

RULES AND PROCEDURES GOVERNING ADMISSION TO THE PRACTICE OF LAW

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Editor's notes. — The revised Rules and Procedures Governing Admission to the Practice of Law, as adopted by order of the Wyoming Supreme Court November 24, 1997, became effective March 4, 1998.

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SECTION I GENERAL PROVISIONS

Rule 100. Statutory authority; Definitions.

(a) These Rules are promulgated pursuant to W.S. §§ 33-5-101 et seq. As to applications for admission to the bar, generally, see W.S. § 33-5-104. As to qualifications

of applicants, see W.S. § 33-5-105. As to entitlement to two examinations, certificate of admission and disposition of fees, see W.S. § 33-5-106. As to fraudulent applications as cause for revocation, see W.S. § 33-5-107.

(b) All references herein to the “Court,” the “Board,” the “Bar” and the “Committee” shall refer respectively to the Wyoming Supreme Court, the Wyoming State Board of Law Examiners, the Wyoming State Bar and the Character and Fitness Committee, unless otherwise specifically provided.

(c) “NCBE” refers to the National Conference of Bar Examiners.

(d) “UBE” refers to the Uniform Bar Examination as developed by the NCBE.

(e) “MBE” refers to the Multistate Bar Examination component of the UBE.

(f) “MEE” refers to the Multistate Essay Examination component of the UBE.

(g) “MPT” refers to the Multistate Performance Test component of the UBE.

(h) “MPRE” refers to the Multistate Professional Responsibility Examination as developed by the NCBE.

(Amended effective January 21, 2014; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016.)

Rule 101. Board of Law Examiners.

(a) Pursuant to W.S. § 33-5-101, the Board of Law Examiners shall consist of five resident members of the Bar who are learned, experienced and of generally recognized ability and integrity and who have further completed five years in the active practice of law. The Court, with advice and recommendation from the president of the Bar, shall appoint all members for a term of three (3) years. No person appointed shall be permitted to serve for more than two (2) consecutive, full terms. Any vacancy created for whatever cause or reason shall be filled by appointment by the Court with advice of and recommendation from the president of the Bar. No more than one member shall be appointed from the same judicial district. The Board shall designate a chair and the Executive Director of the Bar shall serve as Executive Secretary to the Board.

(b) Pursuant to W.S. § 33-5-102, the Board shall hold at least two regular meetings each year for the purpose of grading the MEE and MPT components of the UBE, at times and places designated by the chair. Other meetings of the Board shall be called as necessary by the chair at such place or places as may be convenient. These other meetings may be conducted by telephone conference call. At all meetings, a majority of the Board shall constitute a quorum. All applications for examination, admission on motion and for admission by UBE score transfer shall be filed with the Court and forwarded to the Board, which shall review each application in order to determine such applicant’s eligibility for admission pursuant to Sections II and III of these rules. Upon completing such examination and/or review described herein, the Board shall report its recommendations and findings to the Court in a timely manner.

(c) Each member of the Board shall be compensated and reimbursed for expenses incurred in the performance of their duties as determined by the Court.

(Amended effective January 21, 2014; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016.)

Eleventh Amendment immunity of board of bar examiners. — The board of bar examiners is an entity of the state, and is entitled to immunity, under U.S. Const., Amend. 11, from an action in federal court filed

pursuant to 42 U.S.C. §§ 1981 and 1983. *Ware v. Wyoming Bd. of Law Exmrs.*, 973 F. Supp. 1339 (D. Wyo. 1997), *aff’d*, 161 F.3d 19 (10th Cir. 1998).

Rule 102. Character and Fitness Committee.

(a) The Character and Fitness Committee shall consist of four active, resident members of the Bar and one non-lawyer with special training in substance abuse, mental health, financial management or another area of value to the assessment of good moral character and fitness to practice law of applicants. The Court, with advice and recommendation from the president of the Bar, shall appoint all members for a term of three (3) years. No person appointed shall be permitted to serve for more than two (2) consecutive, full terms. Any vacancy created for whatever cause or reason shall be filled by appointment by the Court with advice of and recommendation from the president of the Bar. From its members, the Committee shall select a chair. Each member of the Committee shall be compensated and reimbursed for expenses incurred in the performance of their duties as determined by the Court. At all times, a majority of the Committee shall constitute a quorum.

(b) The Committee shall make a recommendation to the Court regarding the good moral character and fitness to practice law of an applicant for admission Board in accordance with Section IV of these rules.

(c) The Committee shall have the power and authority to:

(1) Recommend an applicant for admission without a hearing when the application and attendant investigation establishes to the Committee's satisfaction that the applicant possesses good moral character and fitness to practice law;

(2) Conduct hearings concerning matters of character and fitness bearing upon the qualification of applicants referred to the Committee by Bar Counsel;

(3) Request medical or other treatment records, hear testimony from and ask questions of medical or other treatment providers in accordance with Rule 402(e) and (f);

(4) Request an applicant to submit to an Independent Medical Examination in accordance with Rule 403(g);

(5) Recommend the approval or denial of an applicant's application after hearing;

(6) Recommend an applicant's conditional admission as provided in Rule 503; and

(7) Perform such other functions and take such other actions as provided in these Rules or as may be delegated to it by the Court, or as may be necessary and proper to carry out its duties.

(Amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 103. Office of the Bar.

The office of the Bar shall serve as office of the Board and the Committee. The Bar's Director of Admissions (the "Admissions Director"), acting under supervision of the Executive Director, shall perform all administrative duties for the Board and the Committee, including administering the UBE and receipt of examination answers; assisting in the investigation of applicants and their qualifications; and preparing minutes, proceedings, certifications and recommendations required of the Board and the Committee by the Court. The Bar shall also perform such other duties as may be requested by the Board, the Committee or the Court.

(Amended effective January 21, 2014; amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 104. Records.

(a) The Bar shall maintain copies of records that are generated in the course of accepting and processing applications for admission. After the Board has submitted its

report and recommendation to the Court, the Court shall maintain the original application and all supporting data.

(b) Information and documents obtained by the Board and the Committee during the application process shall be confidential, subject to the following exceptions:

(1) Information may be disclosed by the Board to the Committee, by the Committee to the Board, and may be disclosed to the applicant, the applicant's counsel, to anyone authorized by the applicant to receive such information, to a hearing officer appointed pursuant to these rules and to any counsel for the Board, or for the Committee;

(2) Information may be disclosed to the Court;

(3) Information provided by or obtained with respect to an applicant's fitness to practice law may be disclosed to the bar admissions authority of any United States jurisdiction where the applicant applies for admission to the practice of law;

(4) The name, address, date of birth, social security number and application status of each applicant may be furnished to the NCBE for dissemination to the bar admissions authority of any United States jurisdiction upon request;

(5) Information may also be released to the NCBE, Bar Counsel, any board or committee of the Bar and any board or committee of another state bar as the Board deems advisable; and

(6) Information and records may be disclosed as provided by order of the Court. (Amended January 21, 2010, effective April 1, 2010; effective January 21, 2014; amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 105. Waivers.

The Board may, for good cause shown by clear and convincing evidence, waive any rule or approval required from the Board which relates to the admission to the practice of law in Wyoming; provided, however, the Board shall not waive statutory requirements or filing fees, nor shall the Board waive the required passing scores on the MPRE or UBE. The decision of the Board not to waive any rule herein subject to waiver may be appealed to the Court.

(Amended November 25, 2008, effective January 1, 2009; effective January 21, 2014; amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 106. Communications with Board and Committee Members.

All communications to or with the Board, the Committee or any member thereof relating to pending applications for admission, and all communications with either the Board, the Committee or any member thereof relating to waiver of any part of these Rules, whether by an applicant or by any person or agent acting for or on the behalf of an applicant, shall be transmitted through the office of the Bar unless otherwise directed in writing by the chair of the Board or the chair of the Committee.

(Amended March 7, 2016, effective April 15, 2016.)

Rule 107. Filings.

All filings required to be made by routine application shall be filed with the Clerk of the Court. Incomplete applications will not be accepted for filing. Additional information requested by the Board or the Committee in investigations of applicants shall be filed with the office of the Bar. An application shall be governed by the Rules and Procedures in effect at the time the application is filed with the Clerk of the Court.

(Amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Editor's notes. — Supreme Court Order dated January 21, 2014 stated as follows: "...the last sentence of Rule 107 of the Rules and Procedures Governing Admission to the Practice of Law is hereby suspended with respect to an bar admission applications pending at the time of this order. That sentence provides: "An application shall be governed by the Rules and Procedures in effect at the time the application is filed with the Clerk of the Supreme Court." Thus, the rule amendments adopted by this order shall apply to applications already on file, as well as those filed after entry of this order."

The March 8, 2016 order amending these

rules, also ordered the following: "the last sentence of Rule 107 of the Rules and Procedures Governing Admission to the Practice of Law is hereby suspended with respect to certain bar admission applications. That sentence provides: 'An application shall be governed by the Rules and Procedures in effect at the time the application is filed with the Clerk of the Court.' The rule amendments adopted by this order shall apply to all bar admission applications on file on April 15, 2016, as well as those filed thereafter, except for applicants who sat for the February 2016 examination in Wyoming".

Rule 108. Immunity.

For any conduct or occurrence in the course of or arising out of performance of any official duties in connection with these rules, the Board, its Executive Secretary, its counsel, the Committee, Bar staff and all employees, personnel and agents through whom the Board and/or Committee functions shall retain common law immunity applicable and enjoy any immunity granted to the fullest extent provided by law, including such judicial and prosecutorial immunities as the Court would enjoy if performing the same functions.

(Amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 109. Computation of Time.

In computing any period of time prescribed or allowed by these rules, or by order of the Court, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have closed the recipient office, in which event the period runs until the end of the next day which is not one of the above-described days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the Chief Justice of the Court.

(Amended August 27, 2014, effective October 1, 2014.)

Rule 110. [Repealed].

(Repealed August 27, 2014, effective October 1, 2014.)

Editor's notes. — Former Rule 215 was amended and renumbered as Rule 110 by Supreme Court Order dated January 1, 2010, effective April 1, 2010.

Rule 111. [Repealed].

(Repealed August 27, 2014, effective October 1, 2014.)

SECTION II ADMISSION BY EXAMINATION

Rule 201. Applications for Admission by Examination, Fees.

(a) The UBE shall be administered in February and July of each year. An application to take the February administration of the UBE must be filed with the Clerk of the Court no later than the 15th day of November. An application to take the July administration of the UBE must be filed with the Clerk of the Court no later than the 15th day of April. Filing will not be measured by postmark dates. Faxes and emails will not be accepted.

(b) Applications for admission by examination shall be filed with the Clerk of the Court and shall be accompanied by a fee established by the Board and the Court, together with a copy of the applicant's Request for Preparation of a Character Report to the NCBE. Incomplete applications will not be accepted for filing. Refunds will not be made in the event an applicant is found ineligible for admission by examination nor in the event of withdrawal of an application. Further, evidence that the applicant meets the education requirements set forth in these rules must be submitted contemporaneously with the application, together with all supporting data and certification required of an applicant. Additional investigation fees may be required by the Board, including but not limited to, the expenses necessary for the Board and/or the Committee to obtain records and documents and the fee necessary to pay the services of an investigator, if deemed of assistance to the Board and/or Committee.

(c) An applicant who is unsuccessful on an examination, or who fails to take the examination, may request registration for the next UBE without paying an additional fee and without resubmitting evidence of meeting the educational requirements set forth in these rules. Thereafter, the applicant shall be required to reapply by following the procedure set forth in Rule 201(b), except that the applicant shall not be required to resubmit evidence of meeting the educational requirements set forth in these rules.. Reapplications must be filed no later than the 1st day of June for the July examination, and the 2nd day of January for the February examination.

(d) A certificate of good standing from the highest court for each jurisdiction in which the applicant is admitted to practice law issued within the last 90 days shall accompany the application.

(Amended September 25, 2006, effective January 1, 2007; amended December 15, 2011, effective January 2, 2012; amended and effective January 21, 2014; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016; amended December 20, 2016, effective March 1, 2017.)

The 2012 amendment in (a), substituted "1st day of October" for "15th day of November" and "1st day of March" for "15th day of April"; and in (c), substituted "may request registration for" for "may take" and added the last sentence.

Am. Jur. 2d, ALR and C.J.S. references. — Procedural due process requirements in proceedings involving applications for admission to bar, 2 ALR3d 1266.

Rule 202. Educational Requirements.

The Board shall, before allowing an applicant to take the UBE, be satisfied that the applicant is an adult who has been awarded a juris doctor degree from a law school accredited by the American Bar Association.

(Amended and effective May 6, 2014; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015.)

Am. Jur. 2d, ALR and C.J.S. references. educational requirement for admission to the bar, 44 ALR4th 910.
— Validity, construction and application of enactment, implementation or repeal of formal

Rule 203. [Reserved].

(Amended August 27, 2014, effective October 1, 2014; amended December 20, 2016, effective March 1, 2017.)

Rule 204. [Reserved].

Rule 205. Oath of Applicant.

Each applicant shall, by taking the examination be deemed to have sworn the following with respect to each question:

“I being first duly sworn on my oath according to law, depose and state: that I had no information or knowledge in advance as to what questions would be submitted to me in my examination held before the Board of Law Examiners of the State of Wyoming and that I received no assistance during said examination from any person or persons, whatever, or by reference to any written or electronic material of any kind.”

Applicants, at the discretion of the Board, may be required to sign and have notarized this oath in writing.

(Amended August 27, 2014, effective October 1, 2014.)

Rule 206. Anonymity of Examinees.

Until after the grading process has been completed by the Board, the examination of each applicant shall be done in such a manner that the applicant’s examination is not identifiable by name to the members of the Board or its Executive Secretary.

(Amended August 27, 2014, effective October 1, 2014.)

Rule 207. Completing the MEE and MPT Components Using a Personal Computer.

Applicants may use a personal computer to type the MEE and MPT components of the UBE. In order to do so, an applicant must:

- (1) Indicate the desire to use a personal computer to type the examination on the Application for Admission to the Wyoming State Bar;
- (2) Supply a personal computer that meets the current requirements of the Board;
- (3) Register and use examination software prescribed by the Board, according to instructions provided to applicant, including payment of any fees associated with use of the software; and
- (4) Acknowledge the acceptance of any risk inherent to using electronics, including but not limited to power failure, software malfunction, and equipment failure.

(Amended March 21, 2006, effective July 1, 2006; amended December 15, 2011, effective January 2, 2012; amended August 27, 2014, effective October 1, 2014.)

The 2012 amendment deleted former (a) relating to applicants using a typewriter for the essay portion of the examination, making two related changes, and inserted “software malfunction” in (4).

Rule 208. Monitors.

The Board shall appoint a sufficient number of monitors to insure the examination is conducted in an orderly and expeditious manner and to insure no applicant gives or receives aid in taking the examination.

Rule 209. Misconduct by Applicants.

If, during an examination, the Board or its designee has been made aware of conduct by an applicant which may violate the oath of applicant or any rule governing the examination, the Board or its designee shall cause an immediate investigation to be made. If the Board or its designee determines that an applicant has violated the oath of applicant or rules governing the examination, it shall immediately disqualify the applicant from the examination. Thereafter, the Board may refer the matter to the Committee to consider whether the applicant's character and fitness is such that the applicant is capable of assuming the responsibilities of the practice of law. Any fraudulent act or presentation in connection with the application or examination shall be sufficient cause for the revocation of the order admitting the applicant to practice. (Amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 210. Examination Accommodations.

(a) The Board encourages persons with disabilities to apply for test accommodations. Reasonable test accommodations will be made on the UBE for qualified applicants with disabilities. The UBE is a two-day timed examination designed to test the knowledge and skills necessary for one who seeks admission to the Bar.

(b) It is the policy of the Board to administer the bar examination and all other services of this office in accordance with the Americans with Disabilities Act, as amended (ADA). 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, may request reasonable test accommodations.

(c) The Board will make reasonable modifications to any policies, practices, and procedures that might otherwise prevent individuals with disabilities from taking the bar examination in an accessible place or manner, provided such modifications do not result in a fundamental alteration to the examination or other admission requirements, impose an undue burden, or jeopardize examination security. In order to accommodate disabled persons, the Board will furnish additional testing time, auxiliary aids, and other accommodations when necessary to ameliorate the impact of the applicant's disability on the applicant's ability to take the bar examination. No additional charges will be assessed to individuals with disabilities to cover the costs of reasonable accommodations.

(d) Requests for test accommodations will be evaluated on a case-by-case basis. The applicant must submit documentation from one or more qualified professionals that provides information on the diagnosed impairment(s), the applicant's current level of impairment, and the rationale for the accommodations requested on the bar examination. In addition, the applicant must submit verifying documentation of his or her history of accommodations, if any. All documentation will be retained by the Board and may be submitted to one or more qualified professionals for an impartial review. Accommodations granted elsewhere do not necessarily entitle an applicant to accommodations on the bar examination, although the Board gives considerable weight to documentation relating to past accommodations received in similar testing situations.

(e) *Definitions.* —

(1) *Disability* is a physical or mental impairment that substantially limits one or more of the major life activities of the applicant. In the bar examination setting, the impairment must limit an applicant's ability to demonstrate, under standard testing conditions, that the applicant possesses the knowledge, skills, and abilities tested on the bar examination.

(2) *Physical impairment* is a physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body's systems.

(3) *Mental impairment* is any mental or psychological disorder such as intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, or any specific learning disability.

(4) *Major life activities* include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(5) *Reasonable accommodation* is an adjustment or modification of the standard testing conditions, or an appropriate auxiliary aid or service, that ameliorates the impact of the applicant's disability without doing any of the following:

- (A) fundamentally altering the nature of the UBE, including but not limited to compromising the validity or reliability of the examination;
- (B) imposing an undue burden on the Board; or
- (C) jeopardizing examination security.

(6) *Qualified professional* is a licensed physician, psychiatrist, psychologist, or other health care provider who has appropriate training in the field related to the applicant's disability.

(f) *Applying for test accommodations.* — All forms necessary to complete a request for special testing accommodations shall be obtained from the Bar's website, www.wyomingbar.org.

(1) Applicants with disabilities are subject to the same application deadline as individuals without disabilities. Because some of the accommodation request forms require input from third parties, the appropriate individuals should be asked to complete the forms well in advance of the deadline.

(2) Requests for accommodations will be considered after receipt of all required information. The Applicant Checklist, located in Section V of Form 1: Applicant Request for Test Accommodations, must be submitted with the application. The applicable items specified in the Applicant Checklist must be completed and received by the Clerk of the Court on or before the application filing deadline for the UBE the applicant wishes to take. A request for special test accommodations for re-examination shall be filed with the application for examination and by the deadline for filing that application.

(3) An applicant may file an emergency request for special testing accommodations after the time prescribed in the above section if all of the following conditions are met:

- (A) The application to take the UBE was timely filed and complete in all other respects;
- (B) At the time of filing the application to take the UBE, the applicant did not have the disability or was unaware of a disability that would necessitate special testing accommodations;
- (C) After acquiring the disability, the applicant promptly submits a request for special testing accommodations on the forms required by the Board. An emergency request shall not be accepted fewer than seven days preceding the scheduled bar examination.

(g) Following receipt of a completed application for special testing accommodations, the Board will determine what accommodations are reasonable, if any. The Board may provide accommodations different from those requested by the applicant if the Board

determines that the accommodations provided will effectively ameliorate the impact of the applicant's disability. The Board shall notify the applicant in writing of any reasonable accommodations the Board has determined to provide.

(h) If the Board determines that a request for special testing accommodations should be denied, the Board shall so inform the applicant in writing, which shall include a statement of the Board's reasons for denial.

(1) In reviewing an emergency request, the Board shall first determine whether the request qualifies as an emergency request under this policy. If it does not qualify as an emergency, the Board shall deny the request.

(2) The Board may deny an emergency request if it is not practicable in the time remaining before the examination:

(A) To arrange special accommodations that would provide testing conditions that are reasonable and comparable to those conditions provided to other applicants; or

(B) For the Board to take all steps reasonable and necessary for it to reach a fair determination on the merits of the request before the examination.

(i) The applicant may appeal the denial of a request for special testing accommodations. The appeal shall be filed with the Clerk of the Court within 15 days of the date of the notice of denial. The appeal shall be conducted on the basis of the record compiled before the Board, and the applicant shall be limited to a written argument in support of the appeal. The Board's denial of an emergency request is not appealable.

(j) Within 10 days of the filing of an appeal, the Court shall affirm, reverse, or modify the Board's decision and prepare a written ruling with reasons for the decision. A copy of the ruling shall be sent to the Executive Secretary and to the applicant at the address provided by the applicant on the request. The decision on appeal shall be final.

(Amended August 27, 2014, effective October 1, 2014.)

The Americans With Disabilities Act, 42 U.S.C. § 12101 et seq., does not preempt a state's rules for licensing attorneys that relate to reasonable accommodations for individuals with disabilities. *Ware v. Wyoming Bd. of Law Exmrs.*, 973 F. Supp. 1339 (D. Wyo. 1997), aff'd, 161 F.3d 19 (10th Cir. 1998).

Subsection (c)(3) does not unduly bur-

den the disabled; its provisions allow the board of law examiners limited access to information necessary to determine whether a requested accommodation is reasonable. *Ware v. Wyoming Bd. of Law Exmrs.*, 973 F. Supp. 1339 (D. Wyo. 1997), aff'd, 161 F.3d 19 (10th Cir. 1998).

Rule 211. Passing Scores and Notification of Results.

(a) A passing score on the UBE is a scaled score of 270 total points or greater.

(1) The formula for determining the total UBE score is: MBE Scaled Score + MEE/MPT Scaled Score = UBE Total Scaled Score.

(2) Raw MBE scores (the number of questions correctly answered) are converted to scale scores by the NCBE by use of a formula designed to make scores comparable from one exam administration to another. The MBE is weighted as 50% of the UBE total score. MBE score transfers from other jurisdictions or from previous examinations will not be accepted for purposes of waiving the MBE portion of the exam.

(3) The combined MEE/MPT raw scores are converted to scale scores by the NCBE by use of a formula designed to make scores comparable from one exam to another. The MEE and MPT are weighted together as 50% of the UBE total score, with the MEE worth 30% and the MPT worth 20%.

(b) A passing score on the MPRE is a scaled score of 85 points or greater. An application will not be considered until the applicant has submitted evidence of a passing MPRE score. Such evidence must be submitted within one year of the date of

administration of the examination on which the applicant obtained a passing UBE score.

(c) For each applicant who receives a failing UBE score, the Board shall notify the Court of the results of the examination immediately upon completion of grading and the scaling process by the NCBE. For each applicant who receives a passing UBE score, the Board shall notify the Court of the results of the examination after receipt of results from the MPRE and after the Committee has made its recommendation regarding the applicant's good moral character and fitness to practice law.

(d) The Court shall notify each applicant of the applicant's scores as promptly as feasible following receipt of the Board's and (in the case of applicants who received a passing UBE score) the Committee's recommendation regarding the applicant's eligibility for admission.

(e) Applicant scores shall not be disclosed to any person other than the applicant except that:

(1) Upon written request of an applicant, the Board may disclose the applicant's scale UBE scores to the bar examining authority of any United States jurisdiction;

(2) The Board may compile and disseminate passage rate reports as directed or approved by the Court;

(3) Upon request, the Board shall provide to the NCBE and the dean of the applicant's law school, or his/her designee, statistical detail for each applicant taking the UBE in Wyoming. This statistical detail shall include: applicant name, pass/fail status on the UBE, and the number of times the applicant has taken the UBE in Wyoming. The applicant's law school shall maintain the confidential nature of the exam information except for release of aggregated exam statistics for ABA-accreditation purposes.

(f) [Effective January 1, 2017.] In the event an applicant has obtained a passing score on the UBE prior to the date of application, the UBE on which the applicant obtained a passing score must have been conducted less than three years prior to application for admission.

(Amended and effective December 14, 2012; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016; amended August 30, 2016, effective January 1, 2017.)

Rule 212. Review of Examination Answers.

An applicant who fails the exam may inspect the applicant's answers along with a copy of the MEE and MPT examinations and the model answer following the exam at the office of the Bar for as long as they are available. Any other review of examination answers shall be subject to NCBE rules.

(Amended and effective December 14, 2012; amended August 27, 2014, effective October 1, 2014.)

Am. Jur. 2d, ALR and C.J.S. references. examination questions and answers, 57
— Failed applicant's right of access to bar ALR4th 1212.

Rules 213 to 217. [Repealed].

(Repealed August 27, 2014, effective Oct. 1, 2014.)

SECTION III
APPLICATION FOR ADMISSION ON MOTION OR BY
TRANSFER OF UBE SCORE

Rule 301. General Provision.

The Board may recommend to the Court admission without examination in Wyoming of those attorneys who satisfy the criteria set forth in this section.
(Amended and effective December 14, 2012; amended August 27, 2014, effective October 1, 2014.)

Rule 302. Eligibility for Admission on Motion.

At the discretion of the Court, and upon the submission of (1) the application(s) required by the Board certifying the qualifications of eligibility listed below, (2) all supporting data, (3) the necessary fees, and (4) a character investigation performed by or for the NCBE, admission may be granted to an applicant who:

(a) Has been awarded a juris doctor (JD) by a law school accredited by the American Bar Association; and who

(b) Is not now nor ever has been admitted to the practice of law in Wyoming or, if previously admitted, one whose membership was withdrawn; and who

(c) Has been admitted to practice as an attorney in the highest court in any state, territory or district of the United States by passing a written examination as required by such other state, territory or district; and who

(d) Has not been denied on motion to practice law in Wyoming or been allowed to withdraw an application due to questions raised by the Board or the Committee regarding the applicant's character and fitness within the last two years; and who

(e) Has not previously engaged in the unauthorized practice of law; and who

(f) Has engaged in the active, authorized practice of law for a minimum of 300 hours per year for five of the seven years immediately preceding the date of application, and is an active member in good standing of the bar of a UBE jurisdiction or a jurisdiction (or jurisdictions) that grants bar admission without examination to attorneys licensed in Wyoming on the basis of practice in Wyoming; and who

(g) Has shown that the applicant has met all such other requirements as may be appropriately prescribed by the Board and found by the Committee to demonstrate qualification, character and fitness to practice law; and who

(h) Is currently a member in good standing in all jurisdictions where admitted.
(Amended March 21, 2006, effective July 1, 2006; amended and effective October 30, 2012; amended and effective January 21, 2014; amended and effective May 6, 2014; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016; amended August 30, 2016, effective January 1, 2017.)

Editor's Note. — The October 30, 2012 court order amending this rule stated that the amendment shall not apply to applications for admission on motion that were filed on or before October 1, 2012, i.e., motions filed by applicants who seek to be admitted with the February 2013 examination applicants. The amendments shall apply to all applications for admission on motion that are filed between now

and March 1, 2013, (i.e., motions filed by applicants who seek admission with the July 2013 examination applicants) and to all applications for admission on motion filed thereafter.

Am. Jur. 2d, ALR and C.J.S. references. — Validity, construction and effect of reciprocity provisions for admission to bar of attorney admitted to practice in another jurisdiction, 14 ALR4th 7.

Rule 303. Definitions of the Active, Authorized Practice of Law.

(a) For purposes of this section, the “active, authorized practice of law” shall refer to the following sectors of practice:

(1) As a significant and primary occupation, serving as an attorney for fees or payment from one or more clients, including individuals, legal service programs, trusts, partnerships and non-governmental corporations;

(2) Serving as an attorney in governmental employment in the law offices of the executive, legislative or judicial departments of the United States, including the independent agencies thereof, or of any state, political subdivision of the state, territory, special district or municipality of the United States, provided that graduation from an ABA-accredited law school is a required qualification of such employment;

(3) Teaching, as a full-time faculty member, a law course or courses at one or more ABA-accredited law schools in the United States, its territories or districts;

(4) Serving as a judge in a court of the United States, a court of a state, territory or district of the United States, provided such employment is available only to licensed attorneys who have graduated from an ABA-accredited law school.

(b) For the purposes of this section, the “active, authorized practice of law” shall consist of the following primary duties:

(1) Furnishing legal counsel;

(2) Drafting legal documents and pleadings;

(3) Interpreting and giving advice regarding the law and legal issues; and

(4) Preparing, trying or presenting cases before courts, departments of government, bureaus or administrative agencies.

(c) Each applicant for admission under this rule shall establish to the satisfaction of the Board that the applicant has engaged in the active, authorized practice of law for five of the seven years immediately preceding the date of application.

(Amended August 27, 2014, effective October 1, 2014.)

Rule 304. Applications for Admission on Motion, Fees.

(a) All applicants for admission on motion shall complete an application prescribed by the Board and shall submit to a character investigation performed by or for the NCBE. Completed applications are to be filed with the Clerk of the Court. Incomplete applications will not be accepted for filing.

(1) a questionnaire and affidavit for applicants seeking admission on motion prescribed or approved by the Board.

(2) a character investigation performed by or for the National Conference of Bar Examiners, and

(b) The application prescribed by the Board shall be submitted with all supporting data required by the Board to determine eligibility under Rule 302, above. Supporting data to the application shall include the following:

(1) A certificate of good standing from the highest court for each jurisdiction in which the applicant is admitted to practice law issued within the last 90 days;

(2) One of the following:

(i) A Certificate by a judge or hearing officer of a tribunal of record of such other state, territory or district before which the applicant has practiced law; or

(ii) A Certificate by a member in good standing of the Bar of the State of Wyoming for at least 10 continuous years that the applicant is a person of good moral character and reputation, and competent legal ability; or

(iii) Two Certificates from any officer of a court in the applicant’s current resident bar, provided that no such Certificate shall be submitted by any family

member or client of the applicant, or by any two individuals within the same firm.

As used in subparts (i), (ii) and (iii) of this Rule, a “Certificate” shall be a sworn statement which shall include, at a minimum, the maker’s acquaintance with the applicant, the facts and circumstances of such acquaintance, and a positive and unqualified statement that the applicant is a worthy, fit and proper person to perform and accept the obligations and responsibilities of a member of the Bar. Such Certificate shall be in a form and content approved by the Board.

(3) Evidence of compliance with the Continuing Legal Education requirements of all jurisdictions in which the applicant is admitted to practice law, if applicable;

(4) An authorization and release form; and

(5) Proof the applicant has passed the MPRE with a scaled score of 85 points or greater.

(c) The Board shall, in each case, give consideration to such evidence of moral character it has required along with the character report by the NCBE and shall make independent inquiry and investigation as to the applicant’s moral character and fitness to be a member of the Bar. The Committee may at its discretion, hold further proceedings with the applicant as described in Section IV and shall thereafter report to the Court the results of its findings, together with its recommendation. The Court may on its own motion make such further inquiry and investigation as it deems proper.

(d) Applications for admission on motion shall be filed with the Clerk of the Court and shall be accompanied by a fee established by the Board and the Court together with a copy of the applicant’s Request for Preparation of a Character Report to the NCBE. Refunds will not be made in the event an applicant is found ineligible for admission on motion nor in the event of withdrawal of an application. Incomplete applications will not be accepted for filing. Additional investigation fees may be required by the Board, including but not limited to, the expenses necessary for the Board and/or the Committee to obtain records and documents and the fee necessary to pay the services of an investigator, if deemed of assistance to the Board and/or Committee.

(e) The Board shall notify the Court of a motion applicant’s eligibility for admission after receipt of results from the MPRE and after the Committee has made its recommendation regarding the applicant’s good moral character and fitness to practice law.

(f) The Court shall notify each applicant of the applicant’s admission status as promptly as feasible following receipt of the Board’s and the Committee’s recommendations regarding the applicant’s eligibility for admission.

(Amended September 25, 2006, effective January 1, 2007; amended and effective October 30, 2012; amended and effective January 21, 2014; amended and effective May 6, 2014; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016; amended December 20, 2016, effective March 1, 2017.)

Editor’s Note. — The October 30, 2012 court order amending this rule stated that the amendment shall not apply to applications for admission on motion that were filed on or before October 1, 2012, i.e., motions filed by applicants who seek to be admitted with the February 2013 examination applicants. The

amendments shall apply to all applications for admission on motion that are filed between now and March 1, 2013, (i.e., motions filed by applicants who seek admission with the July 2013 examination applicants) and to all applications for admission on motion filed thereafter.

Rule 305. Applications for Admission by Transfer of UBE Score, Fees.

(a) UBE transfer applicants are those applicants who have taken the UBE in another jurisdiction. It is the applicant's sole responsibility to contact the NCBE to initiate steps for the transfer of the applicant's UBE score.

(b) *Eligibility.* — A UBE transfer applicant may be admitted without further examination if the applicant earned a passing score on the UBE at an examination that was conducted less than three years prior to application for admission. A score is considered to have been earned on the date of administration of the UBE that resulted in the score. The application must be accompanied by evidence of a passing MPRE score. The UBE transfer applicant must also meet the eligibility requirements contained in Rule 302(a), (b), (d), (e), (g) and (h).

(c) Applications for admission by UBE score transfer shall be filed with the Clerk of the Court and shall be accompanied by a fee established by the Board and the Court together with a copy of the applicant's Request for Preparation of a Character Report to the NCBE. Refunds will not be made in the event an applicant is found ineligible for admission by UBE score transfer nor in the event of withdrawal of an application. A certificate of good standing from the highest court for each jurisdiction in which the applicant is admitted to practice law issued within the last 90 days shall accompany the application. Incomplete applications will not be accepted for filing. Additional investigation fees may be required by the Board, including but not limited to, the expenses necessary for the Board and/or the Committee to obtain records and documents and the fee necessary to pay the services of an investigator, if deemed of assistance to the Board and/or Committee.

(d) The application prescribed by the Board shall be submitted with all supporting data required by the Board to determine eligibility under this rule. Supporting data shall include proof the applicant:

- (1) Has obtained a scaled score of 85 points or greater on the MPRE; and
- (2) Has obtained a scaled score of 270 total points or greater on the UBE. An applicant for admission by UBE score transfer must sit for the entire UBE in the same exam administration to earn a portable UBE score. MBE score transfers from other jurisdictions or from previous examinations will not be accepted for purposes of waiving the MBE portion of the exam.

(e) The Board shall notify the Court of a UBE transfer applicant's eligibility for admission after receipt of results from the MPRE and after the Committee has made its recommendation regarding the applicant's good moral character and fitness to practice law.

(f) The Court shall notify each applicant of the applicant's admission status as promptly as feasible following receipt of the Board's and the Committee's recommendations regarding the applicant's eligibility for admission.

(Amended January 21, 2010, effective April 1, 2010; amended December 15, 2011, effective January 2, 2012; amended and effective December 14, 2012; amended and effective January 21, 2014; amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016; amended December 20, 2016, effective March 1, 2017.)

The 2012 amendment in (a), substituted "1st day of March" for "15th day of April" and "1st day of October" for "15th day of November."

Rule 306. [Renumbered as Rule 305 effective October 1, 2014].

**SECTION IV
CHARACTER AND FITNESS
OF BAR APPLICANTS**

Rule 401. Character and Fitness Requirements.

(a) *Duties of Applicant.* — Every applicant must produce satisfactory evidence of good moral character and an adequate knowledge of the standards and ideals of the profession and that such person is otherwise fit to practice law within the State of Wyoming. The applicant shall have the burden of proving that the applicant is possessed of good moral character and is fit to practice law. It shall be the duty of every applicant to cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by the Admissions Director, Bar Counsel or the Committee consistent with these rules. Failure to appear as directed or to furnish additional proof or answer as required or to cooperate fully shall be sufficient reason for the Committee to recommend the denial of an application.

(b) *Purposes of Character and Fitness Screening.* — The primary purposes of character and fitness screening before admission to the Bar are to assure the protection of the public and safeguard the justice system. The Committee shall not recommend an applicant be admitted to practice law if the Committee believes that such applicant would, if admitted to practice law in Wyoming, be unable or unwilling to act in accordance with the standards set forth in the Wyoming Rules of Professional Conduct, and to act fairly, honestly, reasonably and with unquestionable integrity in all matters in which he or she acts as an attorney at law.

(1) Good moral character includes but is not limited to a record of conduct manifesting the qualities of honesty, candor, trustworthiness, observance of fiduciary responsibilities, adherence to the law, and a respect for the rights of other persons and the judicial process.

(2) Fitness to practice law includes but is not limited to a record of conduct that establishes that the applicant meets the essential eligibility requirements for the practice of law. The essential eligibility requirements for the practice of law are:

(2)(A) The ability to exercise good judgment and to conduct oneself with a high degree of honesty, integrity and trustworthiness in financial dealings, legal obligations, professional relationships, and in one's professional business;

(B) The ability to conduct oneself in a manner that engenders respect for the law and adheres to the Wyoming Rules of Professional Conduct;

(C) The ability to diligently, reliably, and timely perform legal tasks and fulfill professional obligations to clients, attorneys, courts and others;

(D) The ability to competently undertake fundamental lawyering skills such as legal reasoning and analysis, recollection of complex factual information and integration of such information with complex legal theories, problem solving, and recognition and resolution of ethical dilemmas; and

(E) The ability to communicate comprehensibly with clients, attorneys, courts, and others.

(c) *Factors Considered.* — The following factors shall be considered when determining an applicant's good moral character and fitness to practice law:

(1) Unlawful conduct;

(2) Academic misconduct;

(3) Making or procuring any false or misleading statement or omission of relevant information, including any false or misleading statement or omission on

the application for admission to the Bar, or any amendment, or in any testimony or sworn statement submitted to the Board or the Committee;

- (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) Conduct demonstrating an inability to meet one or more essential eligibility requirements for the practice of law;
- (11) Conduct that physically threatens or harms another person;
- (12) Denial of admission to the bar in this or another jurisdiction on character and fitness grounds;
- (13) Disciplinary action by the lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction; and
- (14) Any other conduct which reflects adversely upon the good moral character and or fitness of the applicant to practice law.

(d) *Prior Conduct—Aggravating and Mitigating Factors.* — In making the determination on character and fitness of each applicant, the following factors should be considered in assigning weight and significance to prior conduct of the applicant:

- (1) The applicant's age at the time of the conduct;
- (2) The recency of the conduct;
- (3) The reliability of the information concerning the conduct;
- (4) The seriousness of the conduct;
- (5) The factors or circumstances underlying the conduct;
- (6) The cumulative effect of the conduct or information;
- (7) The evidence of rehabilitation;
- (8) The applicant's positive social contributions since the conduct;
- (9) The applicant's candor in the admissions process;
- (10) The materiality of any omissions or misrepresentations.
- (11) An applicant who affirmatively asserts rehabilitation from prior conduct must produce evidence of rehabilitation which may include, but is not limited to, the following:
 - (A) compliance with the specific conditions of any disciplinary, judicial, administrative, or other order, where applicable;
 - (B) good character and moral standing in the community;
 - (C) good reputation for professional ability, where applicable;
 - (D) lack of malice and ill feeling toward those who, by duty, were compelled to bring about the disciplinary, judicial, administrative, or other proceeding;
 - (E) personal assurances, supported by corroborating evidence, of a desire and intention to conduct one's self in an exemplary fashion in the future;
 - (F) restitution of funds or property, where applicable;
 - (G) positive action showing rehabilitation by occupation, community service or civic service; and
 - (H) any other evidence which reflects rehabilitation of the applicant.

(e) *Non-Discrimination Policy.* — In determining good moral character and fitness to practice law, the Committee shall not discriminate against any applicant on the basis of:

- (1) Race, color or ethnic identity;
- (2) Gender or gender identity;
- (3) Sexual orientation;
- (4) Marital status;
- (5) Creed or religion;

- (6) Political beliefs or affiliation;
- (7) Sensory, mental or physical disability;
- (8) National origin;
- (9) Age; or
- (10) Any other class protected under state or federal law.

(Amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Burden met. — Attorney who had been convicted of conspiracy to sell unregistered securities and suspended from the practice of law met his burden to show that he had the character and fitness to practice law in Wyoming pursuant to Wyo. R. and Procedures Governing Admission to the Practice of Law by showing he was competent to practice law in Wyoming and was willing to act in accordance with the standards set forth in the Wyo. R. Prof. Conduct and to act fairly, honestly, reasonably and with unquestionable integrity in all matters in which he acted as an attorney at law. *Bd. of Prof'l Responsibility v. Elsom*, 187 P.3d 358 (Wyo. 2008).

Am. Jur. 2d, ALR and C.J.S. references. — 7 Am. Jur. 2d Attorneys at Law §§ 13 to 23.

Criminal record as affecting applicant's moral character for purposes of admission to the bar, 88 ALR3d 192.

Good moral character of applicant as requisite for admission to bar, 88 ALR3d 192; 88 ALR3d 1055; 4 ALR4th 436; 21 ALR4th 1109; 30 ALR4th 1020.

Violation of draft laws as affecting character

for purposes of admission to the bar, 88 ALR3d 1055.

Failure to pay creditors as affecting applicant's moral character for purposes of admission to the bar, 4 ALR4th 436.

Sexual conduct or orientation as ground for denial of admission to bar, 21 ALR4th 1109.

Falsehoods, misrepresentations, impersonations, and other irresponsible conduct of bearing on requisite good moral character for admission to bar, 30 ALR4th 1020.

Bar admission or reinstatement of attorney as affected by alcoholism or alcohol abuse, 39 ALR4th 567.

Sexual conduct or orientation as ground for denial of admission to bar, 105 ALR5th 217.

Falsehoods, misrepresentations, impersonations, and other irresponsible conduct as bearing on requisite good moral character for admission to bar — Conduct related to admission to bar, 107 ALR5th 167.

Failure to pay creditors as affecting applicant's moral character for purposes of admission to the bar, 108 ALR5th 289.

Rule 402. Review of Applications.

(a) *Admissions Staff Review.* — All applications for admission to the Bar shall be reviewed by the Admissions Director for purposes of determining whether the applicant possesses good moral character and fitness to practice law. Applications which establish to the satisfaction of the Admissions Director the applicant possesses good moral character and fitness to practice law shall be forwarded to the Committee for approval or for such further proceedings as the Committee deems appropriate.

(b) *Referral to Bar Counsel.* — All applications which raise a substantial question whether the applicant possesses the requisite good moral character and fitness to practice law shall be referred to Bar Counsel for review.

(c) *Review by Bar Counsel.* — Upon receiving a referral, Bar Counsel may conduct such further investigation as is deemed necessary. Any investigation or inquiry into a health diagnosis, alcohol or drug dependence, or treatment for either must comply with sections (e) and (f) of this Rule. If Bar Counsel, after conducting such review, concludes that the applicant possesses good moral character and fitness to practice law, the application shall be forwarded to the Committee for approval or for such further proceedings as the Committee deems appropriate.

(d) *Referral for Hearing.* — Bar Counsel shall refer to the Committee for hearing any applicant about whom there is a substantial question whether the applicant possesses the requisite good moral character and fitness to practice law. At the time of making such referral, Bar Counsel shall notify the applicant of the referral and shall provide the applicant with all documents and information relied upon by Bar Counsel in concluding that a substantial question exists about whether the applicant possesses the requisite good moral character and fitness to practice law. In determining whether a

substantial question exists, Bar Counsel shall apply the factors and considerations set forth in Rule 401 and shall review the material evidence in the light most favorable to the Bar's obligation to recommend the admission to the practice of law of only those persons who possess good moral character and fitness to practice law.

(e) *Basis for Inquiry into Health Diagnosis and Drug or Alcohol Dependence.* — Any inquiry about drug or alcohol dependence, a health diagnosis, or treatment for either can occur only if it appears that the applicant has engaged in conduct that demonstrates the inability to meet one or more of the essential eligibility requirements and (1) the drug or alcohol dependence, health diagnosis, or treatment information was disclosed voluntarily to explain the conduct or as a voluntary response to any question on the application; or (2) the Admissions Director, Bar Counsel or the Committee learns from a third-party source that the drug or alcohol dependence, health diagnosis, or treatment was raised as an explanation for the conduct.

(f) *Scope of Inquiry into Health Diagnosis and Drug or Alcohol Dependence.* — When a basis for an inquiry by Admissions Director, Bar Counsel or the Committee has been established under section (e), any such inquiry must be narrowly, reasonably, and individually tailored and adhere to the following:

(1) The first inquiry will be to request statements from the applicant;

(2) After statements are obtained from the applicant, additional statements may be requested from treatment providers if reasonably deemed necessary by the Admissions Director, Bar Counsel or the Committee. The statements of treatment providers shall be accorded considerable weight.

(3) In those cases in which the statements from the applicant and treatment providers do not resolve reasonable concerns about the applicant's ability to meet the essential eligibility requirements, the Admissions Director, Bar Counsel or the Committee may seek medical or treatment records. Any requests for medical or treatment records shall be by way of narrowly tailored requests and releases that provide access only to information that is reasonably necessary to assess the applicant's ability to meet the essential eligibility requirements.

(4) Any testimony or records from medical or other treatment providers may be admitted into evidence at a hearing on, or review of, the applicant's fitness and transmitted with the record on review to the Court. Records and testimony regarding the applicant's fitness shall otherwise be kept confidential in all respects and neither the records nor the testimony of the medical or treatment provider shall be discoverable or admissible in any other proceeding or action without the written consent of the applicant.

(Amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016.)

Rule 403. Hearing Procedure.

(a) *Notice.* — The Committee shall fix a time and place for a hearing on the application, and the Admissions Director shall serve notice thereof not less than 30 days prior to the hearing upon the applicant and upon such other persons as may be ordered by the Committee. This notice requirement may be waived by the applicant.

(b) *Service of Notice or Any Other Pleading.* — All pleadings or other notices shall be served upon the Committee by delivery of duplicate copies of such pleadings to the Admissions Director by personal service or by U.S. mail. Service of any pleading or other notice upon an applicant or the applicant's attorney shall be by personal service, electronic mail or by U.S. mail. When service is made by U.S. mail, three days shall be added to the prescribed period for accomplishing an act required by these rules.

(c) *Appearance and Right to Counsel.* — The applicant shall appear in person at any hearing before the Committee, unless the applicant's presence is waived by the Committee for good cause shown. The presumption is that the applicant's personal attendance at the hearing will be required. An applicant may be represented by counsel.

(d) *Burden of Proof.* — The applicant must establish by clear and convincing evidence that the applicant possesses good moral character and the requisite fitness to practice law, and shall have the burden of going forward with evidence of such.

(e) *Witnesses and Exhibits.* — A listing of trial witnesses and exhibits shall be filed and copies of exhibits shall be exchanged at least 10 days prior to the hearing. Although the Rules of Civil Procedure do not apply to proceedings conducted pursuant to these Rules, Bar Counsel, the applicant and the applicant's counsel shall comply with reasonable information requests.

(f) *Admissibility of Evidence.* —

(1) Evidentiary rulings shall be made by the Committee chair. A majority of Committee members present may by vote overrule a ruling by the chair.

(2) Evidence, including hearsay evidence, is admissible if it is the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The chair may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(3) Witnesses shall testify under oath; all testimony shall be reported by and, if necessary, transcribed by a certified court reporter.

(4) Expert witnesses shall appear and testify in person or by telephone or video conference before the Committee, unless in the discretion of the Committee their appearance before the Committee is waived.

(5) Questioning of the applicant and the applicant's witnesses shall be conducted by Bar Counsel, by members of the Committee, and by the applicant or the applicant's counsel.

(6) The Committee may question medical or other treatment providers and seek medical or other treatment records consistent with the provisions of Rule 402(e) and (f), and in accordance with Rule 403(g) below.

(g) *Independent Medical Examination.* — An Independent Medical Examination (IME) may be requested by the Committee only when a basis for an inquiry by the Committee exists under Rule 402(e) and only after testimony and evidence presented at the hearing has failed to resolve the Committee's reasonable concerns regarding the applicant's ability to meet the essential eligibility requirements to practice law. If the applicant has not previously been requested to provide information pursuant to Rule 402(f)(1), (2) and (3), the Committee shall provide the applicant with the opportunity to submit such information, within such reasonable time as the Committee shall establish, prior to requesting the IME.

(1) *Time and Place.* — Any IME shall occur at a time and place convenient to the applicant and shall be conducted by a professional mutually agreed upon by the applicant and Bar Counsel.

(2) *Failure to Comply.* — The failure of an applicant to agree to or submit to a required IME shall result in a recommendation to the Court that the applicant's application be denied.

(3) *Costs.* — The cost of any IME required by the Committee shall be borne by the Bar.

(4) *Report.* — The examining professional shall issue a written report of his or her findings which report shall be provided to the applicant and his or her counsel, Bar Counsel and the Committee.

(5) *Rebuttal to IME.* — The applicant shall have the right to provide rebuttal medical information from treating clinicians if such information is provided within thirty (30) days from the receipt of the IME report.

(h) *Withdrawal of Application.* — Upon written request an applicant may withdraw his/her application before a final recommendation on such application has been submitted by the Committee to the Court. In the event of a reapplication, any information obtained from any previous application proceeding may be considered by the Board and the Committee.

(Amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 404. Decision and Recommendation.

(a) *Decision.* — Within thirty (30) days after the proceedings are concluded, or if a transcript is ordered by the Committee, within thirty (30) days after the transcript is received by the Committee, unless a greater or shorter period is directed by the Committee chair, the Committee shall file with the Admissions Director written findings of fact, conclusions of law, and a recommendation. Any Committee member may file a written dissent within the same time period.

(b) *Action on Committee Recommendation.* — The Committee's recommendation shall be served on the applicant pursuant to Rule 403(b). The recommendation, along with the record shall be assembled by the Admissions Director and transmitted to the Court.

(Amended August 27, 2014, effective October 1, 2014; amended June 2, 2015, effective July 1, 2015; amended March 7, 2016, effective April 15, 2016.)

Rule 405. Proceedings before the Court.

(a) The applicant may object to a recommendation of the Committee against admission by filing a brief complying with W.R.A.P. 7.01 through 7.04, except that instead of the statement of issues required by 7.01(d), the applicant shall set forth specific exceptions to the recommendation. The brief must be filed within thirty (30) days of service of the report and recommendation. Bar Counsel may file a responsive brief within twenty (20) days of service of the applicant's brief. If Bar Counsel files a responsive brief, the applicant may file a reply brief within ten (10) days of service of Bar Counsel's brief.

(b) The record on appeal shall consist of all pleadings; all orders entered by the Committee; the Committee's report and recommendation; all hearing transcripts and exhibits; and all other documents on file with the Committee.

(c) During its review, the Court shall not receive or consider any evidence that was not presented to the Committee, except upon notice to the applicant and Bar Counsel and opportunity to respond.

(d) If applicant files an objection to the Committee's recommendation, the Court shall calendar the matter for such proceedings or argument as it may deem appropriate and shall thereafter enter its order.

(Amended August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Am. Jur. 2d, ALR and C.J.S. references. — Procedural due process requirements in proceedings involving applications for admission to bar, 2 ALR3d 1266.

Rule 406. Reapplication after Denial.

A new application from an applicant whose previous application was denied based on the applicant's moral character and fitness to practice law shall not be accepted until two years have elapsed from the date of the order denying admission.

(Amended March 7, 2016, effective April 15, 2016.)

Rule 407. [Repealed].

(Repealed August 27, 2014, effective October 1, 2014.)

SECTION V ADMISSION TO PRACTICE

Rule 501. Certification of Eligibility for Admission to the Bar.

Subject to the provisions of Rule 503, upon an applicant's satisfactory completion of the application process and provided that the applicant is certified to have the requisite good moral character and fitness to practice law and the applicant has met all of the requirements of these rules, the Board and the Committee shall certify their recommendations to the Court that the applicant is eligible for admission to the practice of law.

(Added August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 502. Duty of the Court After Receiving Certification of the Board.

Subject to the provisions of Rule 503, the Court, upon receiving certification from the Board and the Committee that an applicant is eligible for admission to the Bar, shall enter an order admitting the attorney to the practice of law in Wyoming.

(Added August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016.)

Rule 503. Conditional Admission.

(a) *Conditional Admission.* — An applicant who satisfies the essential eligibility requirements for admission to practice law and currently satisfies character and fitness requirements except that he or she is engaged in a sustained and effective course of treatment for or remediation of:

(1) substance abuse or dependence;

(2) a diagnosed mental, behavioral or physical impairment that, should it reoccur, would likely impair the applicant's ability to practice law or pose a threat to the public; or

(3) neglect of financial affairs, may be admitted to practice law conditioned upon the applicant's compliance with appropriate post-admission requirements.

(b) *Procedure.* — The Committee shall make conditional admission recommendations to the Court. Those recommendations shall include recommended relevant conditions that an applicant must comply with during the period of conditional admission. The Court may grant conditional admission based upon conditions the Court determines appropriate under the circumstances.

(1) Before the Court grants conditional admission, the applicant will enter into a Monitoring Agreement setting forth the requirements with which the applicant must comply during the period of conditional admission.

(2) Once the Monitoring Agreement has been executed and submitted to the Court, the Court may enter an order admitting the applicant. The order admitting the applicant will not indicate that the admission is conditional or different in any respect from orders admitting other applicants.

(c) *Conditions.* — The Committee may recommend, and the Court may order, that an applicant's admission be conditioned on the applicant's complying with requirements that are designed to detect and address behavior that could render the applicant unfit to practice law and to protect clients and the public. Conditions may include the following: alcohol, drug or mental health treatment; medical, psychological or psychiatric care; participation in group therapy or support; random chemical screening; monitoring, supervision or mentoring; or other conditions deemed appropriate by the Committee or the Court. The conditions shall be tailored to detect and address

recurrence of the conduct or behavior which could render an applicant unfit to practice law or pose a risk to clients or the public and to encourage continued abstinence, treatment or other support. The conditions should be established on the basis of clinical or other appropriate evaluations, take into consideration the recommendations of qualified professionals, when appropriate, and protect the privacy interests of the conditionally admitted attorney in professional treatment records to the extent possible. The conditions shall be set forth in a Monitoring Agreement signed by the applicant, which shall be made a part of the conditionally admitted attorney's application file and shall remain confidential, except as provided in this and any other applicable rules.

(d) *Length of Conditional Admission.* — The initial conditional admission period as established in the Monitoring Agreement shall not exceed sixty months.

(e) *Compliance with Monitoring Agreement.* — During the conditional admission period, the Committee shall take such action as is necessary to monitor compliance with the terms of the Monitoring Agreement, including requiring an appearance before the Committee and requiring responses to requests for information by the Committee.

(f) *Failure to Fulfill the Terms of Conditional Admission.* — Failure of a conditionally admitted attorney to fulfill the terms of a Monitoring Agreement may result in modification of the agreement, including extension of the period of conditional admission, suspension or termination of the conditional admission or such other action as may be appropriate under these Rules.

(g) *Violation of Monitoring Agreement.* — Incidents of non-compliance with the Monitoring Agreement will be reported to Bar Counsel. If Bar Counsel determines that the requirements of the Monitoring Agreement have been violated and the violation is material, the Bar Counsel shall initiate proceedings to determine whether the conditional admission should be terminated, extended or modified.

(h) *[Effective until January 1, 2017.] Termination.* — Bar Counsel may petition the Court for an order to show cause why the conditionally admitted attorney's membership should not be terminated. If a petition is filed:

(1) The Court shall examine the petition and determine whether a *prima facie* showing of a violation of the Monitoring Agreement has been demonstrated. If the Court determines that such a showing has been made, it may immediately suspend the conditionally admitted attorney and may issue an order to show cause why the conditionally admitted attorney's membership should not be terminated.

(2) A suspended attorney shall comply with the requirements of suspended attorneys.

(3) The conditionally admitted attorney may file a verified response to the order to show cause, in which case the Court shall assign the matter to the Committee for hearing and recommendation.

(4) Following the hearing, the Committee may recommend, and the Court may order, the conditional admission be extended or modified or that the conditionally admitted attorney's membership be terminated. The Committee's recommendation shall be served on the applicant pursuant to Rule 403(b). The recommendation, along with the record (including the transcript and exhibits) shall be assembled by the Admissions Director and transmitted to the Court.

(h) *[Effective January 1, 2017.] Termination.* — Bar Counsel may petition the Court for an order to show cause why the conditionally admitted attorney's membership should not be terminated. If a petition is filed:

(1) The Court shall examine the petition and determine whether a *prima facie* showing of a violation of the Monitoring Agreement has been demonstrated. If the Court determines that such a showing has been made, it may immediately suspend the conditionally admitted attorney and may issue an order to show cause why the conditionally admitted attorney's membership should not be terminated. The order of suspension shall not be confidential.

(2) A suspended attorney shall comply with the requirements of suspended attorneys.

(3) The conditionally admitted attorney may file a verified response to the order to show cause within 30 days of the date of the order to show cause, in which case the Court shall assign the matter to the Committee for hearing and recommendation. In the event the conditionally admitted attorney does not file a verified response to the order to show cause, the Court shall issue an order terminating the conditionally admitted attorney's membership in the Wyoming State Bar. The order of termination shall not be confidential.

(4) Following the hearing, the Committee may recommend, and the Court may order, the conditional admission be extended or modified or that the conditionally admitted attorney's membership be terminated. The Committee's recommendation shall be served on the applicant pursuant to Rule 403(b). The recommendation, along with the record (including the transcript and exhibits) shall be assembled by the Admissions Director and transmitted to the Court.

(i) *Hearing procedure.* —

(1) *Notice.* — The Committee shall fix a time and place for a hearing on the petition, and the Admissions Director shall serve notice thereof not less than 30 days prior to the hearing upon the conditionally admitted attorney and upon such other persons as may be ordered by the Committee. This notice requirement may be waived by the conditionally admitted attorney.

(2) *Appearance and Right to Counsel.* — The conditionally admitted attorney shall appear in person at any hearing before the Committee, unless the conditionally admitted attorney's presence is waived by the Committee for good cause shown. The presumption is that the conditionally admitted attorney's personal attendance at the hearing will be required. A conditionally admitted attorney may be represented by counsel.

(3) *Burden of Proof.* — Bar Counsel must prove by a preponderance of the evidence that the conditionally admitted attorney has committed a material violation of the Monitoring Agreement and that as a result the conditionally admitted attorney does not possess the requisite good moral character and fitness to practice law.

(4) *Witnesses and Exhibits.* — A listing of trial witnesses and exhibits shall be filed and copies of exhibits shall be exchanged at least 10 days prior to the hearing. Although the Rules of Civil Procedure do not apply to proceedings conducted pursuant to these Rules, Bar Counsel, the conditionally admitted attorney and the conditionally admitted attorney's counsel shall comply with reasonable information requests.

(5) *Admissibility of Evidence.* —

(A) Evidentiary rulings shall be made by the Committee chair. A majority of Committee members present may by vote overrule a ruling by the chair.

(B) Evidence, including hearsay evidence, is admissible if in the chair's judgment it is the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The chair may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(C) Witnesses shall testify under oath; all testimony shall be transcribed by a certified court reporter.

(D) Expert witnesses shall appear and testify in person or by telephone or video conference before the Committee, unless in the discretion of the Committee their appearance before the Committee is waived.

(E) Questioning of the conditionally admitted attorney and the conditionally admitted attorney's witnesses shall be conducted by Bar Counsel, by members of the Committee, and by the conditionally admitted attorney or the conditionally admitted attorney's counsel.

(F) The Committee may question medical or other treatment providers and seek medical or other treatment records consistent with the provisions of Rule 402(e) and (f), and in accordance with Rule 403(g).

(j) *[Effective until January 1, 2017.] Post-hearing proceedings.* — If the Committee recommends that the conditional admission be extended or modified or that the conditionally admitted attorney's membership be terminated, the conditionally admitted attorney may object to the recommendation by filing with the Court a brief complying with W.R.A.P. 7.01 through 7.04, except that instead of the statement of issues required by 7.01(d), the conditionally admitted attorney shall set forth specific exceptions to the recommendation. The brief must be filed within thirty (30) days of service of the report and recommendation. Bar Counsel may file a responsive brief within twenty (20) days of service of the conditionally admitted attorney's brief. If Bar Counsel files a responsive brief, the conditionally admitted attorney may file a reply brief within ten (10) days of service of Bar Counsel's brief.

(j) *[Effective January 1, 2017.] Post-hearing proceedings.* — If the Committee recommends that the conditional admission be extended or modified or that the conditionally admitted attorney's membership be terminated, the conditionally admitted attorney may object to the recommendation by filing with the Court a brief complying with W.R.A.P. 7.01 through 7.04, except that instead of the statement of issues required by 7.01(d), the conditionally admitted attorney shall set forth specific exceptions to the recommendation. The brief must be filed within thirty (30) days of service of the report and recommendation. Bar Counsel may file a responsive brief within twenty (20) days of service of the conditionally admitted attorney's brief. If Bar Counsel files a responsive brief, the conditionally admitted attorney may file a reply brief within ten (10) days of service of Bar Counsel's brief. The Court shall calendar the matter for such proceedings or argument as it may deem appropriate and shall thereafter enter its order.

(k) *Expiration of Monitoring Agreement.* —

(1) Unless the conditional admission is terminated or extended or a petition to terminate for a violation of a Monitoring Agreement is pending, the conditions imposed by the Monitoring Agreement shall expire upon completion of the period of conditional admission.

(2) In such case, the Committee shall notify the Court that the conditionally admitted attorney has complied with all requirements of the Monitoring Agreement and that the terms of conditional admission have been satisfied.

(l) *Confidentiality.* — Except as otherwise provided herein, and unless the Court orders otherwise, the fact that an individual is conditionally admitted and the terms of the Monitoring Agreement shall be confidential, provided that the applicant shall disclose the terms of the applicant's conditional admission to the admissions authority in any jurisdiction where the applicant applies for admission to practice law. These provisions for confidentiality shall not prohibit or restrict the ability of the applicant to disclose to third parties that the applicant has been conditionally admitted under this rule, nor prohibit requiring third-party verification of compliance with terms of conditional admission by admission authorities in jurisdictions to which the conditionally admitted attorney may subsequently apply.

(Added August 27, 2014, effective October 1, 2014; amended March 7, 2016, effective April 15, 2016; amended August 30, 2016, effective January 1, 2017.)

Editor's notes. — This section has been reprinted to correct errors appearing in the 2016 Court Rules Edition.

Rule 504. Attorney's Oath Form; Entry on Minutes; Time Limit on Admission.

(a) Pursuant to W.S. § 33-5-112, following the order of the Court admitting the applicant to the Bar with authority to practice as an attorney and counselor at law in the Court and all courts of the State of Wyoming, the candidate shall make the following oath:

“I, _____, do solemnly swear that I will support, obey and defend the Constitution of the United States and the Constitution and laws of the State of Wyoming, and that I will faithfully and honestly and to the best of my ability discharge the duties of an Attorney and Counselor at Law.”

The oath may be administered by the clerk or any of the justices of the Court, or by a clerk or any judge of a Wyoming district court. If the applicant resides outside the state, the oath may be administered in another state or territory of the United States by a judge or justice of a court of general jurisdiction or an appellate court.

(b) The completed original attorney's oath must be filed with the Clerk of the Court no more than ninety days after the date of the Court's order admitting the applicant to the Bar. Except as provided below, failure to timely satisfy the provision of this rule shall require an applicant to recommence the application process including a new application, payment of fees, a character and fitness investigation and retaking of the Bar Examination, if applicable.

(c) An applicant who fails to take and file the oath within ninety days from the date of the Court's order may, for up to 12 months from the date of the Court's order admitting the applicant to the Bar, file an affidavit with the Board explaining the cause of the delay. Upon consideration of the affidavit, the Board may, for good cause shown, recommend to the Court that the applicant be permitted to file the oath late or recommend to the Court that the applicant not be permitted to file the oath late.

(Added August 27, 2014, effective October 1, 2014; ; amended June 2, 2015, effective July 1, 2015.)

Rule 505. New Admittees — Mandatory Continuing Legal Education [Repealed].

Repealed June 2, 2015, effective July 1, 2015.