

STATE OF VERMONT  
VERMONT SUPREME COURT  
\_\_\_\_\_ TERM, 2009

**Order Promulgating Amendments to the Rules of Admission to the Bar of the  
Vermont Supreme Court**

Pursuant to Chapter II, Section 37, of the Vermont Constitution and 12 V.S.A. § 1, it is hereby ordered:

1. That § 6 of the Rules of Admission be amended to read as follows (deleted matter struck through; new matter underlined):

**§ 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 6.0 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.~~ (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.

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(c) ~~Beginning with the February 1983 administration of the bar examination, a A passing grade on the Multistate Professional Responsibility Examination from any administration of the examination in any jurisdiction may be used ~~retained~~ for a period of seven years from the administration in which it was achieved to satisfy the provisions of § 6(a); 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. 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) [Repealed.]

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### **Reporter's Notes – 2009 Amendment**

While essays are initially graded using a 1 – 10 point scale, these scores are then scaled to the Multistate Bar Examination. This produces scores that are statistically valid, meaning that they are comparable from one administration to the next. Scaled scores ensure that applicants taking the essay portion of a current examination are on a level playing field with other applicants taking the essay portion at other times. Because the scaled scores are more accurate assessments of current competence, the reference to raw scores as a basis for passing the examination is being eliminated. The changes also eliminate dates that are no longer relevant and remove redundant language (Section 6(e)).

2. That §§ 7(b)-(d) of the Rules of Admission be amended to read as follows (deleted matter struck through; new matter underlined):

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

(b) [Repealed.]

(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.

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**Reporter’s Notes – 2009 Amendment**

Section 7(b) does not provide a minimum amount of time in which an attorney who is licensed in another jurisdiction must practice law before being determined eligible to take the Vermont bar exam. Experience has found that many unaccredited law schools may not rise to the threshold level of education anticipated within our rules of admission. Rather than arbitrarily setting a minimum amount of time in which an attorney must practice law in another jurisdiction, the Board decided that anyone ineligible to take the bar exam under Section 6(g), which requires applicants to have completed a law school education at an approved law school or Vermont’s four-year law office study program, should have their education reviewed by the Board of Bar Examiners and approved by the Vermont Supreme Court under Sections 6(h) or (j) before becoming eligible to take Vermont’s bar exam. Therefore, the decision was made to eliminate Section 7(b).

3. That §§ 9(g) and (h)(1)(2) of the Rules of Admission be amended to read as follows (deleted matter struck through):

**§ 9. Application and fees**

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

### **Reporter's Notes – 2009 Amendment**

Applicants are not required to arrange their clerkship at the time of application to take the exam and many do not. See § 9(f)(2). A qualified applicant does not have to have the clerkship completed at the time of the examination. This requirement has not been enforced over the years and therefore is eliminated.

Eliminating the requirement of a thumbprint card to be filed with the petition will allow the Board to offer their application for admission on-line. Section 10(b) informs applicants that fingerprints may be taken at the exam for the purpose of identification. Also, given that there is no compelling reason why the Board must obtain an applicant's social security number, the requirement is being eliminated to respect individual's privacy interests.

4. That §§ 13(a), (a)(3), (b)(2)(B), (b)(3)(B) and (b)(4)(B) and (b)(4)(C) of the Rules of Admission be amended to read as follows (deleted matter struck through); new matter underlined:

### **§ 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, Environmental Court or any Superior, District, Family, or Probate Court under the following conditions:

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(3) The written agreement of the intern to be bound in the matter by the ~~Code~~ Rules of Professional Responsibility Conduct has been filed with the court; and

\* \* \* \* \*

(b)(2)(B) be in the process of completing the ~~period~~ of three months law office study prescribed by § 6(i)(1), or, having completed said period of law office study, be awaiting review by the character and fitness committee or admission to the Bar of the Vermont Supreme Court at the next earliest opportunity; or

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(3)(B) be in the process of completing the final year of such law office study, or having completed said ~~such a period~~ of law office study, be registered for the next bar examination, awaiting review by the character and fitness committee or admission to the Bar of the Vermont Supreme Court at the next earliest opportunity; or

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~~(4)(B) be eligible for examination as a currently licensed attorney in another jurisdiction under § 7(b) of these rules, and~~

(4)(~~C~~)(B) 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 review by the character and fitness committee or admission to the Bar of the Vermont Supreme Court at the earliest opportunity.

### **Reporter's Notes – 2009 Amendment**

Section 13(a) is amended to enable an eligible intern who now may appear in the other trial courts to also appear in the Environmental Court. Section 13(a)(3) is amended to reflect the change in the rules regarding lawyer conduct. The Code of Professional Responsibility applies prior to September 1, 1999 and the Rules of Professional Conduct were adopted March 9, 1999 and apply after September 1, 1999. Relevant sections in 13(b) are changed to more accurately reflect the process for admission. Section 13(b)(4)(B) is eliminated as it refers to Section 7(b) which is being recommended for elimination and redesignates the subsequent section.

5. That these rules as amended or added are prescribed and promulgated to become effective on \_\_\_\_\_. The Reporter's Notes are advisory.

6. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this \_\_\_\_ day of \_\_\_\_\_, 2009.

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice