

Rules of Admission to the Bar of the Vermont Supreme Court

Effective 9/5/06

§ 1. Board of bar examiners; members; appointment; duties; reports

(a) The Court shall appoint a Board to be known as the Board of Bar Examiners consisting of nine members, as follows:

- (1) seven shall be attorneys admitted to the Bar of the Supreme Court for at least three years prior to appointment; and
- (2) two shall be laypersons, not admitted to the practice of law in this state or any other state.

For the purposes of these rules, a quorum shall consist of five members or all members not disqualified, whichever is the lesser.

(b) Each term of office shall be four years and until a successor is appointed. No member may be appointed for more than two consecutive terms, but a member may be reappointed after a lapse of one full term. Whenever a member resigns, or the office is otherwise vacant, the Court shall appoint a successor to fill the unexpired term. Appointments shall be made annually on October first.

(c) The chairperson and vice-chairperson shall be members designated by the Court annually on October first and shall so serve until their successors are designated. The Court, in its discretion, may reappoint the chairperson to the Board for a third consecutive four-year term.

(d) No trustee or faculty member of a law school or trustee of a university with a law school may serve as a member of the Board.

(e) In the performance of their duties, the members of the Board shall be reimbursed for reasonable and necessary expenses and shall receive per diem compensation equivalent to that provided by law for comparable boards and commissions. The commissioner of finance and information support shall issue a warrant for the compensation and expenses of each member of the Board when submitted on vouchers approved by the court administrator.

(f) The Court shall initially appoint members to the Board for terms as follows:

- (1) two members whose terms expire on September 30, 1983;
- (2) two members whose terms expire on September 30, 1984;
- (3) two members whose terms expire on September 30, 1985; and
- (4) three members whose terms expire on September 30, 1986.

(g) The Board shall report in writing to the Court the names of those applicants whom the Board has fairly, impartially and thoroughly examined as to professional competence. The Board shall recommend to the Court for admission those applicants found qualified.

(h) The Board shall review annually its policies and procedures and thereafter make changes as appropriate. The Board shall report annually in writing to the Court on October first. The report shall include the nature and scope of its annual review and any changes in policy or procedure resulting from it, any recommendations to the Court concerning proposed rule amendments, the number of applicants petitioning for admission, the dates and places of examination, the methods of examination adopted and any other information which the Court may request or which the Board deems appropriate.

§ 2. Associate examiners; appointment; duties

(a) The Court shall appoint seven associate examiners to the Board of Bar Examiners who shall be admitted to the Bar of the Supreme Court for at least three years prior to appointment.

(b) Each term of office shall be four years and until a successor is appointed. No associate examiner may be appointed for more than two consecutive terms but an associate examiner may be appointed as a member of the Board of Bar Examiners and thereafter shall be subject to the terms of appointment for that office. Whenever an associate examiner resigns, or the office is otherwise vacant, the Court shall appoint a successor to fill the unexpired term. Appointments shall be made annually on October

first.

(c) No trustee or faculty member of a law school or trustee of a university with a law school may serve as an associate examiner.

(d) In the performance of their duties, the associate examiners shall be reimbursed for reasonable and necessary expenses and shall receive the same per diem compensation paid to Board members. The commissioner of finance and information support shall issue a warrant for the compensation and expenses of each associate examiner when submitted on vouchers approved by the court administrator.

(e) The Court shall initially appoint associate examiners for terms as follows:

- (1) two members whose terms expire on September 30, 1983;
- (2) two members whose terms expire on September 30, 1984; and
- (3) three members whose terms expire on September 30, 1985.

(f) The Chairperson of the Board of Bar Examiners shall assign one associate examiner to assist each member of the Board assigned by the chairperson to prepare and grade essay examination questions for the essay examination part of the semi-annual bar examination.

§ 3. Character and fitness committee; members; appointment; duties; reports

(a) The Court shall appoint a Committee to be known as the Character and Fitness Committee consisting of five members, none of whom may be a member or an associate of the Board of Bar Examiners, as follows:

- (1) one shall be a justice or judge, active or retired, other than an active justice of the Supreme Court;
- (2) two shall be attorneys admitted to the Bar of the Supreme Court for at least three years prior to appointment; and
- (3) two shall be laypersons, not admitted to the practice of law in this state.

For the purposes of these rules, a quorum shall consist of three members or all members not disqualified, whichever is the lesser.

(b) Each term of office shall be four years and until a successor is appointed. Whenever a member resigns, or the office is otherwise vacant, the Court shall appoint a successor to fill the unexpired term. Appointments shall be made annually on October first.

(c) The judge member shall serve as chairperson. The Court shall designate a vice-chairperson annually on October first. The chairperson and vice-chairperson shall so serve until their successors are designated.

(d) In the performance of their duties, the members of the Committee shall be reimbursed for reasonable and necessary expenses and shall receive per diem compensation equivalent to that provided by law for comparable boards and commissions. The commissioner of finance and information support shall issue a warrant for the compensation and expenses of each member of the Committee when submitted on vouchers approved by the court administrator.

(e) The Court shall initially appoint members to the Committee for terms as follows:

- (1) one member whose term expires on September 30, 1983;
- (2) two members whose terms expire on September 30, 1984; and
- (3) two members whose terms expire on September 30, 1985.

(f) The Committee shall report in writing to the Court the names of those applicants whom the Committee has fairly, impartially and thoroughly investigated as to moral character and fitness. The Committee shall recommend to the Court for admission those applicants found to possess good moral character and fitness.

(g) The Committee shall report annually in writing to the Court on October first its activities and recommendations, if any, relating to policy or procedure for investigating the moral character and fitness of applicants for admission to the Bar of the Supreme Court.

§ 4. Repealed

§ 5. Requirements for admission

(a) The public interest is best served and protected and the integrity of the Bar of the Supreme Court is best maintained when applicants for admission are fairly, impartially, and thoroughly investigated as to their moral character and fitness and examined as to their professional competence as attorneys.

(b) Applicants for admission must demonstrate the minimal professional competence necessary to engage in the practice of law including but not limited to: (1) knowledge of the statutory and common law, (2) capacity to analyze factual situations and apply principles of law to them, and (3) facility for written expression.

§ 6. Requirements for admission -- Applicants not presently admitted to the practice of law in another jurisdiction of the United States

(a) An applicant for admission who at the time of application is not admitted to the practice of law in another jurisdiction of the United States must take a written examination in three parts: (1) an essay examination, (2) the Multistate Bar Examination, and (3) the Multistate Professional Responsibility Examination and achieve a passing grade on each part. A passing grade on the essay examination shall be given if the exam satisfies any of the following three standards: (1) a total score equal to the number of sections on the exam times 6.00 on a grading scale of 0 through 10.00; or (2) a converted score of 135 achieved after January 2, 1989, calculated by the standard deviation method which shall be applied to convert the raw essay score by reference to the scaled Multistate scores of the applicants sitting for this essay exam; or (3) a converted score of 130 to 134, provided that the applicant has exceeded a scaled score of 135 on the Multistate exam by two points for each point scored below 135 on the essay and both scores were achieved after January 2, 1989. A passing grade on the Multistate Bar Examination shall be given if the exam satisfies either of the following standards: (1) a scaled score, or its equivalent, of 135 if achieved after January 2, 1989; or (2) a scaled score of 130 to 134, provided that the applicant has exceeded a converted score of 135 on the essay portion of the examination by two points for each point scored below 135 on the Multistate and both scores were achieved after January 2, 1989. The fractional portion of any score shall be dropped for all calculations. A passing grade on the Multistate Professional Responsibility Examination shall be a scaled score of 80, or its equivalent. Each applicant must sit for the essay and Multistate Bar Examination parts of the examination at one administration unless that applicant has previously achieved a passing grade on either part as described in § 6(b) and (d) or upon a showing of good cause. If an applicant has previously achieved a passing grade on either the essay or Multistate part of the examination, the applicant may elect to retain that passing grade, as described in § 6(b) and (d), or to retake the entire examination. If the applicant retakes the entire examination, then the applicant may not use a passing score previously achieved to raise a converted essay or Multistate score to the passing level of 135. Each applicant may sit for the Multistate Professional Responsibility examination at any time.

(b) Beginning with the February 2007 administration of the bar examination, a passing grade on the essay or Multistate Bar Examination part of the bar examination may be retained for a period of four consecutive administrations. During that period the applicant need only repeat that part of the examination upon which the applicant has not achieved a passing grade. An applicant who achieves a passing grade on the essay and Multistate Bar Examination parts during four consecutive administrations shall have met the applicable requirements therefore of § 6(a).

(c) Beginning with the February 1983 administration of the bar examination, a passing grade on the Multistate Professional Responsibility Examination may be retained for a period of seven years. An applicant who achieves a passing grade on the Multistate Professional Responsibility Examination part during a seven year period shall have met the applicable requirement of § 6(a).

(d) A Multistate Bar Examination scaled score may be used within four consecutive administrations in which it was achieved to satisfy the requirements of § 6(a) and § 6(b), except that a Multistate Bar Examination scaled score of 136 or less achieved before January 2, 1989 may not be used to satisfy the requirements of § 6(a) and § 6(b). A Multistate Bar Examination scaled score may be used from any administration of that examination in any jurisdiction; provided, however, that the applicant shall file with the Board an official certificate of the admitting authority or examining agency, other than Vermont, certifying the Multistate Bar Examination scaled score received and the date of the administration of the Multistate Bar Examination upon which that score was achieved.

(e) A Multistate Professional Responsibility Examination scaled score achieved on any administration of that examination beginning March 1980 may be used within seven years of the administration in which it was achieved to satisfy the provisions of § 6(a) and § 6(c). A Multistate Professional Responsibility Examination scaled score may be used from any administration of the

examination in any jurisdiction; provided, however, that the applicant shall cause to be filed with the Board an official report from the National Conference of Bar Examiners certifying the Multistate Professional Responsibility Examination scaled score received and the date of the administration of the Multistate Professional Responsibility Examination upon which that score was achieved.

(f) An applicant must be a citizen of the United States or an alien lawfully present in the United States, at least eighteen years of age, of good moral character and fitness, and who has successfully completed three-quarters of the work accepted for a bachelor's degree in a college approved by the Court before commencing the study of law hereinafter prescribed.

(g) An applicant shall have pursued the study of law with special reference to the general practice of law:

(1) for a period of not less than four years within this state under the supervision of an attorney in practice in the state who has been admitted to practice before this Court not less than three years prior to the commencement of that study, or

(2) in any jurisdiction of the United States or common law jurisdiction in a law school approved by this Court which maintains a three-year course leading to a law degree.

(h) (1) An approved college is any college or university authorized to grant four-year undergraduate degrees by the laws of the state in which it is located.

(2) An approved law school is any law school accredited by the American Bar Association, the American Association of Law Schools, or otherwise approved by this Court.

(3) An applicant who has graduated from a law school that is not located in the United States or its territories, or from a law school in the United States that is not accredited by the American Bar Association or approved by the American Association of Law Schools, may be eligible to take the examination if the applicant obtains a determination from the Supreme Court that he or she has completed a legal education equivalent to graduation from an accredited or approved law school.

(A) Applicants who are graduates of a foreign law school must establish that they have been admitted to the bar of a court of general jurisdiction in another country and have maintained good standing or resigned in good standing following such admission.

(B) Applicants who are graduates of a nonaccredited United States law school must establish that the school is in the process of seeking accreditation by the American Bar Association or approval by the American Association of Law Schools.

(C) Applicants who wish to sit for the July bar examination shall submit an application for an equivalency determination to the Board no later than December 1 of the calendar year preceding the July examination. Applicants who wish to sit for the February examination shall submit an equivalency application to the Board no later than August 1 of the calendar year preceding the February examination. Upon receipt of an application the Board shall retain a faculty member from an accredited law school to prepare a written report evaluating the course of study and the applicant's performance for equivalency to the standards of accredited or approved law schools. The report shall include, but need not be limited to, assessments of (i) whether the applicant has studied at least half of the subjects provided for examination in Vermont; (ii) the applicant's transcript and the school's grading system; (iii) whether the school is accredited or in the process of obtaining accreditation; (iv) whether the school's graduates are regularly admitted to the practice of law; (v) whether the school's curriculum provides training in a system based on the common law of England; and (vi) any other factors that may be relevant to determining whether the applicant has completed an education that is equivalent to graduation from an accredited or approved law school.

(D) The costs charged by any faculty member reviewing such application or other outside consultants for the evaluation shall be borne by the applicant. A sufficient deposit to secure all such costs must be paid to the Board in advance.

(E) The copy of the report shall be provided to the applicant, who may submit any additional information that he or she deems fit by a deadline established by the Board. The Board may then obtain further review of such information by the faculty member or other consultant.

(F) The Board may waive the requirement for preparation of a written report if (i) the Board determines it already has a report sufficient to evaluate the school in question and has obtained any information unique to the applicant required for the use of that report, including the applicant's transcripts; (ii) the Board has provided a copy of the portions of the report that evaluate the school to the applicant; (iii) the applicant has had an opportunity to submit additional information in response to such report; and (iv) the Board determines that the report and applicant's additional information are a sufficient basis for making a written recommendation to the Supreme Court.

(G) The Board shall make a written recommendation to the Supreme Court, which shall decide whether the applicant has completed a legal education equivalent to graduation from an accredited law school and whether to allow the applicant to take the examination. In the event the review is not completed prior to the administration of

the exam for which the application was submitted, the application shall remain pending for a subsequent administration.

(i) (1) An applicant who is a graduate of an approved law school shall also have pursued the study of law for a period of not less than three months in the office and under the supervision of a judge or an attorney practicing in this state. The judge or supervising attorney shall have been admitted to practice before this Court not less than three years prior to the commencement of that study. Such law office study may not commence until the completion of the first year of law school.

(2) If an applicant does not complete the required period of office study within two years of passing all three parts of the examination, the Board in its discretion may require the applicant to be re-examined in whole or in part.

(j) When an applicant has pursued the study of law in an approved law school but is not a graduate thereof, or has pursued the study of law in another state or territory of the United States in the office and under the supervision of an attorney admitted to practice before the highest court of the state wherein that study is authorized and was pursued, or has successfully completed all or any portion of the course of study in a law school not approved by this Court, or has been admitted to the practice of law before the highest court of a foreign nation which is a common law jurisdiction, the Board, with the approval of the Court, may allow the applicant credit for such study and admission as it deems proper. However, any applicant to whom credit is granted for study under the provisions of this subsection shall also pursue the study of law within this state, under the supervision of an attorney who has been admitted to practice before this Court not less than three years prior to the commencement of that study, for a period of at least two years immediately preceding examination.

(k) Within the meaning of these rules, study in the office of a judge or attorney shall be measured as follows: a week of study shall consist of (1) not less than twenty-five hours of study in that office during a period of seven consecutive days; or (2) not less than thirty hours of study in that office during a period of fourteen consecutive days; a month of study shall consist of four weeks of study; and a year of study shall consist of twelve calendar months during which not less than forty-four weeks of study shall have been pursued.

(l) With the approval of the Court, the Board may allow an applicant partial credit for study which does not meet with the minimum requirements prescribed by this section as the Board shall deem just and equitable.

(m) For the purposes of the educational requirements of these rules, the supervising judges or attorneys and registrants or applicants are advised that the purpose of law office study clerkship is to prepare applicants to engage in the general practice of law. Toward that end: (1) a supervising attorney can and is encouraged to enlist the assistance of other attorneys to provide the greatest breadth of experience in the completion of the course of study, and (2) a registrant or applicant should carefully arrange with the supervising attorney a systematic course of study which will prepare him or her for the general practice of law and including, but not limited to, the subjects of examination set forth in § 10(a).

§ 7. Requirements for admission -- Applicants admitted to the practice of law in another jurisdiction of the United States

(a) Each applicant who has been admitted to the practice of law in another jurisdiction of the United States may be admitted upon motion and without examination in this state provided that at the time of application the applicant has been actively engaged in the practice of law for five of the preceding ten years in one or more jurisdictions of the United States, is currently licensed to practice in at least one such jurisdiction, and is not under suspension or revocation in any jurisdiction. Any part of the five-year admission requirement is waived to the extent that any jurisdiction in which the applicant is currently licensed and in which the applicant has actively engaged in the practice of law for not less than six months requires fewer than five years admission as a condition of admission upon motion and without examination for attorneys licensed in this state, provided, however, that at the time of application the applicant has been actively engaged in the practice of law for not less than three of the preceding ten years in one or more jurisdictions of the United States, is currently licensed to practice in at least one such jurisdiction and is not under suspension or revocation in any jurisdiction.

(b) Each applicant who at the time of application has been admitted and has engaged in the practice of law for less than five of the preceding ten years in one or more jurisdictions of the United States, is currently licensed to practice in at least one such jurisdiction, and is not under suspension or revocation in any jurisdiction may be admitted after examination as described in § 6(a)-(e).

(c) Each applicant under § 7(a) and (b) at the time of admission must meet the requirements specified in § 6(f) and (g).

(d) Each applicant under § 7(a) and (b) at the time of admission shall have completed three months of study in the office and

under the supervision of a judge or attorney practicing in this state. The study requirement must be completed within three years of the filing of the petition for admission. The judge or supervising attorney for the office study described in this subsection shall have been admitted to practice before this Court not less than three years prior to the commencement of that study.

(e) Notwithstanding any other provisions of these rules relating to the admission of applicants licensed to practice law in other jurisdictions of the United States, the following special requirements shall apply exclusively to applicants licensed to practice law in New Hampshire or Maine.

(1) Lawyers who are active members of the New Hampshire or Maine state bar, have been actively engaged in the practice of law in New Hampshire or Maine for no less than three years immediately preceding their application for admission under this rule, are currently members in good standing in all jurisdictions where admitted, and are not under suspension or revocation nor currently subject to any disciplinary matter in any jurisdiction may be admitted to the practice of law in this state upon motion and without examination.

(2) Each applicant under this section must at the time of admission satisfy the requirements of § 11 relating to moral character and fitness, §§ 9(a) & (b) relating to application procedures and fees, and § 6(f) relating to minimum age, citizenship, and college education.

(3) In lieu of the requirements of § 7(d) (three months of study in the office and under the supervision of a judge or attorney practicing in this state), an applicant under this section may complete and certify prior to admission that he or she has attended at least fifteen hours of continuing legal education on Vermont practice and procedure within one year immediately preceding the date upon which the motion is filed in courses approved by the Board of Continuing Legal Education and certified by the Board of Bar Examiners as satisfying the requirements of this section.

(4) An applicant who has failed the Vermont bar examination within five years of the date of filing an application for admission under this section shall not be eligible for admission on motion.

(5) This section shall become effective upon the effective date of an equivalent rule in New Hampshire or Maine, and shall remain in effect only so long as the equivalent New Hampshire or Maine rule remains effective.

(f) For the purposes of this rule, "practice of law" shall include the following activities:

- (1) Representation of one or more clients in the private practice of law;
- (2) Service as a lawyer with a local, state, or federal agency, including military service;
- (3) Service as a judge in a federal, state, or local court of record;
- (4) Service as a judicial law clerk; or
- (5) Service as in-house corporate counsel, meaning practice as an employed attorney for a corporation, partnership, trust, individual, or other entity, provided such practice was subsequent to being admitted to the practice of law in the jurisdiction in which the practice occurred and involved the primary duties of furnishing legal counsel, drafting legal documents and pleadings, interpreting and giving advice regarding the law, or preparing, trying or presenting cases before courts, executive departments, administrative bureaus, or agencies.

For the purposes of this rule, the "practice of law" shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

(g) For purposes of these rules, an applicant shall be deemed to have been "actively engaged in the practice of law" for any seven-day period during which he or she engaged in qualified work for at least 25 hours.

§ 8. Notices and proof

(a) Within thirty days after commencing study, a person who commences the study of law within this state in the office of a judge or attorney shall file with the Board of Bar Examiners a notice on forms supplied by the Board setting forth his or her name and residence, the date on which study commenced, and the name and the office address of the judge or attorney under whose supervision the applicant is studying. In the event that the registrant changes to the office of another judge or attorney, within thirty days after the date of that change, the registrant shall file a notice with the Board setting forth the date of that change and the name and office address of the judge or attorney under whose supervision study is continuing. These notices shall be accompanied by the certificate of the judge or attorney under whose supervision the study is being pursued, prepared upon forms supplied by the Board, setting forth that the study has commenced and the date of the commencement thereof. The certificate shall further set forth that the judge or attorney has personally investigated the moral character and fitness of the person so registering and that the judge or attorney represents to the Court that to the best of his or her knowledge the person so registering,

at the time of registration, meets the requirements of good moral character and fitness. A registrant's failure to file a timely certificate may result in the withholding of credit for study.

(b) Each registrant for admission who seeks to satisfy the educational requirements specified in § 6(g)(1) or § 6(j) shall submit to the clerk each six months and at the conclusion of the study a report in duplicate in the form of an affidavit stating the nature and extent of the course of study during the registered period of study within this state. The reports shall be submitted within thirty days of the expiration of each six months of study, accompanied by the certificate of the supervising attorney that to the best of his or her knowledge the reports are correct. Registrants are responsible for all reports being timely filed. A registrant's failure to file a timely report may result in the withholding of credit for study and disqualification to take the written examination or be admitted.

(c) Each applicant for admission shall provide all waivers of confidentiality under state, federal or foreign law necessary to enable the Board to obtain verification of the fulfillment of educational requirements specified by § 6.

(d) Proof of fulfillment of the educational requirements at an undergraduate college or university or law school shall be made by the filing of an original letter or certificate on the official letterhead of the institution signed by an appropriate officer of the institution attesting to: (1) the course of study pursued; (2) the credit received; (3) the completion of graduation requirements, if applicable; and (4) the awarding of a degree, if any. Proof of the completion of the graduation requirements of an approved law school shall be filed before an applicant may take the written examination; and proof of the award of the degree shall be filed prior to admission.

(e) Each applicant for admission shall provide the names and addresses of three references not related to him or her by blood, marriage, or civil union. Each applicant for admission who has practiced law in another jurisdiction of the United States for at least one year at the time of application shall also provide as references the names and addresses of two attorneys admitted to practice and residing in that jurisdiction.

(f) All notices of commencement or termination of clerkships and reports of law office study filed pursuant to § 8(b) shall be deemed approved unless the Board notifies the registrant in writing within sixty days of submission that the notice or report is disapproved or that further review is pending.

(g) For good cause shown, the Board may extend the period within which the notices and certificates required by this section may be filed.

§9. Application and fees

(a) An applicant shall file in duplicate with the Board of Bar Examiners a petition for admission on forms supplied by the Board. The petition shall include the applicant's social security number. This requirement is for identification purposes only, and the petition form shall state that fact. The petition shall be accompanied by a fee as provided in subsection (b) of this section. Filing shall be made by mail or hand-delivery to the office of the Board as follows:

- (1) admission on motion: any time
- (2) admission by examination:
 - (A) summer examination: May first
 - (B) winter examination: December first

Requests for special accommodation must be filed no later than these dates, except under a showing of extraordinary circumstances, as decided by the Board. When filing by mail, the postmark shall determine the date of filing.

(b) The following fees shall be paid.

- (1) application for admission packet \$ 15.
- (2) filing of petition for admission by examination \$240.
- (3) filing of petition for admission by examination after filing date established in § 9(a)(2) \$290.
- (4) filing of petition for admission motion without examination \$600.
- (5) administrative fee for filed petition withdrawn pursuant to § 9(d) \$50.
- (6) first time registration of three or six month law office study \$25.
- (7) first time registration of law office study pursuant to § 6(g)(1) or § 6(j) \$200.
- (8) character and fitness investigation pursuant to § 11(d), according to the National Conference of Bar Examiners fee schedule.

(c) A petition filed after the dates established in § 9(a) shall also be accompanied by a written request to the Board showing extraordinary circumstances justifying failure to meet the filing deadline. Acceptance of the petition shall be at the discretion of the Board.

(d) An application fee, less the administrative fee for withdrawal for any accepted petition, shall be refunded only upon written request to the Board and upon a showing of extraordinary circumstances necessitating withdrawal.

(e) A petition for admission must be refiled if an applicant:

- (1) does not take the examination,
- (2) does not receive a passing grade on either of the essay or Multistate Bar Examination parts of the examination,
- (3) withdraws the petition for admission, or
- (4) is denied admission.

(f) (1) Each petition for admission shall be a continuing application, and all information for admission required in connection therein must be supplemented and filed with the clerk up to and including the date of admission.

(2) Completion of the educational and application requirements provided in these rules is a condition precedent for eligibility to take a written examination, and the burden of proof of eligibility is upon the applicant, except that an otherwise qualified applicant may be examined although the period of office study pursuant to § 6(i)(1) has not been completed at the time of the examination.

(g) The petition shall be verified by the applicant's affidavit which shall state his or her age and residence, the time of study and with whom and where that study has been or is being pursued.

(h) The petition shall include the following:

- (1) a right thumbprint on an identification card form issued by the Board which shall be signed by the applicant. The thumbprint shall be taken by a law enforcement officer who shall sign the form stating his or her title and business address; and
- (2) the applicant's social security number.

These requirements are for identification purposes only, and the petition form shall state that fact.

(i) All fees received by the clerk shall be transferred to the State Treasurer for deposit by the Treasurer into the General Fund.

§ 10. Examinations

(a) Applicants for admission may be examined upon the following subjects: administrative law, bankruptcy, business organizations, civil procedure, commercial law including the Uniform Commercial Code, Vermont and federal constitutional law, contracts, criminal law and procedure, equity, ethics, evidence, family law (including juvenile law), general practice skills, personal and real property including foreclosure, torts, taxation, trusts and estates, wills and probate.

(b) The Board shall administer a winter examination and a summer examination on the days and at the times and places designated by the Board. The Board may require applicants at a bar examination to have fingerprints taken at the exam for the purpose of identification.

(c) Prior to July first for the summer administration of the examination and prior to February first for the winter administration of the examination, the administrator shall mail to the last registered address of each applicant an informational letter including, but not limited to, the following information:

- (1) The days, times and places for the administration of the essay examination and the Multistate Bar Examination;
- (2) An identification number known only to the administrator and his or her designee, who shall not be a member of the Board, which shall be used on all examination papers for the purpose of identification;
- (3) A number which shall be used for admission to and seating at the examination;
- (4) The rules and procedures for the administration of the examination;
- (5) The procedures for the reporting of grades; and
- (6) The procedure for review or appeal as provided for in § 10(f) and § 10(g).

(d) The preparation and grading of the examination is under the direction of the Board, and the Board may employ or use professional assistants solely at its discretion.

(e) The decision of the Board as to which applicants pass and which applicants fail an examination shall be final, except upon a showing of misconduct on the part of one or more members of the Board.

(f) An applicant who takes and fails to pass the essay or Multistate Bar Examination part of the bar examination may petition for review by the Board. The petition must be made in writing to the Board within thirty days of mailing of the examination results. The Board need not explain the grade received but shall provide review as follows:

- (1) a photocopy of the applicant's essay examination answers;
- (2) a copy of a model answer and a typical best answer for each question;
- (3) handscoring of the Multistate Bar Examination by the National Conference of Bar Examiners' testing service;
- (4) verification of arithmetic computations for the essay examination; and
- (5) verification of grades reported.

(g) Within fourteen days of mailing of the review results provided for in § 10(f), an applicant may appeal to the chairperson. The appeal shall be in the form of a written petition which shall set forth specifically and in detail any claim of misconduct by an examiner or the Board. The chairperson shall render a ruling in writing within thirty days of receipt of the petition as to whether the appeal has substantial merit. If the chairperson finds substantial merit to the appeal, it shall be referred forthwith to the full Board, less any examiner whose conduct is the subject of the appeal. If the chairperson finds no substantial merit to the appeal, the chairperson shall inform the applicant in writing of the decision, which shall be final.

(h) Within thirty days of referral of the appeal to the full Board, the Board shall consider the matter and render its final decision. Consideration may be limited to the written petition previously filed by the applicant. Upon a showing of extraordinary circumstances, the Chief Justice may extend in writing the time in which the Board must rule on an appeal.

(i) The essay examination questions shall be public after administration of the examination.

(j) An applicant found in all respects qualified and recommended by the Board and Character and Fitness Committee and approved by the Court shall be admitted.

(k) No person may sit for either the essay examination or the Multistate Bar Examination in Vermont more than four times after April 1, 2005, except upon a showing, to the satisfaction of the Board, that the applicant has substantially improved his or her preparation for the examination, or for other good cause.

§ 11. Character

(a) Each applicant for admission shall possess good moral character and fitness and shall consent to an investigation by the Character and Fitness Committee.

(b) (1) Good moral character is a functional assessment of character fitness of a prospective attorney. The purpose of requiring an applicant to possess present good moral character is to exclude from the practice of law those persons possessing character traits that are likely to result in injury to future clients, in the obstruction of the administration of justice, or in a violation of the Rules of Professional Conduct. These character traits usually involve either dishonesty or lack of trustworthiness in carrying out responsibilities. There may be other character traits that are relevant in the admission process, but such traits must have a rational connection with the applicant's present fitness or capacity to practice law and accordingly must relate to the state's legitimate interests in protecting prospective clients and the system of justice.

(2) Fitness, as used in these rules, is the assessment of mental health as it affects the competence of an applicant. The purpose of requiring an applicant to possess this fitness is to exclude from the practice of law any person having a mental illness or condition which would prevent his or her carrying out duties to clients, courts or the profession. A person may be of good moral character, but may be incapacitated from proper discharge of his or her duties as an attorney by such illness or condition. The fitness required is a present fitness, and prior mental illnesses or conditions are relevant only so far as they indicate the existence of a present lack of fitness.

(c) The burden of proof of good moral character and fitness is upon the applicant.

(d) The Committee shall make or cause to be made an investigation respecting the applicant's moral character and fitness and report to the Court the nature and results of that investigation.

(e) Each applicant for admission shall be required to submit a waiver of confidentiality and liability as to personal academic, military, and medical records and sign an authorization and release form as part of the petition for admission.

(f) The references provided pursuant to § 8(e) shall be required to attest to an opinion that the applicant is a person of good moral character and fitness and shall set forth in detail the facts upon which that opinion is based.

(g) If after investigation the Committee is unable to certify the good moral character or fitness of the applicant, the Committee may continue its investigation by convening a hearing on the matter and inviting the applicant to appear and present information to substantiate good moral character or fitness. The hearing shall be transcribed upon the request of the applicant and at Committee expense. The Committee may issue subpoenas or compel testimony, and all testimony shall be under oath administered by the member of the Committee presiding. Unless the applicant requests otherwise, the hearing shall be closed except to members of the Committee, its agents, the applicant and the applicant's counsel, and witnesses.

(h) If after this hearing the Committee is unable to certify the good moral character or fitness of the applicant, it may continue its investigation. At the completion of its investigation, the Committee shall either certify the applicant or recommend denial of admission for failure to establish good moral character or fitness.

(i) If the Committee recommends a denial of admission for failure to establish good moral character or fitness, it shall notify the applicant and counsel, if any, of this decision by certified mail, return receipt requested, mailed to the applicant's last registered address and shall inform the applicant of a right to petition the Court for a formal hearing.

(j) An applicant who is denied a certification of good moral character or fitness by the Committee may petition the Court for a formal hearing within thirty days of mailing of the notification of denial. The petition for formal hearing and all proceedings thereafter shall be public. The Court shall appoint a commissioner or panel of commissioners to hear the matter de novo. The Court shall appoint counsel to represent the Committee in this hearing.

(k) The formal hearing provided for in § 8(j) shall be conducted in accordance with the Vermont Rules of Civil Procedure. The commissioner or panel shall issue a written report of findings and conclusions to the Court.

(l) (1) The applicant may appeal to the Court from the findings and conclusions of the commissioner or panel by filing a notice of appeal in writing with the clerk. Failure to file an appeal within thirty days of the date of mailing of the findings and conclusions of the commissioner or panel is a consent to the determination on the merits based upon the record filed by the commissioner or panel, and the report of the commissioner or panel shall conspicuously state that fact.

(2) The Court shall review the findings and conclusions of the commissioner or panel. It may take any action consistent with its constitutional authority.

(3) Procedure in the Supreme Court for review shall conform to the Vermont Rules of Appellate Procedure. If the Court desires an expansion of the record or additional findings, it may remand the matter to the commissioner or panel, with appropriate directions, while retaining jurisdiction, and the matter shall be continued, pending receipt of the filing of the additional record.

(m) An applicant who is denied a certification of good moral character or fitness by the Committee may not reapply for admission for a period of two years after the denial.

§ 12. Oaths

At the time of admission an applicant shall take the following oaths:

You do solemnly swear (or affirm) that you will do no falsehood, nor consent that any be done in court, and if you know of any, you will give knowledge thereof to the judges of the court or some of them, that it may be reformed; that you will not wittingly, willingly or knowingly promote, sue or procure to be sued, any false or unlawful suit, or give aid or consent to the same; that you will delay no person for lucre or malice, but will act in the office of attorney within the court, according to your best learning and discretion, with all good fidelity as well to the court as to your client. (If an oath) So help you God. (If an affirmation) Under the pains and penalties of perjury. (12 V.S.A. §§ 5812, 5851)

You do solemnly swear (or affirm) that you will be true and faithful to the State of Vermont, and that you will not, directly or indirectly, do any act or thing injurious to the Constitution or Government thereof. (If an oath) So help you God. (If an affirmation) Under the pains and penalties of perjury. Vt. Const. Ch. II, § 56.

You do solemnly swear (or affirm) that you will be true and faithful to the United States of America and that you will not, directly or indirectly, do any act or thing injurious to the Constitution or Government thereof. (If an oath) So help you God. (If an affirmation) Under the pains and penalties of perjury.

§ 13. Appearance in court by interns; authorized activities; eligibility; supervision; limitations

(a) An eligible intern may appear as legal counsel before the Vermont Supreme Court, or any Superior, District, Family, or Probate Court under the following conditions:

- (1) The written consent of the client has been filed with the court; and
- (2) The written consent of a supervising attorney has been filed with the court; and
- (3) The written agreement of the intern to be bound in the matter by the Code of Professional Responsibility has been filed with the court; and
- (4) The court has, in the exercise of its discretion, granted permission, and said permission has not been revoked; and
- (5) The supervising attorney has filed with the court a certificate that he or she has in force professional liability insurance that will cover the actions of the intern.

The permission of a court pursuant to this section to appear as legal counsel shall authorize the intern to prepare and, with the signature of a supervising attorney, to sign, motions, petitions, answers, briefs, and other documents in connection with the pending matter, and to conduct before said court any argument, trial, or other hearing in the pending matter.

(b) To be an eligible intern pursuant to this section, an individual must:

- (1) (A) be pursuing the study of law and be enrolled in good standing at an approved law school, as that phrase is defined by § 6(h)(2) of these rules, and
(B) have completed the study of law for at least four semesters, or the equivalent thereof, in such a school; or
- (2) (A) have graduated from an approved law school, as that phrase is defined by § 6(h)(2) of these rules, and (3) facility for written expression.
(B) be in the process of completing the period of six months law office study prescribed by § 6(i)(1), or, having completed said period of law office study, be awaiting admission to the Bar of the Vermont Supreme Court at the next earliest opportunity; or
- (3) (A) have completed three years of law office study pursuant to § 6(g)(1) or one year of law office study pursuant to § 6(j), and
(B) be in the process of completing the final year of such law office study, or having completed such a period of law office study, be awaiting admission to the Bar of the Vermont Supreme Court at the next earliest opportunity; or
- (4) (A) be eligible for admission to the Bar of the Supreme Court of Vermont on motion under § 7 of these rules, or
(B) be eligible for examination as a currently licensed attorney in another jurisdiction under § 7(b) of these rules, and
(C) have applied for admission and be in the process of completing the period of three months law office study prescribed by § 7(d), or having completed such period of study, be awaiting admission to the Bar of the Vermont Supreme Court at the earliest opportunity.

(c) To be an eligible intern pursuant to this section the individual must have satisfactorily completed a course in evidence, or, in the case of those who are pursuing the study of law in the office of an attorney, have completed a systematic study of evidence as certified by the attorney who is supervising the law office study.

(d) Notwithstanding any other provision of this section, no person may be deemed an eligible intern who has sat for the Vermont Essay Examination or the Multistate Bar Examination, has received a grade on either examination and has not, following the second administration of such examinations, thereafter obtained a passing grade on all sections of the Vermont Bar Examination (including the Multistate Professional Responsibility Examination). In its discretion, the Board of Bar Examiners may for good cause shown waive the foregoing limitation. No person may be deemed an eligible intern who has been denied admission to the Bar of the Vermont Supreme Court for failure to establish good moral character or fitness.

(e) An attorney who supervises an intern shall:

- (1) Be an attorney admitted to practice in this state who has been admitted to practice before this Court not less than three years prior to the supervision;
- (2) Assume personal professional responsibility for the intern's work;
- (3) Assist the intern as needed;
- (4) Introduce the intern to the court at his or her first appearance before the court;
- (5) Appear with the intern at all court appearances involving a contested matter; and
- (6) Appear with the intern at all other court appearances unless the attorney's presence is expressly waived by the court and the client's written consent includes consent to appearance by the intern without the presence of the supervising attorney.

(f) The supervising attorney, the attorney's law firm or other employer may charge the client a legal fee which reflects the intern's services, and may compensate the intern. This section shall not be construed to authorize a fee splitting agreement between the supervising attorney and the intern, nor shall it be construed to authorize the direct employment of an intern by the client.

§ 14. Miscellaneous

(a) Qualification and admission to the Bar of the Vermont Supreme Court pursuant to these rules does not guarantee admission to the courts of any other jurisdiction or federal courts either within or without this state.

(b) Except as otherwise provided by these rules any individual may appeal from a decision of the Board of Bar Examiners by filing an action with the Vermont Supreme Court as a matter of original jurisdiction pursuant to the Rules of Appellate Procedure.

(c) The Vermont Supreme Court and the Board of Bar Examiners do not certify, sponsor, or have any relationship with any bar review or legal skills course.

(d) All inquiries about the rules and procedures for admission of attorneys in Vermont should be addressed to the Board of Bar Examiners at the address found at its web site: www.vermontjudiciary.org/BBE/bbelibrary/bbedefault.aspx

(e) Nothing contained in these rules shall prevent the Board from making special provisions for application, examination and admission of the disabled.