

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 94-9023

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**ORDER ADOPTING AMENDMENTS TO  
RULES GOVERNING ADMISSION TO THE BAR OF TEXAS**

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IT IS ORDERED that the *Rules Governing Admission to the Bar of Texas* are amended as follows, to take effect immediately:

**1. Rule II(a) is amended by striking the subsection in its entirety and substituting the following language therefor:**

"(a) To be eligible for admission or reinstatement as a licensed attorney in Texas, the Applicant shall:

- (1) comply with all applicable requirements of these Rules;
- (2) be at least eighteen (18) years of age;
- (3) be of present good moral character and fitness;
- (4) have completed the law study required under these Rules, unless specifically exempted under the terms of Rule XIII;
- (5) qualify under one of the following categories:
  - (A) be a United States citizen;
  - (B) be a United States National;
  - (C) be an alien lawfully admitted for permanent residence;
  - (D) be an alien lawfully admitted for temporary residence under 8 USC Sec. 1255;
  - (E) be admitted as a refugee under 8 USC Sec. 1157; or

(F) be granted asylum under 8 USC Sec. 1158.

If the Applicant does not qualify for a regular Texas law license due to an inability to meet the requirements of this Rule II(a)(5), the Applicant may be issued a Probationary License, upon meeting all other requirements of these rules, if the Applicant holds one or more of the following valid non-immigrant visa statuses entitling him or her lawfully to work in the United States: H-1B, TC, L-1, or F-1 Practical Training. A Probationary License issued under this rule shall be valid concurrently with such valid visa status and, with the exception of an F-1 Practical Training visa status, shall entitle the Applicant to be employed only by the employer named in the petition of application through which such status was obtained.

(6) have satisfactorily completed the Texas Bar Examination, unless exempted from the Bar Examination under Rule XIII (but in no event shall an Applicant for reinstatement be so exempted);

(7) have satisfactorily completed the Multistate Professional Responsibility Examination; and

(8) be willing to take the oath required of attorneys in Texas.

(9) pay the appropriate licensing fee to the Clerk of the Supreme Court of Texas; and

(10) enroll in the State Bar of Texas by filing an enrollment form and paying the appropriate fees and assessments due within the time specified in Article III, Sec. 2(A) of the State Bar Rules."

**2. Rule IV is amended by adding new subsections (d), (e), (f) and (g), as follows:**

(d) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or an Applicant who has been convicted of a felony in Texas or placed on probation for a felony with or without an adjudication of guilt in Texas, or who has been convicted or placed on probation with or without an adjudication of guilt in another jurisdiction for a crime which would be a felony in Texas. A Declarant or Applicant may be found lacking in present good moral character and fitness under this rule based on the underlying facts of a felony conviction or deferred adjudication, as well as based on the conviction or probation through deferred adjudication itself.

(1) The record of conviction or order of deferred adjudication is conclusive evidence of guilt.

(2) An individual guilty of a felony under this rule is conclusively deemed not to have present good moral character and fitness for a period of five years after the completion of the sentence and/or period of probation.

(3) Upon proof that a felony conviction or felony order of probation with or without adjudication of guilt has been set aside or reversed, the Declarant or Applicant shall be entitled to a new hearing before the Board for the purpose of determining whether, absent the record of conclusive evidence of guilt, the Declarant or Applicant possesses present good moral character and fitness.

(e) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or Applicant who has been licensed to practice law in any jurisdiction and has been disciplined, or allowed to resign in lieu of discipline, in that jurisdiction.

(1) A certified copy of the order or judgment of discipline from the jurisdiction is prima facie evidence of the matters contained in such order or judgment, and a final adjudication in the other jurisdiction that the individual in question has committed professional misconduct is conclusive of the professional misconduct alleged in such order or judgment.

(2) An individual disciplined for professional misconduct in the course of practicing law in any jurisdiction, or an individual who resigned in lieu of disciplinary action is deemed not to have present good moral character and fitness during the course of such discipline imposed by such jurisdiction, and, in the case of disbarment or resignation in lieu of disciplinary action, during the period of ineligibility for re-licensure in the other jurisdiction. No individual whose disbarment or resignation in lieu of disciplinary action was based on conviction of a felony or probation with or without adjudication of guilt shall be found to have present good moral character and fitness until the expiration of five years from the completion of the sentence and/or period of probation assessed with or without an adjudication of guilt.

(3) The only defenses available to an Applicant or Declarant under section (e) are outlined below and must be proved by clear and convincing evidence:

(A) The procedure followed in the disciplining jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.

(B) There was such an infirmity of proof establishing the misconduct in the other jurisdiction as to give rise to the clear conviction that the Board, consistent with its duty, should not accept as final the conclusion on the evidence reached in the disciplining jurisdiction.

(C) The deeming of lack of present good moral character and fitness by the Board during the period required under the provisions of section (e) would result in grave injustice.

(D) The misconduct for which the individual was disciplined does not constitute professional misconduct in Texas.

(4) If the Board determines that one or more of the foregoing defenses has been established, it shall render such orders as it deems necessary and appropriate.

(f) An individual who applies for admission to practice law in Texas or who files a petition for redetermination of present moral character and fitness after the expiration of the five-year period required under subsection (d)(2) above or after the completion of the disciplinary period assessed or ineligibility period imposed by any jurisdiction under subsection (e) above shall be required to prove, by a preponderance of the evidence:

(1) that the best interest of the public and the profession, as well as the ends of justice, would be served by his or her admission to practice law;

(2) that (s)he is of present good moral character and fitness; and

(3) that during the five years immediately preceding the present action, (s)he has been living a life of exemplary conduct.

(g) An individual who files a petition for redetermination of present moral character and fitness after a negative determination based on a felony conviction, felony probation with or without adjudication of guilt, or professional misconduct or resignation in lieu of disciplinary action and whose petition is denied after a hearing, is not eligible to file another petition for redetermination until after the expiration of three years from the date of the Board's order denying the preceding petition for redetermination."

**3. Rule V is amended by striking the existing language in its entirety and substituting therefor the following:**

**"RULE V**

**PROFESSIONAL RESPONSIBILITY EXAMINATION REQUIREMENT**

(a) No Applicant for admission to the Texas Bar shall be issued a license to practice law in Texas until such person has furnished to the Board evidence that (s)he has passed the Multistate Professional Responsibility Examination (MPRE) with a scaled score of 85.

(b) A passing MPRE score is valid for five years from the date the MPRE is taken.

(c) If an Applicant has a valid, passing MPRE score on the date (s)he takes the Texas Bar Examination or Short Form Examination, the MPRE score is deemed to be valid for licensing purposes if the Applicant passes that particular Texas examination, even if the five year period set out in (b) above expires before the Texas grades are released."

**4. Rule VI is amended by striking existing (a)(1)(C)(i)-(vi) and substituting therefor the following language:**

**"(C) the Declarant's criminal history;"**

**5. Rule IX is amended by striking, in subsection (d), the phrase ", except as may be required by statutory provisions to the contrary" and, in subsection (f), by adding the following at the end of the existing language:**

**"Late fees shall be waived for any Re-Applicant filing between the timely deadline and the Re-Application deadline, if such Re-Applicant took and failed the most recent examination given."**

**6. Rule X(a) is amended by inserting the word "present" after the phrase "the Board is satisfied that the Applicant possesses the requisite . . ." and by striking the words "acceptable character" and substituting therefor the words "present good moral character."**

**7. Rule XI(b) is amended by striking the existing language and substituting the following therefor:**

**"(b) The Texas Bar Examination shall be given at such places as the Board may direct."**

**8. Rule XI is further amended by striking the existing subsections (e) and (f) in their entirety and by creating a new subsection (e) as follows:**

"(e) The provisions of this subsection (e) shall apply to each Applicant who takes all portions of the Texas Bar Examination in February 1994 or thereafter.<sup>1</sup> The Texas Bar Examination shall last two and one-half days and shall consist of the Multistate Bar Examination (MBE), given on Wednesday; Texas Essay Questions, given on Thursday; and Procedure and Evidence Questions, given on Friday morning. Answers to the Texas Essay Questions will be graded, and total scores will be scaled to the Multistate Bar Examination, using the equipercentile method. Likewise, answers to the Procedure and Evidence Questions will be graded, and total scores will be scaled to the Multistate Bar Examination, using the equipercentile method. Scores on the portions of the examination will be weighted as follows: the scaled MBE score will be multiplied by 2; the scaled Texas Essay score will be multiplied by 2; and the scaled Procedure and Evidence score will be multiplied by 1. Applicants who earn a combined scaled score of 675 out of 1000 shall pass the examination."

**9. Rule XI is amended by re-lettering subsections (g) - (j) as (f) - (i), respectively, and re-lettered subsection XI(g) is amended by striking the existing language and substituting therefor the following language:**

"(g) Any Applicant who has failed the examination at least two times may submit a written request, within two weeks of the release of the examination results, for a Formal Review of the applicant's performance on the immediately preceding examination (excluding the multistate portion). Such Formal Review shall take place in Austin, Texas

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<sup>1</sup>Through the administration and grade release of the July 1998 Texas Bar Examination, any Applicant who has previously taken and passed either Part I or Part II of any Texas Bar Examination given from February 1989 through July 1993 and whose score on such part is still valid (i.e., five years have not passed since the date of the examination in which the part was passed) shall irrevocably designate, at the time of filing his or her first Re-application for any examination given in July 1994 or thereafter, whether (s)he elects to take the complete Texas Bar Examination and have applied to him or her the provisions of this subsection (e), OR whether (s)he elects to carry forward the passing result from a prior examination, subject to the limitations of prior subsections (e) and (f) of this rule. If the latter option is elected, an Applicant opting to take only the MBE and Texas Essay Questions will pass if (s)he earns on those portions scaled scores, which when added together, equal at least 4/5 of the combined scaled score necessary to pass the Texas Bar Examination at the time of the exam being taken. Likewise, an Applicant opting to take only the Procedure & Evidence Questions will pass if (s)he earns a scaled score equal to at least 1/5 of the combined scaled score necessary to pass the Texas Bar Examination at the time of the exam being taken. An Applicant opting to take only a portion of the examination under this clause shall pay the same fees as an Applicant taking the entire examination.

at a time selected by the Board and shall consist of an individual oral review of such examination papers by the examining members of the Board. Regardless of the number of examinations taken, an Applicant may receive only one Formal Review under the provisions of this paragraph, provided, however, that no Applicant may obtain both a Formal Review and Informal Review of the same examination."

**10. Rule XII(b) is amended by striking the phrase "with the required Application" and substituting therefor the phrase ", such request to be submitted at the same time as the Application is submitted."**

**11. Rule XII(c) is amended by striking the existing language in its entirety and substituting therefor the following:**

"(c) A request for special testing accommodations must be accompanied by written proof evidencing the existence of the disability. Statements from licensed physicians or a professional specialist that specifically set forth the physical, mental or emotional handicap or disability and the relationship between the disability and the inability to take the examination under standard conditions shall be required. The Board may require additional information or evidence from the Applicant and may, at its option, seek professional evaluation of such data. The Applicant will be responsible for the cost of obtaining documented medical evidence and other required information. This subsection, dealing with requests for special testing accommodations due to disability, is amended with language clarifying that the required documentation supporting the request must be filed simultaneous with the application.

**12. Rule XIII is amended by striking both subsections (a) and (b) in their entirety and replacing them with the following language:**

"(a) An attorney holding a valid law license issued by another state shall meet the requirements imposed on any other Applicant under these rules, unless such attorney qualifies under one of the following exceptions:

(1) Such attorney is eligible for admission without examination, if the attorney:

(A) at the time the Texas law license is issued, meets the requirements of Rule II(a)(5);

(B) satisfies the Board of his/her good moral character and fitness after furnishing to the Board such evidence as the Board may require;

(C) has been actively and substantially engaged in the lawful practice of law in any state as his/her principal business or occupation for at least five of the last seven years immediately preceding the filing of the Application;

(D) has a J.D. degree from an approved law school; and

(E) has failed neither the last Texas Bar Examination taken in Texas, nor the last Short Form Examination taken in Texas.

(2) An attorney who does not meet the criteria for admission without examination set out above is eligible for admission after passing the **Short Form Examination**,<sup>1</sup> if the attorney:

(A) at the time the Texas law license is issued, meets the requirements of Rule II(a)(5);

(B) satisfies the Board of his/her good moral character and fitness after furnishing to the Board such evidence as the Board may require;

(C) has not failed the last Texas Bar Examination taken;

(D) has not failed the last bar examination taken in any other state;

(E) has not failed the last short form examination (sometimes known as attorneys' exam) in any other state; and

(F) meets one of the following requirements:

(i) has a J.D. degree from an approved law school and has been actively and substantially engaged in the lawful practice of law in any State as his/her principal business or occupation for at least three of the last five years immediately preceding the filing of the Application; or

(ii) has a J.D. degree, which is not based on study by correspondence, from an unapproved law school and has been actively and substantially engaged in the lawful practice of law as his/her principal business or occupation for at least five of the last seven years immediately preceding the filing of the Application.

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<sup>1</sup>The Short Form Examination shall cover the areas of Texas substantive law and procedure which the Board may determine advisable. Any applicant who fails the Short Form Examination twice shall thereafter be required to pass the Texas Bar Examination as provided in Rule XI.

(3) An attorney who does not meet the criteria set out above for admission after passing the Short Form Examination is eligible for admission after passing the **Texas Bar Examination**, if the attorney:

(A) at the time the Texas law license is issued, meets the requirements of Rule II(a)(5);

(B) satisfies the Board of his/her good moral character and fitness after furnishing to the Board such evidence as the Board may require;

(C) has a J.D. degree, which is not based on study by correspondence, from an unapproved law school; and

(D) has been actively and substantially engaged in the lawful practice of law in any State as his/her principal business or occupation for at least three of the last five years immediately preceding the filing of the Application.

(b) An Attorney holding a valid law license issued by a foreign nation is eligible for admission after passing the Texas Bar Examination and after meeting all other requirements for admission imposed on any other Applicant under these Rules, except that:

(1) The attorney is deemed to have fulfilled the law study requirement without the attorney holding a J.D. degree from an approved law school upon proof of active and substantial engagement in the lawful practice of law in such foreign nation as his/her principal business or occupation for at least five of the last seven years immediately preceding the filing of the Application, if such attorney:

(A) has been licensed, for at least five years, to practice law in the highest court of the foreign nation;

(B) holds the equivalent of a J.D. degree, which is not based on study by correspondence, from a law school accredited in the jurisdiction where it exists and which requires the equivalent of a three-year course of study, which is the substantial equivalent of the legal education provided by an approved law school; and

(C) meets one of the following criteria:

(i) demonstrates to the Board that the law of such foreign nation is sufficiently comparable to the law of Texas that, in the judgment of the Board, it enables the foreign attorney to become a competent attorney in Texas without additional formal legal education, OR

(ii) holds an L.L.M. from an approved law school.

(2) The attorney is deemed to have fulfilled the law study requirement without the attorney holding a J.D. degree from an approved law school upon proof of active and substantial engagement in the lawful practice of law in such foreign nation as his/her principal business or occupation for at least three of the last five years immediately preceding the filing of the Application, if such attorney:

(A) has been licensed, for at least three years to practice law in the highest court of the foreign nation;

(B) holds the equivalent of a J.D. degree, which is not based on study by correspondence, from a law school accredited in the jurisdiction where it exists and which requires the equivalent of a three-year course of study that is the substantial equivalent of the legal education provided by an approved law school;

(C) demonstrates to the Board that the law of such foreign nation is sufficiently comparable to the law of Texas that, in the judgment of the Board, it enables the foreign attorney to become a competent attorney in Texas without additional formal legal education, and

(D) holds an L.L.M. from an approved law school."

**13. Rule XIV(b) is amended by striking subsection (3) in its entirety and by re-lettering the successive subsections (4) - (8) as (3) - (7), respectively.**

**14. Rule XIV(c)(1) is amended by striking the word "their" and substituting therefor the words "his or her."**

**15. Rule XIV(g)(6) is amended by adding the phrase ", unless actually so licensed" before the semicolon which follows the words "in any jurisdiction."**

**16. Rule XV(f) is amended by substituting, in subsection (4), the word "an" for the word "a," and by adding a new subsection (6), as follows:**

**"(6) in the case of either a temporary or probationary license, recommend to the Supreme Court that the license should be renewed in its present form, renewed with additional or amended conditions, or revoked and no regular license be issued."**

**17. Rule XV(h) is amended by striking the existing language and substituting therefor the following language:**

"(h) An individual who has been the subject of a Board order containing a negative character and fitness determination may petition the Board in writing for a re-determination hearing on the issue of character and fitness, as follows:"

**18. Rule XV is amended by adding a new subsection (k), as follows:**

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

**19. Rule XVII is amended by adding the following subsections (c) and (d):**

"(c) No license issued hereunder shall be valid unless the Applicant named therein has paid the required fees and has enrolled in the State Bar of Texas in compliance with the State Bar Rules.

(d) The license certificate belongs to the Supreme Court of Texas and shall be surrendered to the Court upon proper demand."

**20. Rule XX(i) is amended by striking the existing language in its entirety and substituting therefor the following language:**

"(i) The Board shall have full power to contract for the performance of all of its functions, and any person dealing or contracting with the Board shall be conclusively entitled to rely upon the Board's written determination that the expense thus incurred or contracted is for a proper function of the Board."

**21. The Appendix is amended so that it appears as follows:**

**"APPENDIX**

**TEXAS BAR EXAMINATION SUBJECTS**

***MULTISTATE SUBJECTS***

1. Constitutional law
2. Contracts
3. Criminal law
4. Evidence

5. Real property

6. Torts

***TEXAS ESSAY SUBJECTS***

7. Oil & gas

8. Uniform Commercial Code

9. Business associations (including corporations, agency and partnerships)

10. Family law

11. Trusts (including resulting and constructive trusts)

12. Wills & administration

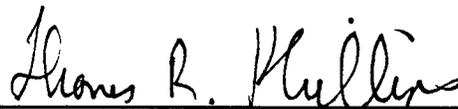
***PROCEDURE AND EVIDENCE SUBJECTS***

1. Civil procedure (including federal and Texas court jurisdiction, pleading and practice)

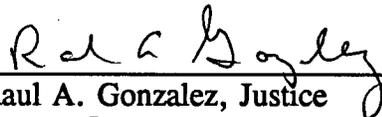
2. Criminal procedure

3. Evidence"

SIGNED AND ENTERED this 1st day of February, 1994.



Thomas R. Phillips, Chief Justice



Raul A. Gonzalez, Justice



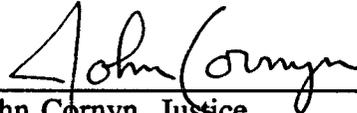
Jack Hightower, Justice



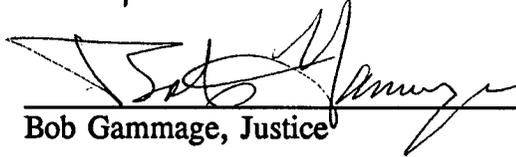
Nathan L. Hecht, Justice



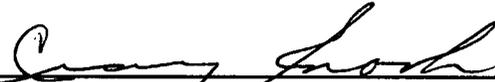
Lloyd Doggett, Justice



John Cornyn, Justice



Bob Gammage, Justice



Craig Enoch, Justice



Rose Spector, Justice