit in support of the motion requesting permission to appear in a North
223 Dakota action, the nonresident attorney must state:

224 (1) the jurisdictions in which the attorney is admitted to practice law and the number
225 of years admitted;

226 (2) whether the attorney is presently subject to a disciplinary proceeding in any
227 jurisdiction;

- 228 (3) whether the attorney is under any restriction or probation in the practice of law in
229 any jurisdiction in which the attorney is licensed;
230 (4) whether the attorney is now or has ever been suspended or disbarred from a court
231 in any jurisdiction; and
232 (5) the number of North Dakota actions in which the nonresident attorney has
233 appeared during the prior three years, and whether the attorney has ever registered
234 under this rule.

235 2. The motion requesting permission to appear must be filed no later than 45 days after
236 service of the pleading, motion, or other paper.

237 3. Names and Appearances. The name and address of the associate attorney must be
238 shown on all papers served and filed. The associate attorney shall appear personally
239 and, unless excused by the court, hearing officer, or presiding officer, remain in
240 attendance with the nonresident attorney in all appearances before the court,
241 administrative agency, or tribunal.

242 4. Frequency of Motions. Separate permission is required for each action in which a
243 nonresident attorney appears in a North Dakota state court proceeding, before an
244 administrative agency, or before another tribunal in the state.

245 5. Appeal.

246 a. If an attorney desires to appear in a proceeding before a North Dakota appellate court,
247 and the attorney obtained permission to appear in a proceeding involving the same
248 action in a North Dakota state trial court, administrative agency, or tribunal, the
249 attorney only needs to file an updated affidavit with the Clerk of the Supreme Court.
250 An additional filing fee is not required to be remitted to the State Board of Law
251 Examiners, unless it is a new calendar year.

252 b. If an attorney desires to appear in a proceeding before a North Dakota appellate court,
253 and the attorney did not obtain permission to appear in a proceeding involving the
254 same action in a North Dakota state trial court, administrative agency, or tribunal, the
255 attorney shall file a motion and affidavit with the Clerk of the Supreme Court

requesting permission to appear. The motion, affidavit, and fee must be submitted as otherwise provided in Section A(1).

B. Registration. A nonresident attorney must register under this section if the attorney represents a client in an alternative dispute resolution process in this state or is employed in North Dakota as in-house counsel exclusively for a corporation or its subsidiaries or affiliates, an association, or a business whose lawful activities are other than the practice of law or the provision of legal services. The attorney must be admitted and licensed to practice law in another state or the District of Columbia, but not licensed in North Dakota, and, except for the time requirements in Rule 7A, must be otherwise qualified for admission to the practice of law in this state.

1. Registration Requirements. An attorney must file with the State Board of Law Examiners the following:

a. An affidavit requesting permission to render legal services in North Dakota for the calendar year as in-house counsel or by representing a client in an alternative dispute resolution process and stating:

(1) the jurisdictions in which the attorney is admitted to practice law and the number of years of admission;

(2) whether the attorney is presently subject to a disciplinary proceeding in any jurisdiction;

(3) whether the attorney is under any restriction or probation in the practice of law in any jurisdiction in which the attorney is licensed;

(4) whether the attorney is now or has ever been suspended or disbarred in any jurisdiction; and

(5) whether the attorney has appeared in any North Dakota actions based on pro hac vice admission during the past three years, and how many years the attorney previously registered under this rule.

b. With respect to an attorney registering as in-house counsel, an affidavit from an officer, director or general counsel of the attorney's employer in this state attesting that the registrant is employed as an attorney exclusively for the employer, that the

- registrant is an individual of good moral character, and that the nature of the employment qualifies the attorney for registration under this rule. With respect to an attorney registering to represent a client in an alternative dispute resolution process, a letter from the disciplinary authority in each jurisdiction in which the attorney is admitted indicating the attorney is in good standing in the jurisdiction.
- c. The fee required for an attorney who has been licensed in this state for five years or more.
2. Frequency of Registration. Registration is required for each calendar year in which a nonresident attorney provides legal services in this state as provided in this rule and N.D.R. Prof. Conduct 5.5.
3. Continuing Legal Education Requirements. Each nonresident attorney who is registered as in-house counsel under this section must complete not fewer than 45 hours of approved coursework in Continuing Legal Education during each three-year period the attorney is registered and must file a report as provided in the North Dakota Rules for Continuing Legal Education.
4. Limitation on Registration. A nonresident attorney may provide legal services under this rule for 5 years or until the attorney becomes eligible for admission based on practice as provided by Rule 7A, whichever is earlier. After that time, the attorney must apply for and be admitted to the practice of law in North Dakota to provide any legal services in this state.
5. Automatic Termination of Registration. Permission to render legal services based on registration expires at the end of each calendar year, if employment by the employer filing the affidavit required by this rule is terminated, or if the nonresident attorney becomes eligible for admission under Rule 7A.
6. Pro Hac Vice Admission Separate. If a nonresident attorney registered as in-house counsel under this section desires to appear, either in person, by signing pleadings, or by being designated as counsel in actions filed in courts, administrative agencies, or other tribunals in this state, a separate motion for pro hac vice admission is required under this

rule. However, a separate fee is not required, provided in-house counsel has registered under this rule.

C. Ineligibility for Pro Hac Vice Admission or Registration. A nonresident attorney who is currently under suspension, disbarment, or license restriction in any jurisdiction is not eligible for pro hac vice admission or registration under this rule.

D. Use of Fees. Fees collected by the State Board of Law Examiners under this rule must be distributed in the manner provided for the distribution of license fees under N.D.C.C. Section 27-12-04 .

EXPLANATORY NOTE

Rule 3 was amended, effective March 1, 2005, to incorporate N.D.R.Ct. 11.1, with modifications, and provide for pro hac vice admission for all adjudicative proceedings and for registration of in-house counsel and nonresident attorneys representing clients in alternative dispute resolution proceedings.

This rule is not limited to an appearance in a North Dakota state court action.

Under this rule, an appearance is not limited to actual physical presence in a court action. An attorney also makes an appearance by signing or otherwise being designated as counsel on a pleading, motion, or other paper served or filed in an action venued in a North Dakota state court, administrative agency, or other tribunal.

Section A(2) of this rule requires a motion for permission to appear to be filed within 45 days of service of a pleading, motion, or other paper. If an action is commenced by service, an attorney should be aware that the action must be filed before the attorney moves for permission to appear. If the action settles before it is filed, a motion requesting permission to appear does not need to be filed.

An attorney seeking to take a deposition within the state of North Dakota for an action pending in another jurisdiction must comply with N.D.R. Prof. Conduct 5.5.

SOURCES: Joint Procedure Committee Minutes of May 6-7, 1999, pages 2-7; January 28-29, 1999, pages 13-16; November 7-8, 1991, page 6; October 25-26, 1990, page 19; June 21, 1984, pages 1-2; Joint Committee on Attorney Standards Minutes of June 24, 2003, pgs. 5-8; September 25, 2003, pgs. 2-8; November 14, 2003, pgs. 2-6; February 27, 2004, pgs. 3-5; and April 16, 2004, pgs. 1-6.

CROSS REFERENCE: N.D.R. Prof. Conduct 5.5.

SUPERSEDED: N.D.R. Ct. 11.1.

Rule 4. Licensing and Practice of Foreign Legal Consultants

A. General Regulation as to Licensing. In its discretion, the Supreme Court may license to practice in this State as a foreign legal consultant, without examination, an applicant who:

1. is, and for at least five years has been, a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as lawyers attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;
2. for at least five of the seven years immediately preceding application has been a member in good standing of such legal profession and has been lawfully engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country;
3. possesses the good moral character and general fitness requisite for a member of the bar of this State; and
4. intends to practice as a foreign legal consultant in this State and to maintain an office in this State for that purpose.

B. Application. An applicant under this Rule shall file, with the State Board of Law Examiners, an application for a foreign legal consultant license, which must include all of the following:

1. a certificate from the professional body or public authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted, certifying the applicant's admission to practice, date of admission, and good standing as an lawyer attorney or counselor at law or the equivalent;
2. a letter of recommendation from one of the members of the executive body of the professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction of the foreign country in which the applicant is admitted;
3. duly authenticated English translations of the certificate required by Section B(1) of this Rule and the letter required by Section B(2) of this Rule if they are not in English;

379 4. other evidence as the Supreme Court may require regarding the applicant's educational
380 and professional qualifications, good moral character and general fitness, and compliance
381 with the requirements of Section A of this Rule; and

382 5. an application fee ~~as set by the Supreme Court~~ equivalent to that paid by motion
383 applicants under Rule 7.

384 C. Scope of Practice. A person licensed to practice as a foreign legal consultant under this Rule
385 may render legal services in this State but shall not be considered admitted to practice law in
386 this State, or in any way hold himself or herself out as a member of the bar of this State, or
387 do any of the following:

388 1. appear as an lawyer attorney on behalf of another person in any court, or before any
389 magistrate or other judicial officer, in this State (except when admitted *pro hac vice*
390 pursuant to Rule 3A of the Admission to Practice Rules);

391 2. prepare any instrument effecting the transfer or registration of title to real estate located
392 in the United States of America;

393 3. prepare:

394 a. any will or trust instrument effecting the disposition on death of any property located
395 in and owned by a resident of the United States of America, or

396 b. any instrument relating to the administration of a decedent's estate in the United
397 States of America;

398 4. prepare any instrument in respect of the marital or parental relations, rights or duties of a
399 resident of the United States of America, or the custody or care of the children of the
400 resident;

401 5. render professional legal advice on the law of this State or of the United States of
402 America (whether rendered incident to the preparation of legal instruments or otherwise)
403 except on the basis of advice from a person duly qualified and entitled (other than by
404 virtue of having been licensed under this Rule) to render professional legal advice in this
405 State; or

406 6. carry on a practice under, or utilize in connection with such practice, any name, title, or
407 designation other than one or more of the following:

- a. the foreign legal consultant's own name;
- b. the name of the law firm with which the foreign legal consultant is affiliated;
- c. the foreign legal consultant's authorized title in the foreign country where admitted to practice, which may be used in conjunction with the name of the country; and
- d. the title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country where admitted to practice]".

D. Rights and Obligations. Subject to the limitations set forth in Section C of this Rule, a person licensed under this Rule is considered a foreign legal consultant affiliated with the bar of this State and is entitled and subject to:

- 1. the rights and obligations set forth in the North Dakota Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this State; and
- 2. the rights and obligations of a member of the bar of this State with respect to:
 - a. affiliation in the same law firm with one or more members of the bar of this State, including by:
 - (1) employing one or more members of the bar of this State;
 - (2) being employed by one or more members of the bar of this State or by any partnership or professional corporation that includes members of the bar of this State or that maintains an office in this State; and
 - (3) being a partner in any partnership or shareholder in any professional corporation that includes members of the bar of this State or that maintains an office in this State; and
 - b. attorney-client privilege, work-product privilege and similar professional privileges.

E. Discipline. A person licensed to practice as a foreign legal consultant under this Rule is subject to professional discipline in the same manner and to the same extent as members of the bar of this State. To this end:

- 1. Every person licensed to practice as a legal consultant under this Rule:

- 436 a. is subject to the jurisdiction of the Supreme Court and to censure, suspension,
437 removal or revocation of the person's license to practice by the Supreme Court and is
438 otherwise governed by the North Dakota Rules of Professional Conduct; and
- 439 b. shall execute and file with the Supreme Court, in the form and manner as the court
440 may prescribe:
- 441 (1) a commitment to observe the North Dakota Rules of Professional Conduct to the
442 extent applicable to the legal services authorized under Section C of this Rule;
- 443 (2) a written undertaking to notify the court of any change in the foreign legal
444 consultant's good standing as a member of the foreign legal profession referred to
445 in Section A(1) of this Rule and of any final action of the professional body or
446 public authority referred to in Section B(1) of this Rule imposing any disciplinary
447 censure, suspension, or other sanction upon the foreign legal consultant; and
- 448 (3) a duly acknowledged instrument, in writing, providing the foreign legal
449 consultant's address in this State and designating the Clerk of the Supreme Court
450 as the consultant's agent for service of process. The foreign legal consultant shall
451 keep the clerk advised in writing of any changes of address in this State. In any
452 action or proceeding brought against the foreign legal consultant and arising out
453 of or based upon any legal services rendered or offered to be rendered by the
454 consultant within or to residents of this State, service shall first be attempted
455 upon the consultant at the most recent address filed with the clerk. Whenever
456 after due diligence service cannot be made upon the foreign legal consultant at
457 that address service may be made upon the clerk. Service made upon the clerk in
458 accordance with this provision is effective as if service had been made personally
459 upon the foreign legal consultant.
- 460 2. Service of process on the clerk, pursuant to the designation filed under Section
461 E(1)(b)(3), must be made by personally delivering to the clerk's office, and leaving
462 with the clerk or with a deputy or assistant authorized by the clerk to receive service,
463 duplicate copies of the process together with a fee of \$10. The clerk shall promptly
464 send one copy to the foreign legal consultant to whom the process is directed, by

certified mail, return receipt requested, addressed to the foreign legal consultant at the most recent address provided in accordance with Section E(1)(b)(3).

F. Annual Fee. A person licensed as a foreign legal consultant shall pay an annual fee ~~as set by the Supreme Court~~ equivalent to the fee required for an attorney who has been licensed in this state for five years or more. Fees collected by the State Board of Law Examiners under this rule must be distributed in the manner provided for the distribution of license fees under N.D.C.C. Section 27-12-04.

G. Revocation of License. If the Supreme Court determines that a person licensed as a foreign legal consultant under this Rule no longer meets the requirements for licensure set forth in Section A(1) or Section A(2) of this Rule, it shall revoke the foreign legal consultant's license.

H. Admission to Bar. If a person licensed as a foreign legal consultant under this Rule is subsequently admitted as a member of the bar of this State under the Rules governing admission, that person's foreign legal consultant license is deemed superseded by the license to practice law as a member of the bar of this State.

I. Application for Waiver of Provisions. The Supreme Court, upon written application, may waive any provision or vary the application of this Rule where strict compliance will cause undue hardship to the applicant. The application for waiver must be in the form of a verified petition setting forth the applicant's name, age, and residence address; the facts relied upon; and a prayer for relief.

Rule 5. 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 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 Board and shall be accompanied by the required fees.

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

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

499
500 **Rule 6. Admission by Bar Examination**

501 A. All applicants for admission by bar examination:

- 502 1. must meet the requirements of Rules 1, 2 and Rule 5;
503 2. shall apply to take the examination on forms provided by the Board;
504 3. must receive a passing score on the North Dakota bar examination as set by the Board in
505 a pass/fail policy filed with the Supreme Court at least one month prior to each exam;
506 and
507 4. must receive at least a scaled score of 80 85 on the Multistate Professional Responsibility
508 Examination (MPRE).

509 B. The North Dakota bar exam shall consist of the Multistate Bar Examination (MBE), the
510 Multistate Essay Examination (MEE), and the Multistate Performance Test (MPT), which
511 are prepared by and given under the supervision of the National Conference of Bar
512 Examiners.

513 C. In lieu of taking the MBE in North Dakota, an applicant may transfer any MBE scaled score
514 received from an examination given in another jurisdiction provided:

- 515 1. the other requirements of this Rule are met;
516 2. the applicant has been admitted to the bar of the jurisdiction in which the MBE
517 examination was written; and
518 3. proof of the MBE score and a completed application are received at the offices of the
519 Board within two years of the date of the examination in the jurisdiction of admission.

520 BD. Upon acceptance and approval of the application by the Board and the payment of the
521 required fees, the applicant may take the bar examination. This general permission to

take the examination does not imply that an applicant has met all the requirements for admission to the bar of North Dakota.

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

~~DF.~~ An applicant whose disability requires testing accommodations shall submit with the application a written request on such forms as required under the Board's testing accommodations policy. The Board shall notify the applicant of its decision and provide an opportunity for reconsideration.

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

Rule 6.1 Temporary License for Attorneys Applying for Admission

A. Any attorney meeting the following qualifications may apply for the privilege to practice law temporarily in North Dakota as provided in this rule.

1. The attorney must be a member in good standing of the bar of another state or the District of Columbia and shall:

(a) be an applicant for admission to the North Dakota Bar under Rule 6 or Rule 7, and meet all eligibility requirements of those rules; and

(b) not be the subject of any suspension or disbarment proceedings in any court or the subject of any pending disciplinary complaints.

B. The attorney shall file an application with the Board, which must be attested to or sworn and state:

1. that the attorney has applied for admission to the practice of law in North Dakota under Rule 6 or Rule 7; and

2. the name and address of an associate attorney admitted and licensed to practice law in this state.

C. Attached to the application must be a statement from the associate attorney that he or she has agreed to serve as an associate attorney under this rule, is admitted and licensed to practice of

law in this state, and agrees to fulfill the responsibilities of an associate attorney described under Rule 3A.

D. The application must be accompanied by a fee of \$100. All fees collected under this rule must be divided equally between the State Bar Association and the Board of Law Examiners.

E. Upon approval by the Board, the applicant shall be issued a temporary license to practice law in this state. The temporary license is valid for no more than six months from the date of issuance.

F. The Board shall summarily revoke the temporary license if the applicant:

1. files an untruthful affidavit with the Board;
2. fails the bar examination;
3. fails to take the bar examination when eligible to do so;
4. receives a negative recommendation for admission on character and fitness grounds;
5. has formal disciplinary proceedings instituted against the applicant;
6. withdraws the application for admission to practice law under Rule 6 or 7; or
7. is admitted to the practice of law in North Dakota under Rule 6 or 7.

The Board shall notify the Disciplinary Board of the Supreme Court of any person whose temporary license is revoked under 1 through 6.

Rule 7. 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 Rules 1 and 2;
 - 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 Board to demonstrate competency in the practice of law, in one or more of the following:

- 579 (1) the private practice of law;
580 (2) service as a judge of a court of record.
581 (3) the teaching of law as a full-time instructor in a law school or schools accredited
582 by the American Bar Association; or
583 (4) the performance of full-time legal work in a legal capacity.
- 584 2. The application for admission by motion shall be filed with the ~~Clerk of the Supreme~~
585 ~~Court Board~~. The application must be accompanied by:
- 586 a. an affidavit identifying all other jurisdictions in which the applicant has applied for
587 admission and the final decision of the admitting authority in each jurisdiction;
588 b. certification of admission to practice by the admitting authority in each jurisdiction
589 that the applicant has identified in a. as having admitted the applicant to the bar;
590 c. an affidavit disclosing the place or places in the other state or states or the District of
591 Columbia where the applicant has practiced law;
592 d. the name and post office address, whenever possible, of at least one judge of a court
593 of general jurisdiction who, during the specified period, has presided in a court before
594 which the applicant has practiced law;
595 e. certification by the attorney disciplinary authority in each jurisdiction where the
596 applicant has been admitted to the bar that there are no prior or pending proceedings
597 of disbarment or suspension of the applicant's license to practice law against the
598 applicant in that jurisdiction;
599 f. the affidavits of at least two attorneys from another jurisdiction where the applicant
600 has been admitted to the bar which attest to the applicant's good moral character and
601 fitness to practice law. The affidavits must be from attorneys who practiced law
602 contemporaneously with the applicant; and
603 g. verification of 45 hours of approved or approvable course work in Continuing Legal
604 Education, three hours of which shall be in the area of ethics or course work
605 commonly considered professional responsibility, during the three years immediately
606 preceding the application for admission to the bar of this state.

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

611 B. Eligibility by Test Score.

- 612 1. An applicant may be eligible for admission by motion provided the applicant:
613 a. meets the requirements of Rules 1 and 2;
614 b. has received a scaled score of ~~150~~ 145 or above on the Multistate Bar Examination
615 (MBE) taken as a part of and at the same time as the essay or other written bar
616 examination given by another jurisdiction;
617 c. has received a scaled score of ~~80~~ 85 on the Multistate Professional Responsibility
618 Examination (MPRE) given under the auspices of the National Conference of Bar
619 Examiners;
620 d. has been admitted to the bar of the jurisdiction in which the MBE examination was
621 written.
- 622 2. Proof of the MBE score and a completed application must be received at the offices of
623 the Board within two years of the date of the examination in the jurisdiction of
624 admission.

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

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

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

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

634
635 **Rule 8. Licensure of Inactive Attorneys**

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

640 1. an affidavit stating:

641 a. if the applicant has not been licensed for a period of less than two years, that the
642 applicant has received 15 hours of approved or approvable course work in Continuing
643 Legal Education, one hour of which shall be in the area of ethics or course work
644 commonly considered professional responsibility, in the year immediately preceding
645 the application;

646 b. if the applicant has not been licensed for a period of more than two years but less than
647 three years, that the applicant has received 30 hours of approved or approvable course
648 work in Continuing Legal Education, two hours of which shall be in the area of ethics
649 or course work commonly considered professional responsibility, during the two
650 years immediately preceding the application; or

651 c. if the applicant has not been licensed for a period of three or more years, that the
652 applicant has received 45 hours of approved or approvable course work in Continuing
653 Legal Education, three hours of which shall be in the area of ethics or course work
654 commonly considered professional responsibility, during the three years immediately
655 preceding the application;

656 2. certification of admission to practice by the admitting authority in each jurisdiction
657 where the applicant has been admitted to the bar;

658 3. certification by the attorney disciplinary authority in each jurisdiction where the applicant
659 has been admitted to the bar that there are not prior or pending proceedings of disbarment
660 or suspension of the applicant's license to practice law against the applicant in that
661 jurisdiction;

662 4. an affidavit containing the following information:

663 a. the specific dates of nonlicensure in North Dakota;

- 664 b. the applicant's reasons for not seeking a license to practice law in North Dakota
665 during the period identified in a.; and
666 c. the applicant's employment and legal activities during the period identified in a.; and
667 5. payment of a licensure investigation fee set by the Board.
- 668 B. The Board shall investigate the applicant's application and its sufficiency, including the
669 moral character of the applicant. In its investigation of the applicant's application the Board
670 shall give consideration to the following factors:
- 671 1. the applicant's work experience during the period of nonlicensure in North Dakota;
672 2. the length of time during which the applicant did not secure a license to practice law in
673 North Dakota;
674 3. the applicant's continued licensure in another jurisdiction during the period of
675 nonlicensure in North Dakota;
676 4. the number of hours of approved or approvable course work in Continuing Legal
677 Education received during the period of nonlicensure in North Dakota; and, if the
678 applicant has been previously licensed in North Dakota, the number of hours of approved
679 or approvable course work in CLE received during the three year period preceding the
680 period of nonlicensure.
- 681 C. If the Board determines that the applicant's legal experience during the nonlicensure does not
682 demonstrate sufficient competency in the practice of law, it shall require the applicant to take
683 an attorney's examination. The Board shall set the date, time, place, and content of each
684 examination.
- 685 D. Based upon the results of the investigation of the applicant's application and the attorney's
686 examination, if required, the Board may issue a license to practice law to the applicant upon
687 the applicant's payment of the license fee established by Section 27-11-11, N.D.C.C., to the
688 Secretary-Treasurer of the State Board of Law Examiners.
- 689 E. The Board may issue a conditional license under the provisions of Rule 9.
- 690

691 **Rule 9. Conditional Admission/License**

- 692 A. The Board may, in light of an applicant's physical or mental disability, present or past use or
693 abuse of drugs or alcohol, neglect of financial responsibilities, or other circumstances in
694 which the Board determines the protection of the public requires it, recommend admission or
695 licensure to the bar conditional upon the applicant's compliance with relevant conditions
696 prescribed by the Board.
- 697 B. The Board may recommend specific conditions of admission or licensure, including, but not
698 limited to, requiring alcohol or drug treatment, medical care, psychological or psychiatric
699 care, professional office practice or management counseling, practice supervision,
700 participation in the lawyer assistance program, and/or professional audits or reports. The
701 Board may recommend persons to supervise the applicant and may recommend that
702 cooperation with such supervisors be a condition. All costs related to any condition are the
703 responsibility of the applicant. The Board shall recommend a specific duration for the
704 conditions.
- 705 C. If the applicant is granted conditional admission or licensure by the Court, the terms and
706 conditions of the applicant's admission or licensure shall be administered and monitored by
707 the Board. During the period of conditional admission or licensure, the Board shall be
708 notified of any disciplinary proceedings and shall have access to all information relating to
709 any disciplinary complaint filed against the applicant.
- 710 D. At the end of the specified period, the Board shall file a report with the Court and
711 recommend entry of an order lifting the conditional admission or licensure and allowing the
712 applicant to practice law without restrictions, continuing the conditions, or amending the
713 conditions.
- 714 E. If the applicant violates any conditions of admission or licensure, the Board is authorized to
715 institute proceedings for revocation of the conditional admission or license under Rule 11 or
716 12 and shall notify the applicant and the disciplinary authority of its intent. The applicant's
717 notice shall be by certified mail directed to the applicant at the last known address of the
718 applicant.

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

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

726 **Rule 10. Review Procedures**

727 A. Informal Interview

728 At any stage of the application proceedings, the Board may request the applicant to appear
729 before it or a designated Board member to answer any questions.

730 B. Formal Hearing

731 1. If the Board makes a recommendation for conditional admission or licensure, a negative
732 recommendation for admission to the bar or a negative decision on licensure for any
733 reason, it shall so notify the applicant by certified mail directed to the applicant at the
734 mailing address appearing on the applicant's application. The notice must specify the
735 grounds for the recommendation or decision by the Board.

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

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

742 ~~b. if any part or all of the exam is prepared by or under the supervision of the National~~
743 ~~Conference of Bar Examiners, the applicant shall be given the opportunity to inspect~~
744 ~~that part of the examination and provided copies of the appropriate point sheet or~~
745 ~~model analyses, prepared by or under the supervision of the National Conference of~~
746 ~~Bar Examiners, for that part of the applicant's examination. Any inspection and~~
747 ~~copying of the examination prepared and scored by or under the supervision of the~~

- 748 National Conference of Bar Examiners will be as permitted by the guidelines and
749 limitations prescribed by the National Conference of Bar Examiners or its designee.
- 750 a. If the Board provides for an independent duplicate grading procedure under the
751 pass/fail policy, the Board will not regrade any exam, however, the Board may
752 reconsider a score if there is an obvious flaw in the question or analysis or the overall
753 administration of the examination was faulty.
- 754 2. Within 30 days after the mailing of the notification, the applicant may demand a formal
755 hearing by written petition directed to the Board.
- 756 3. At least 20 days before the hearing, the Board shall notify the applicant of the time and
757 place of the hearing and shall inform the applicant of the applicant's right to be
758 represented by counsel and to present any witnesses as the applicant may choose.
- 759 4. The hearing must be on the record and, at the discretion of the Board, may be held before
760 the Board or a hearing examiner appointed by the Board to conduct the hearing. The
761 Board shall set forth its findings of fact and its conclusions. If a hearing examiner is
762 appointed to conduct the hearing, the findings and conclusions of the hearing examiner,
763 to the extent that the Board adopts them, become the findings and conclusions of the
764 Board.
- 765 5. The applicant has the burden of showing that he or she should be admitted, with or
766 without conditions, by a preponderance of the evidence.
- 767 56. The Board shall notify the applicant by certified mail of its findings of fact and its
768 conclusions.
- 769 C. Supreme Court Consideration
- 770 1. An applicant who, after formal hearing, receives notice that the Board will recommend
771 conditional admission or licensure, or has given a negative recommendation or decision
772 on admission or licensure, may request review of that recommendation or decision by the
773 Supreme Court. The review may be requested by written petition directed to the Clerk.
774 The petition must be filed within 30 days after the Board's mailing of the notice of the
775 results of the formal hearing.

- 776 2. The Clerk, upon receipt of a petition, shall notify the Board to prepare and file with the
777 Clerk of the Supreme Court the record and files, including the transcript of the hearing,
778 its findings of fact, and its recommendation. The cost of the transcript of the hearing, if
779 any, shall be the responsibility of the petitioner.
- 780 3. To the extent appropriate, all proceedings before the Supreme Court must conform to the
781 North Dakota Rules of Appellate Procedure. The Board shall participate in the briefing
782 and oral argument before the Supreme Court.
- 783 4. The applicant has a burden of proof by a preponderance of the evidence.
784

785 **Rule 11. Interim Revocation of Conditional Admission/License**

- 786 A. Upon receiving sufficient evidence demonstrating that an applicant:
- 787 1. has not complied with any condition and
788 2. poses a substantial threat of irreparable harm to the public,
789 the Board shall transmit the evidence to the Supreme Court together with a proposed order
790 for interim revocation of the conditional admission or license.
- 791 B. At any stage, the Supreme Court may enter an interim order immediately revoking the
792 conditional admission or license of an applicant pending final disposition of the proceedings
793 predicated upon the noncompliance with conditions and conduct causing harm or may order
794 such other action as deemed appropriate. Upon the request of the applicant who is subject to
795 the Board's request for interim revocation, the Supreme Court may provide the applicant an
796 opportunity to be heard before determining the Board's request. Upon request by the Board
797 or the applicant after entry of an interim revocation order, the Supreme Court shall within ten
798 days provide an opportunity for the applicant to demonstrate that the order should not remain
799 in force.
800

801 **Rule 12. Revocation of Conditional Admission/License**

- 802 A. Within 60 days after the mailing of the notification of intent to revoke the conditional
803 admission or license, the Board shall set a hearing on the revocation and inform the applicant

804 of the time and place of the hearing and the applicant's right to be represented by counsel and
805 to present any witnesses as the applicant may choose.

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

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

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

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

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

824 **Rule 13. Public Records**

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

- 828 1. the name and last address provided of each applicant;
- 829 2. pre-legal colleges attended by each applicant;
- 830 3. law schools attended by each applicant;
- 831 4. whether an applicant ~~has ever been~~ is currently admitted to practice under rule for
832 Limited Practice of Law by Law Students (Senior Practice Rule);

833 5. names and addresses of persons who have passed the examination and have met all the
834 requirements for admission to practice; and

835 6. ~~whether an applicant has been admitted with conditions; and~~

836 7. statistical summaries as may be authorized by the Supreme Court.

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

840 C. Application information may be released to agents authorized by the Board to investigate
841 moral character.

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

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

847
848 **Rule 14. Withdrawal of Application**

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

851
852 **Rule 15. Disqualification of Members**

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

857
858 **Rule 16. Immunity**

859 Communications to the Board, its committees, secretary or staff relating to an applicant's
860 admission to the bar or character and fitness to practice law, as well as testimony given in a
861 formal proceeding, are absolutely privileged, and no civil proceeding predicated thereon may be

862 instituted against any person providing information to the Board. Members of the Board, the
863 Board's committees, secretary and staff are absolutely immune in any civil proceeding for all
864 conduct in the course of their official duties.

865
866 **Rule 17. Power of Court to Revoke or Suspend Admission**

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

871
872 **Rule 18. Title and Citation**

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

SEPTEMBER 2007

NORTH DAKOTA STATE BOARD OF LAW EXAMINERS

Accommodations Forms for Applicants with Disabilities

Dear Applicant:

It is the policy of the North Dakota State Board of Law Examiners to administer the bar examination and all other services of this office in a manner that does not discriminate against qualified applicants with disabilities. A qualified applicant with a disability who is otherwise eligible to take the bar examination, but who cannot demonstrate under standard testing conditions that he/she possesses the knowledge and skills to be admitted to the Bar of the State of North Dakota, may request reasonable testing accommodations.

The Board will make reasonable modifications in any policy, practice, or procedure which might otherwise deny equal access to individuals with disabilities. Such modifications will be made unless a fundamental alteration in the examination or other admission requirement would result. In order to accomplish this, the Board will furnish additional testing time, as well as auxiliary aids and services to ensure effective communication. Charges will not be assessed to individuals with disabilities to cover the costs of reasonable accommodations.

Individuals with disabilities will not be tested separately from other examinees, unless necessary to ensure the test is equally effective for all examinees. If the individual prefers not to accept a reasonable accommodation, the Board will not require that the accommodation be accepted.

Applicants who request accommodations are encouraged to apply for the bar examination and submit the required forms well in advance of the deadline. Sending your accommodations request in early should facilitate your planning and preparation. The final postmark deadline for all applications and documentation is 90 days prior to the opening day of the bar examination. Please note, there are no exceptions to this deadline unless unusual circumstances arise after the deadline which can be reasonably accommodated.

You must request an accommodation, in writing, each time you register for the North Dakota State Bar Examination, even if you have previously requested an accommodation and that request has been granted.

For those applicants with a disability who are able to test in a standard room with an accommodation, documentation still needs to be submitted. Examples of individuals who can test in a standard room are test takers who require wheelchair accessible facilities (test rooms), applicants who require the large print test format and/or the large print answer sheet, and hearing impaired individuals who need to be seated in the front of the test room and have access to a written copy of the spoken instructions. Any deviation from the standard administration needs to be approved through the accommodated testing process.

Appendix A

Steps To Follow When Requesting Accommodations

- _____ 1. Complete the Application for the North Dakota State Bar Examination.
- _____ 2. Complete the enclosed "Applicant Questionnaire", (Form A, Page 1 through 5). **You are advised to retain a copy of the documents sent to the State Board of Law Examiners in connection with your request for accommodations.**
- _____ 3. Please have a professional who is licensed to diagnose and treat your disability complete all applicable sections of the enclosed Form B, Page 1 through 5. **This information is required *before* the Board *will consider a request for accommodations*.**
- _____ 4. Provide the following :
 - Documented clinical and school history
 - Documentation of prior test accommodations on a form or letter from institution.
 - all professional evaluation reports including a comprehensive evaluation in the past 3-5 years
 - School records that indicate a disability diagnosis, special education services, IEPs, 504 Plans, and test accommodations.
 - Evidence of impairment in learning such as grade reports, transcripts, and standardized test scores with and without accommodations.
 - Documentation of treatment for the problems and evidence of effectiveness.
- _____ 5. Return all medical and general Releases required as part of the Application process.

Under the ADA a qualified individual must have a disability and demonstrate that the disability causes significant impairment in functioning relative to the "average person" such that there is a substantial limitation in a major life activity (i.e. learning). Your documentation should provide clinical and historical evidence of such impairment.

Return all forms to:
State Board of Law Examiners
First Floor, Judicial Wing
600 East Boulevard Avenue, Dept. 180
Bismarck ND 58505-0530

The State Board of Law Examiners reserves the right to make the final judgment concerning requested accommodations. The State Board of Law Examiners will send you written notification regarding accommodations. The State Board of Law Examiners alone has the right to modify accommodations granted to test takers. Unauthorized changes to approved accommodations made by the testing supervisor or the candidate may result in an invalidation of the applicant's test score.

State Board of Law Examiners of North Dakota

First Floor, Judicial Wing
600 East Boulevard Avenue, Dept. 180
Bismarck, ND 58505-0530
Telephone (701) 328-4201
Facsimile (701) 328-4480
TDDY (701) 328-2884

TO: Physician/Licensed Treating Professional

FR: Penny Miller, Secretary-Treasurer

DATE: November 2007

RE: Description of the North Dakota Bar Examination

It is the policy of the North Dakota State Board of Law Examiners to administer the bar examination in a manner that is fair to all. Disabled applicants who need test accommodations will be given reasonable accommodations. The Board will use your documentation to determine the existence of a disability and to decide the reasonable testing accommodation for that disability. Please use the attached forms to describe the applicant's disability and the specific accommodations you recommend.

The following is a description of the North Dakota Bar Examination under standard test conditions. Use this as a baseline in recommending special testing accommodations for a disabled applicant.

- A passing score on the North Dakota Bar Examination is required for admission to practice law in North Dakota. The bar examination is a two-day exam. It is administered in July and February each year in Bismarck. Approximately 40-50 people take the exam in July and 10-20 in February. Applicants are typically seated at six or eight-foot tables (one to two applicants per table).
- Under standard testing conditions, examinees generally may not bring food into the examination area, but beverages are permitted, and the examinees are permitted to leave their seats to go to the restroom. There is a 60-75 minute lunch break on each day.
- The first day of the examination includes two 90-minute performance exams within a three-hour morning session. The three-hour afternoon session includes six essay questions. Applicants handwrite or type the performance and essay portions of the examination. The average examinee handwrites a 4 to 8 page answer to the performance test questions, and a 3 to 5 page answer to each of the 6 essay questions. Personal computers are not used, however, word processors with

memory, dictionary and spell check features disengaged have been allowed with restrictions.

- On the second test day, a 200-question multiple choice examination is administered, with 100 questions answered in a three-hour morning session, and 100 questions answered in a three-hour afternoon session. The answers are marked by using a pencil to blacken the appropriate circle.

If you have additional questions regarding the examination or regarding the type of accommodations you plan to recommend, please feel free to call me at (701) 328-4201

Form A

BAR APPLICANT TESTING ACCOMMODATIONS QUESTIONNAIRE

Note: This form is part of the Application for Admission to the Bar of North Dakota. It must be complete and accurate. Return the forms with your Application for Admission.

(Please Print or Type)

Background Information:

Name: _____

Social Security Number: _____

Address: _____

Telephone: _____ Exam Date: _____

Please check box, if applicable ☐ - I have previously submitted documentation of my disability for the North Dakota Bar Examination. Exam date for which documentation is on file: _____

Nature of Your Disability (Check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Blind | <input type="checkbox"/> Other physical disability |
| <input type="checkbox"/> Visually impaired | <input type="checkbox"/> Psychological disability |
| <input type="checkbox"/> Hearing impaired | <input type="checkbox"/> Specific learning disability |
| <input type="checkbox"/> ADHD | |

What disability do you have?

Please give a detailed narrative description of the nature and extent of your disability.

Describe the functional limitations related to your disability that directly affect your ability to take the examination.

When did you first acquire the disability (approximate date and age)?

When was the disability first diagnosed by a treating professional (date and age)?

By whom (name, address and degree)?

What treatment is currently prescribed?

Past Accommodations Granted:

Were you granted testing accommodations in **grades K-12**? ☐Yes ☐No If yes, please describe the condition or diagnosis for which accommodations were granted and the type of accommodations received:

Did you use disabled-student services, tutoring services or receive special test accommodations while you were enrolled in college? ☐Yes ☐No If yes, please describe the condition or diagnosis for which accommodations were granted and the type of accommodations received:

Were you granted testing accommodations for taking the SAT, ACT, LSAT, MPRE examinations, or any other bar examination? ☐Yes ☐No If yes, please specify the test and describe the condition or diagnosis for which accommodations were granted and the type of accommodations received:

Were you granted testing accommodations in law school? ☐Yes ☐No If yes, please describe the condition or diagnosis for which accommodations were granted and the type of accommodations received:

If you answered "yes" to any of the above questions, please attach any records or other documentation concerning the diagnosis and the accommodations granted. Medical records or documentation of long-standing accommodations is helpful.

Accommodations Requested

Note: Applicants with like accommodations may be tested in the same room. All standard test center regulations will apply to accommodated administrations, unless specifically modified in writing by the State Board of Law Examiners.

Test Environment:

Regular test room ☐ Private Room ☐ Small group ☐

Communications and Alternative Formats (If you do not complete this section, the regular print test book will be used.)

	<u>MEE/MPT*</u>	<u>MBE*</u>
Braille	<input type="checkbox"/>	<input type="checkbox"/>
Magnifying glass	<input type="checkbox"/>	<input type="checkbox"/>
Audio cassette version of exam	<input type="checkbox"/>	<input type="checkbox"/>
Large print exam materials	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 18 pt. <input type="checkbox"/> 24 pt.		

Personal Assistance

	<u>MEE/MPT</u>	<u>MBE</u>
Typist	<input type="checkbox"/>	<input type="checkbox"/>
Reader	<input type="checkbox"/>	<input type="checkbox"/>
Use of a recorder	<input type="checkbox"/>	<input type="checkbox"/>
Assistance with computer	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

If requesting special equipment or personal items in the test room, (e.g., medications, special chair, special lighting), please describe:

Additional Test Time

If you are seeking additional test time, you must specify the amount of **additional time** requested for each 3-hour testing session. Please note the State Board of Law Examiners does not offer an untimed test.

Portion	25%	50%	other - please state
MPT (AM - Day 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MEE (PM - Day 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MBE (AM - Day 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MBE (PM - Day 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*MEE - Multistate Essay Examination; MPT - Multistate Performance Test; MBE - Multistate Bar Examination

Additional Rest Time

If you are seeking additional rest time, you must specify the amount of **additional time** requested for each 75-minute lunch break scheduled between the first and second session on the first day and the third and fourth session on the second day of the exam.

Day	Additional Rest Time Requested
1	_____
2	_____

Other accommodations requested. Please be specific:

Applicant's Signature

I certify that all of the information on this form is true and correct and I understand that it may be reviewed by a physician or licensed professional.

Signature

Date

If you are unable to sign this form, please have someone sign and date in your presence.

Signature

Date

The North Dakota State Board of Law Examiners reserves the right to make final judgment concerning testing accommodations.

**AUTHORIZATION FOR RELEASE OF
MEDICAL INFORMATION AND/OR
INFORMATION OF ADDICTION EVALUATION/TREATMENT**

The undersigned applicant for admission to the North Dakota Bar hereby requests and authorizes

(NAME OF PROGRAM OR DOCTOR)

to release the records pertaining to evaluation, diagnosis, recommendations and/or treatment regarding me to the North Dakota State Board of Law Examiners and/or its representatives or the National Conference of Bar Examiners for use in evaluating my admission to the North Dakota Bar.

This consent to release is subject to revocation at any time, except to the extent that the program or doctor named above which is to make the disclosure has already taken action in reliance on it, and will expire twelve months from the date hereof, if not previously revoked.

I hereby release, discharge and exonerate the North Dakota State Board of Law Examiners, its agents and representatives, the National Conference of Bar Examiners,
and _____

(NAMES AND ADDRESS OF INSTITUTION PROGRAM OR DOCTOR)

its agents and representatives so furnishing information from any and all liability of every nature and kind arising out of the furnishing or inspection of such documents, records and other information or the investigation made by the North Dakota State Board of Law Examiners and/or the National Conference of Bar Examiners.

Information regarding alcohol or drug abuse is being disclosed to the North Dakota State Board of Law Examiners from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit the program or doctor named above from making further disclosure of this information unless further disclosure is expressly permitted by my written consent or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

Date: _____

(APPLICANT)

Subscribed and sworn to before me this
_____ day of _____, 2007.

Seal or Stamp must be affixed

Form B

DISABILITY DOCUMENTATION FOR TESTING ACCOMMODATIONS

(To be Completed by a Physician or Licensed Professional)

Note: The State Board of Law Examiners of North Dakota requires current medical or learning disability documentation generally within the last two years. A licensed physician or other professional in the field related to the applicant's disability, and who is familiar with the applicant's disability and its impact on his/her ability to perform on the North Dakota State Bar Examination, (or other similar timed, standardized admission tests), must complete this form. The applicant must return this form with his/her completed Application for Admission to the Bar of North Dakota.

(Please Type or Print Legibly)

Physician or Licensed Professional:

Name:

Occupation, Title & Specialty:

License/Certification Number:

Address:

City, State, Zip:

Telephone Number:

RE: Applicant Name:

Under the ADA a qualified individual must have a disability and demonstrate that the disability causes significant impairment in functioning relative to the "average person" such that there is a substantial limitation in a major life activity (i.e. learning). Your documentation should provide clinical and historical evidence of such impairment.

Please describe your credential(s) which qualify you to diagnose and/or verify the applicant's disability and to recommend an accommodation.

What is the specific diagnosis of the condition, or impairment that requires the applicant to request testing accommodations?

Briefly describe the nature of the impairment and describe how the impairment affects the applicant in a test situation.

Current treatment consists of: (Copies of chart notes are strongly recommended. Please attach if applicable. This information will greatly facilitate our evaluation.)

Last date of treatment/date of consultation with applicant:

Length of treatment with applicant:

Is this a permanent condition?

Yes: ☐

No: ☐

If no, when is the condition/disability likely to abate?

In what way(s) does the condition/disability prevent the applicant from taking the examination under standard testing conditions? (Two 3-hour sessions given over 2 consecutive test days.)

Is the applicant following the prescribed course of treatment? Yes: ☐ No: ☐

In what way does the prescribed course of treatment improve the applicant's ability to read, write and/or concentrate for extended periods of time?

Given the applicants condition/disability and your diagnosis/prognosis, what testing accommodations do you recommend? Any recommended accommodations must be accompanied by a data-based rationale.

If you are recommending that the applicant bring special equipment or personal items into the test room, (e.g., medications, special chair, special lighting), please describe:

Additional Test Time Requested

Portion	25%	50%	Double Time
MPT (AM - Day 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MEE (PM - Day 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MBE (AM - Day 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MBE (PM - Day 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Explain why additional time is needed.

***MEE - Multistate Essay Examination; MPT - Multistate Performance Test; MBE - Multistate Bar Examination**

Limited Testing Time

If you are recommending that the applicant limit the length of his/her test day, specify the requested time limitations for each test day and indicate why time limitations are required. The State Board of Law Examiners does not offer an untimed examination.

Other accommodations requested. Please be specific.

In what way will the recommended accommodation compensate for the disability?

Please submit the following:

1. Provide a thorough clinical history.
2. Provide a comprehensive evaluation report that includes a data-based/evidence based DSM IV diagnosis including evidence of impairment relative to the average person (not the average law student).
3. Because the Bar Exam relies heavily on reading and writing skills, please assess these domains comprehensively using valid diagnostic measures.
4. Provide all standardized test scores based only on age norms. Do not use grade norms or equivalents.
5. Use valid diagnostic tests that have general population norms. Screening measures like the Wide Range Achievement Test and Nelson Denny Reading Test may be used as supplemental documentation, but should not be the primary basis for a diagnosis.
6. Discuss alternative hypotheses for the test findings.
7. Provide a clear, evidence-based rationale for each requested accommodation. Accommodation needs should be based on significant impairment that prevents equal access to the bar exam.
8. It should be noted that the ADA provides examinees with equal access to the Bar Exam. It does not entitle any examinee to a guarantee of success, optimal performance, or reaching a potential determined by IQ score.

I certify that all the information provided on this form is true and correct to the best of my knowledge and belief, and I understand this information may be reviewed by a physician or licensed professional retained by the State Board of Law Examiners to assist in determining reasonable testing accommodations.

Signature of Physician/Licensed Professional

Name (print)

Date

The North Dakota State Board of Law Examiners reserves the right to make final judgment concerning testing accommodations.

Form C

LAW SCHOOL STATEMENT

Regarding Testing Accommodations Granted

Applicant Name

The above named applicant received testing accommodations for the following disability(s) while taking exams at this school:

during the following periods:

The testing accommodations provided are described as follows:

Was medical documentation provided by the student or medical professional when the accommodation was first requested?

What medical documentation was provided?

Signature

Print name

Date

Title

Law School

Telephone #

Internal Operating Procedures for Processing Special Accommodations Requests

1. Any request for special accommodations is due with the bar examination application. The established application due date is 90 days prior to the opening day of the examination.
2. The required documentation for an accommodations request includes:
 - Applicant's Questionnaire (Form A, Pages 1 through 5);
 - Licensed Professional Form B, Pages 1 through 5, and, if the request is based on a learning disability, Form B-LD, Pages 1 through 4;
 - Required Medical/Information Releases
 - Additional Information as Directed by the Board
3. Upon receipt of the request, Board staff shall review for the required documentation. If the required documentation is omitted, the applicant must be immediately contacted and given a reasonable deadline for providing the information.
4. Upon receipt and initial review, if the required documentation is received, copies of the request and all supporting documentation should be immediately forwarded to the members of the State Board of Law Examiners.
5. Within a reasonable time following the receipt of the request, the members of the Board shall grant, deny, modify or seek additional information on an accommodations request.
6. If the request is submitted to an independent physician or licensed professional, a deadline for a report/opinion should be discussed with the physician before the matter is referred.
7. If any additional information is requested of the applicant, a reasonable deadline should be provided to the applicant. The reasonableness of the deadline will depend on the nature of the request.
8. If the applicant wants the Board to reconsider any action regarding a special accommodations request, it must be done in writing and within 10 days of any written notification of the Board's action. Any request for reconsideration must be immediately referred to the Board.
9. The Board has the discretion to grant any request for special accommodations, based on an emergency or otherwise, that is filed after the deadline.
10. Each request for special accommodations will be reviewed on a case-by-case basis.
11. When an individual is used as a reader, transcriber or in some other way to accommodate a disability, the individual may not have any legal education, training or experience. An affidavit attesting to this is required. Except in unusual circumstances, the individual should not be related to the applicant.

12. The Board assumes the reasonable costs of most accommodations.

13. It is assumed that most applicants with a history of a disability will have their own equipment available. For the security of the exam, if an inspection of the equipment can be accomplished by staff, the applicant will be permitted to use his/her own equipment.

14. If the applicant has failed to provide any requested information regarding the request for accommodations by a deadline set by the Board, the request will be denied and the applicant advised.

NOTE: The above are guidelines only and do not create any rights for individuals requesting accommodations. The Board reserves the right to deviate from these guidelines.

Rev. 8-01