

## RULES GOVERNING ADMISSION

### TO THE ALABAMA STATE BAR

The Board of Commissioners of the Alabama State Bar, acting in pursuance of and as authorized by law in such cases made and provided, does hereby adopt the following rules for determining the qualifications and requirements for admission to the practice of law in the State of Alabama, and for conducting through a Board of Bar Examiners the examination of applicants for such admission.

### INSTRUCTIONS TO APPLICANTS

Forms for declaration of intention to study law, for admission to the Bar, and other forms may be secured from the Secretary of the Board of Bar Examiners, P.O. Box 671, Montgomery, Alabama 36101.



## RULE I

### REGISTRATION OF LAW STUDENTS

A. Except as otherwise herein provided in Section C, every person intending to apply for admission to the Alabama State Bar shall, within sixty (60) days following the commencement of the study of law in an accredited law school, or in one of the non-accredited law schools located in the State of Alabama, register with the Secretary of the Alabama State Bar by filing a Law Student Registration form as a registrant upon the forms supplied by the Board, and such other papers as may from time to time be reasonably required by the Board; such forms shall be accompanied by a fee of:

- (1) \$10.00 if filed within the first 60 days;
- (2) \$35.00 if filed within 180 days;
- (3) \$50.00 if filed within 330 days
- (4) \$75.00 if filed within 390 days;
- (5) \$100.00 if filed after 390 days.

If filed after 390 days the registrant shall show to the Character and Fitness Committee reasonable cause for having failed to file such registration application, the showing to be made in affidavit form and notarized by a notary public.

The deadline date shall be set from the official date announced by the registrant's respective law school for the commencement of study. The registrant shall be responsible for submitting, as a part of the Student Registration Application, certified verification of said date upon the form supplied by the Board.

B. The Committee on Character and Fitness shall conduct an investigation and otherwise inquire into and determine the character and fitness of every applicant, and may require the personal presence of any applicant at such time and place as the Committee may prescribe for interview and examination, touching upon character and fitness.

If the Secretary of the Alabama State Bar or the

Committee on Character and Fitness, during the course of an investigation of the applicant, concludes that a complete set of his or her fingerprints would be of substantial assistance in the investigation, the Secretary of the Alabama State Bar or a representative shall certify the need for such fingerprints to the Board.

If the Committee shall be reasonably satisfied that the applicant possesses good moral character and the prelegal education required by these rules,\* it shall approve the application, and the Secretary of the Alabama State Bar shall thereupon issue to the applicant a Certificate of Registration as a law student, and cause a record thereof to be kept in such Secretary's office.

A majority of the Character and Fitness Committee may at any time and place, if in meeting assembled, act for the Committee, with the power of examination herein granted the Committee, regardless of the time the application for registration may have been filed with the Secretary. If the applicant is found deficient in any of the aforementioned qualifications the application for registration shall not be granted until the Committee shall be satisfied that the deficiency has been overcome by the applicant. From a ruling of the Character and Fitness Committee declining to approve the application for registration as a law student, an appeal shall lie to the Disciplinary Board of the Alabama State Bar (which, when acting in such capacity, shall be referred to as the "Character and Fitness Appeal Board"), if notice of appeal is filed with the Secretary within thirty (30) days after the applicant has been notified of the action of the Character and Fitness Committee. Such appeal shall be heard, *de novo*, within thirty (30) days after the filing of the notice of appeal or at such time as agreed upon by stipulation between the appellant and the General Counsel.

C. No person who fails to comply with the regulations in Paragraph A shall be permitted to file application for admission to the Alabama State Bar by examination or otherwise without having

procured a Certificate of Registration, such Certificate being issued upon the approval by the Character and Fitness Committee of the registrant's Student Registration Application, unless the applicant shows to the Committee on Character and Fitness reasonable cause for having failed to procure such certificate, the showing to be made in (notarized) affidavit form and accompanied by receipt\*\* from the Secretary of the Alabama State Bar in the sum of \$100.00 (nonrefundable). If the Committee on Character and Fitness is satisfied that the applicant did have reasonable cause for failure to register as provided herein, the Committee may then proceed to consider and act upon the application for admission by examination or otherwise.

D. The Law Student Registration application executed by a registrant shall not be deemed an application for admission into the Alabama State Bar.

\* See Rule IV (A)(B)

\*\*Attach fee to notarized affidavit and forward, along with Bar Application, to the Alabama State Bar. This fee will be receipted in the Admissions Office and said receipt attached to the affidavit to be retained with applicant's file.

## RULE II

### APPLICATION FOR ADMISSION TO THE ALABAMA STATE BAR

#### A. Applications.

Applications for admission to the Alabama State Bar, whether filed as a registrant under Rule I or as applicant under this Rule, are continuing in nature and must give correctly and fully the information therein sought as of the date that the applicant is sworn in as a member of the Alabama State Bar. To that end, every applicant or registrant shall immediately inform the Secretary of the Alabama State Bar of any change or discovered error in the requested information that may occur between the time that information is furnished to the Alabama State Bar and the date of admission.

The Board may require that all the information furnished to it be given under oath.

As a condition for admission into the bar examination, every applicant shall state under oath when filing an Application for Admission in the Alabama State Bar that all information in every application and amendments thereto previously submitted is true and complete.

#### B. Applicants.

##### (1) Applicants who:

(a) Were residents of the State of Alabama at the time the application was submitted, and

(b) Have neither applied, nor been admitted, to the bar of another state,

shall accompany the application with a check or money order in the amount prescribed in item (1) of the Fee Schedule (see Appendix).

(2) All other applicants shall accompany the application with a check or money order in the amount prescribed in item (2) of the Fee Schedule.

Each applicant who qualifies under this section

shall be required to complete the National Conference of Bar Examiners (NCBE) Application form which may be obtained from the Admissions Secretary of the Alabama State Bar.

(3) The cost of a transcript or any record or document reasonably required by the Board in the conduct of an investigation or inquiry into the character and fitness of an applicant or a registrant shall be paid by such applicant or registrant.

#### C. Filing Deadlines.

(1) All applicants shall have their completed applications filed not later than October 1 preceding the February examination, and not later than February 1 preceding the July examination for which they wish to sit.

(2) An application is deemed filed if (a) it is received on or before the deadline or (b) if it is post-marked on or before the deadline and received within 7 days of the postmarked date.

(3) Late applications and incomplete applications shall be promptly returned to the applicant. Incomplete applications must be completed and refiled within the deadline provided in this rule.

#### D. Supporting Affidavits.

In support of said application the applicant shall cause to be sent directly to the Secretary of the Alabama State Bar, affidavits by three attorneys in good standing who have for five years been admitted to practice law in Alabama or in the state of the applicant's residency by the highest court of the affiant's residence. These affidavits must be to the effect that each affiant is acquainted with the applicant and should state the extent and duration of the association, the frequency of contact, the opportunity of observing and knowing the demeanor, habits, character, associates of and conduct of the applicant, the type of such associates, and generally the background, standing and position in life of the applicant, and that the applicant has a good character and reputation where applicant resides, and enjoys the confidence and respect

of the general public. Each such affidavit shall state whether affiant's appraisal of the applicant is based upon personal knowledge or upon inquiry.

E. Re-Examination.

Every applicant who is qualified to and who desires to repeat any part of the Academic portion [see Rule VI, H. (1)] of the bar examination shall file an Application for Admission into the Alabama State Bar examination on a form subscribed by the Board and such application shall be accompanied with a receipt from the State Treasurer's office in the amount prescribed in item (3) of the Fee Schedule (see Appendix), and shall be filed in the office of the Secretary of the Alabama State Bar within the deadlines as specified under the provisions of this Rule as they pertain to the examination which such applicant desires to take. In those instances wherein the running of the deadline under this Rule occurs prior to notification being given of the failure of any part of the examination, thus precluding compliance with the deadline by unsuccessful examinees, the deadline shall extend for a period of ten (10) days from the date of the notice of failure on the examination.

F. Postponement of Examination.

Applicants seeking to postpone their submission to the Alabama State Bar examination shall be permitted to do so upon payment of a fee of fifty dollars (\$50.00) to the Alabama State Bar if a written notice of postponement is received by the Alabama State Bar at least seven (7) days in advance of the commencement of the examination.

Any applicant who has not made an appropriate postponement at least seven (7) days in advance of the commencement of the examination shall be deemed to have forfeited the entire examination fee if the applicant fails to take the examination for which application has been made.

All applicants who have postponed their submission to examination must bring their applications to current status by the filing of

appropriate amendments thereto following any postponement.

## RULE III

### PERSONS ENTITLED TO ADMISSION WITHOUT EXAMINATION

No person shall be admitted to the Alabama State Bar without examination except that teachers in a law school situated in this State and accredited by the American Bar Association or American Association of Law Schools, who have been fulltime teachers at said law school for a period of not less than three consecutive calendar years prior to the date of their application, who have been admitted to the Bar of at least one State or the District of Columbia, and who possess the educational requirements as set forth in Rule IV, may apply to the Board of Commissioners of the Alabama State Bar for admission to said Alabama State Bar without examination. All such applications shall be referred to the Committee on Character and Fitness and if favorable action is taken thereon by said Committee then such application shall be considered by the Board of Bar Commissioners at any regular or special meeting. If, in the discretion of said Board at such meeting, it is determined that such applicant should be admitted to the Alabama State Bar, the Secretary shall thereupon certify such fact to the Clerk of the Supreme Court of Alabama. All such applicants under this amended rule shall give proof of the qualifications prescribed herein which shall be certified to by the Dean of the Law School in which they teach. The Secretary of the Alabama State Bar is authorized and empowered to prepare the necessary forms of application and affidavits to effectuate the purpose of this rule. Those who seek admission under provisions of this rule must make application for admission to practice law, as other applicants are required to do by these rules and regulations, and must pay the fee as prescribed in item (2) of the Fee Schedule (see Appendix).

## RULE IV

### PERSONS ENTITLED TO ADMISSION BY EXAMINATION

#### A. General Requirements.

Any person who is at least nineteen (19) years of age, who has complied with the requirements of Rule I, and whose character and fitness have been approved by the Committee on Character and Fitness, is entitled to be examined for admission to the Alabama State Bar, at any examination held as prescribed by these rules, upon proof that he or she has complied with the education requirements set out in this rule.

#### B. Education Requirements.

##### (1) Proof of Prelegal Education.

(a) An applicant who did not graduate from a law school that was on the approved list of the American Bar Association (A.B.A.) or the Association of American Law Schools at the time of the applicant's graduation shall give proof that he or she has met the following prelegal education requirements:

That the applicant has caused to be filed with the Secretary of the Board of Commissioners of the Alabama State Bar a certified copy of a diploma or certificate showing (i) that the applicant has received a baccalaureate degree from a university or college that, at the time of the applicant's graduation, appeared on the approved list of any standard accrediting agency or association in the various states, or which is accepted by the accrediting agency as meeting substantially the same standards required for appearing on the approved list of the agency, and (ii) that the degree was received before the applicant entered law school.

(b) An applicant who has graduated from a law school that was on the approved list of the American Bar Association or the Association of American Law Schools at the

time of the applicant's graduation shall not be required to give proof that he or she has met the prelegal education requirements set out in (a), unless such proof is required by the Committee on Character and Fitness.

(2) Proof of Legal Education.

An applicant shall make proof of legal study by filing with the Secretary of the Board of Commissioners of the Alabama State Bar a certificate or certificates from the dean or deans of one or more law schools, from which it shall appear that the applicant has completed legal study conforming to and fulfilling the following requirements:

(a) That the applicant has pursued and satisfactorily completed, as a resident student in a law school or law schools, a course of law studies that extended for at least three (3) academic years of at least thirty (30) weeks each; that the applicant has graduated from such a law school; and that at the time of the applicant's graduation the school from which the applicant graduated was approved by the American Bar Association or the Association of American Law Schools; or

(b) That the applicant has pursued and satisfactorily completed as a resident student at Birmingham School of Law, Jones School of Law of Faulkner University, or Miles College of Law, a course of law studies that extended for at least four (4) academic years of at least thirty (30) weeks each, and is a graduate of that law school, provided that as of the date of the applicant's graduation the school has been continuously located and has remained in continuous operation in the county in which it was operating on August 30, 1995; or

(c) That the applicant has pursued and satisfactorily completed as a resident student at a law school located outside the state of Alabama that, as of the date of the appli-

cant's graduation, had not been approved by the American Bar Association or the Association of American Law Schools, a course of law studies that extended for at least four (4) academic years of at least thirty (30) weeks each, and is a graduate of that law school; that the applicant has been admitted to the practice of law before the court of highest jurisdiction in the state or other jurisdiction wherein that law school is located; that the applicant has, after the applicant's admission to practice law before the court of highest jurisdiction in that state or other jurisdiction, been continuously engaged in the active practice of law for at least five (5) years; and that the applicant is a member in good standing of the bar of that court of highest jurisdiction; provided, however, that an applicant may qualify under this subsection (c) only if the state or other jurisdiction in which is located the law school from which the applicant graduated extends comity to graduates of Birmingham School of Law, Jones School of Law of Faulkner University, and Miles College of Law who seek admission to the bar of that state or jurisdiction, and graduates of those schools are permitted to seek admission to the bar of that state or jurisdiction on terms and conditions no more onerous than those imposed on the applicant by this subsection (c).

#### C. Limitation on Examinations.

The number of times an applicant may be examined for admission to the Alabama State Bar shall be unlimited.

(Amended effective April 28, 1993; January 6, 1994; January 1, 1996).

IT IS FURTHER ORDERED that this amendment be effective January 1, 1996.

## RULE V

### COMMITTEE ON CHARACTER AND FITNESS

For the purpose of determining the fitness, character and qualifications of applicants who desire to be admitted to the practice of law in the State of Alabama there is hereby created not less than one and not more than three committees composed of three lawyers each appointed by the President to be known as the "Committee(s) on Character and Fitness."

#### Duties of the Committee on Character and Fitness

The Committee(s) on Character and Fitness is hereby charged with the power, duty, and responsibility of determining the age, and the character and fitness of each applicant for admission to the Bar of Alabama. To that end, said committee(s) may make such investigation as it sees fit, may require the production before it of any affidavits deemed by it to have any bearing upon these questions, and may require the applicant to appear in person before it and be by it examined. The vote of a majority of the members thereof, if in meeting assembled, shall constitute the action of the said committee. The Secretary is directed to secure and have printed, at the expense of this Board, appropriate application blanks and other forms for the purpose of said committee and to furnish such blanks to applicants and to other persons upon request therefor.

The burden is on the applicant to establish to the reasonable satisfaction of a majority of the said committee that the applicant possesses such character and qualifications as to justify the applicant's admission to the Bar and qualify the applicant to perform the duties of an attorney and counselor at law.

When, but not until, a majority of the committee is reasonably satisfied as to the applicant's character and fitness, and that the applicant is of the proper age and possesses the educational qualifications now or hereafter prescribed as provided by

law, said committee shall endorse its approval on the said application, and the application and all papers accompanying it shall remain on file in the Secretary's office.

From a ruling of the Character and Fitness Committee declining to approve the application for registration as a law student or declining to approve the application to take the State Bar Examination or making any finding or ruling adverse to any applicant, an appeal shall lie to the Disciplinary Board of the Alabama State Bar (which, when acting in such capacity, shall be referred to as the "Character and Fitness Appeal Board"), if notice of appeal is filed with the Secretary within thirty (30) days after the applicant has been notified of the action of the Character and Fitness Committee. Such appeal shall be heard, *de novo*, within thirty (30) days after the filing of the notice of appeal or at such time as agreed upon by stipulation between the appellant and the General Counsel. An appeal from a ruling of the Character and Fitness Appeal Board to the Supreme Court of Alabama shall be perfected by filing a notice of appeal with the Clerk of the Supreme Court of Alabama within thirty (30) days after the decision of the Character and Fitness Appeal Board. The record on Appeal shall be prepared in accordance with the provisions of Rule 12(f), Rules of Disciplinary Procedure of the Alabama State Bar.

The members of the Committee on Character and Fitness may separately and without assembling in meeting consider any application which is required by these rules to be submitted to such committee, together with the data submitted in support of such application, and may endorse upon such application their approval or disapproval thereof; unanimous action of all the committee, so taken, shall constitute valid action of the committee; but if such action is not unanimous, the committee, or a majority thereof, shall further consider and act upon such application in meeting assembled.

If the applicant whose application has been so approved is entitled thereby to take the examination, the Secretary shall issue to such applicant a certificate substantially as follows:

*The Committee on Character and Fitness of the Board of Commissioners of the Alabama State Bar does hereby certify, after investigation and examination made by it, that it is reasonably satisfied that \_\_\_\_\_ is entitled to take the examination for admission to the Bar administered in February and July 19 \_\_\_\_ to be held in Montgomery, at*

\_\_\_\_\_  
COMMITTEE ON CHARACTER AND FITNESS OF THE ALABAMA STATE BAR

BY \_\_\_\_\_

Secretary, Board of Commissioners of the State Bar

Such certification shall be filed by the applicant with the Board of Bar Examiners before such applicant enters upon the examination, and the Board of Bar Examiners shall not examine any applicant by whom such certificate has not been filed. Upon the filing of such certificate the member of the Board of Bar Examiners by whom it is received shall endorse thereon the date when it was filed with him or with the said Board. The certificate so filed and endorsed shall be retained by the Board of Bar Examiners and kept among its records for the purpose of showing the right of the said applicant to take the examination. The Secretary of the Board of Commissioners of the Alabama State Bar, upon issuing or refusing to issue the said certificate, shall preserve in his office a record of the fact that such certificate was or was not issued and the date of such action, and shall preserve in his office said application with the papers attached thereto, and other records in connection with the said application, all of which shall be kept on file until the examination is completed, report made thereon, and pending application finally disposed of. If an applicant is

not admitted to the practice of law, the application and all other papers in connection therewith shall be kept on file in the Secretary's office for reference in connection with any future application for admission to the Bar, or for investigation and examination of the record by any person entitled thereto.

## RULE VI

### BOARD OF BAR EXAMINERS

#### A. Creation of Board.

In accordance with the provisions of Act 436 of the Legislature of Alabama of 1949, approved August 23, 1949 (Section 34-3-2, Code of Alabama, 1975), there is hereby created a Board of Examiners on admission to the Alabama State Bar, which Board shall hereafter be designated and known as the Board of Bar Examiners.

#### B. Election of Examiners.

The Board of Bar Examiners shall consist of thirteen (13) members who are residents of the State of Alabama, and who are licensed attorneys of the Bar of this State. Twelve (12) of these thirteen (13) examiners shall examine in the academic subjects covered on the examination. One examiner shall be elected Chairman of the Board of Bar Examiners, but shall have no examining responsibilities. In lieu of examining responsibilities, the Chairman shall supervise and direct the activities of the Board of Bar Examiners within such rules as are promulgated for the Board of Bar Examiners. The Chairman shall be compensated as are all academic subject examiners. The Board of Bar Examiners shall hold office at the pleasure of the Board of Commissioners of the Alabama State Bar and may be removed from office with or without cause by a majority vote of those present at any meeting of the Board of Commissioners where a quorum is present. However, no examiner may serve more than four (4) consecutive years, after October, 1976, without the prior approval of the Board of Bar Commissioners.

#### C. Compensation of Members.

Each member of the Board of Bar Examiners who examines in the academic subjects shall receive as compensation the sum of Twenty Five Hundred Dollars (\$2500.00) for the February Bar Examination and Three Thousand Dollars (\$3,000.00) for the July Bar Examination. In

addition thereto, examiners shall be reimbursed for reasonable and necessary traveling and other expenses incidental to conducting such examinations. These expenses shall include books, postage, stationery, supplies, printing and other expenditures in the discharge of their duties. The members of such Board shall submit statements for their compensation and expenses on forms provided by the Secretary.

#### D. Vacancies and Removal from Office.

Any vacancy on the Board of Bar Examiners shall be filled by the Board of Commissioners of the Alabama State Bar. Interim appointments for no more than one exam may be made by the Chairman with the approval of the Executive Committee of the Board of Bar Commissioners.

#### E. Selection of Examiners.

The Advisory Committee to the Board of Bar Examiners, appointed by the President of the Alabama State Bar, shall serve as a nominating committee to nominate persons for membership on the Board of Bar Examiners.

#### F. Organization and Authority of the Board.

The Board of Bar Examiners shall be chaired by the elected Chairman who cannot succeed himself in office. The Secretary of the Alabama State Bar shall serve as Secretary ex-officio.

A quorum for any meeting shall consist of seven (7) members. A vote of the majority of the Board of Bar Examiners present at any meeting shall constitute the action of said Board.

The Board of Bar Examiners shall examine such applicants for admission to the Bar of Alabama as may be certified to the Board under these rules and shall perform such other duties as may be required of them by the Board of Commissioners of the Alabama State Bar.

#### G. Time and Place of Meeting.

The Board of Bar Examiners shall hold meetings for the purpose of examining applicants for

admission to the Bar at least twice each year at such time and place as the Board of Bar Examiners determines. All of the members of the Board are not required to be in attendance throughout the examination; however, each examiner should be present to administer that examination for which the examiner is responsible unless excused by the Chairman of the Board of Bar Examiners. The Board of Bar Examiners shall hold such other meetings as are necessary to fulfill its function. The Board shall meet at the call of the Chairman or a majority of the Board of Bar Examiners.

#### H. Bar Examination Subjects.

##### (1) Academic Subjects.

(a) Essay. The Board of Bar Examiners (BBE) will conduct an examination in the following subjects: Wills, Trusts and Estates; Pleading and Practice; Taxation (State and Federal); Business Organizations, including partnerships and other forms of business associations; UCC; and Equity.

(b) Multistate Bar Exam. This portion of the examination will cover the following subjects: Contracts, Torts, Real Property, Evidence, Criminal Law, and Constitutional Law.

(2) Legal Ethics. The Multistate Professional Responsibility Examination (MPRE, see Rule VI, K) administered by the National Conference of Bar Examiners and American College Testing shall be used as the examination on Legal Ethics and Professional Responsibility.\*

\* See Rule VI, K, for full information.

An applicant must pass both the Academic Examination and the Ethics Examination to be certified as a successful candidate.

## I. Preparation, Conduct and Grading of Examinations.

(1) Preparation of Examinations. The essay portion shall consist of six subjects of two parts each, with one examiner responsible for one half of the subject examined. The two examiners in each subject will be deemed co-examiners.

All essay examination questions will, to the extent possible, follow the following criteria:

A question should require the examinee to understand a brief statement of facts, to analyze it in terms of fundamental legal principles, and to base his answer upon reasoning from legal principles.

A question should generally present more than one main issue for discussion.

A question should not be used if it would permit an erroneous conclusion on a single issue to prevent the examinee from ever getting on the right track and seeing the other issues involved.

A question should not be based upon an unusual or exceptional rule of law or upon an obscure local statute or regulation, unless the text thereof is set out.

A question ordinarily should not be based upon a fact pattern of a recently decided case.

A question should contain no misleading statements or "trick" questions.

A question should be well organized and written in clear, concise sentences. There should be nothing in the question that would be ambiguous to a reasonably intelligent law student. All words and phrases that can be eliminated without detracting from the clarity or intended scope of the question should be eliminated.

A question should not involve too many parties, and it should identify each party in a manner designed to aid the examinee in keeping the parties straight. Pronouns should be used very sparingly and when used, there should be no doubt as to the antecedent. Verbs or participles that would possibly have more than one subject or refer to the act of more than one party should be avoided.

A question, in its final query or instructional statement, should be very carefully worded and free of any trace of ambiguity.

Each examiner shall prepare the essay question(s) and a model answer(s) thereto at least two (2) months prior to the bar examination.

The examiner shall furnish the question(s) and the model answer(s) to the co-examiner in the subject area, who will check the question(s) and model answer(s) for compliance with the above standards, clarity, mistakes, misleading statements and overall fairness. The co-examiner will advise the author of his (her) comments. The author shall make such changes as are mutually agreed upon with the co-examiner. Thereafter, the question(s) and the model answer(s) of each examiner shall be reviewed by the Board of Bar Examiners in a meeting called by the Chairman for that purpose. The author of each question and model answer shall make such changes in the question(s) and model answer(s) as required by the Board of Bar Examiners. The final draft of the question(s) and the model answer(s) shall be forwarded to the Secretary of the Board of Bar Examiners.

(2) Conduct of Examinations. The Board of Bar Examiners shall have the right, power and authority to adopt rules not inconsistent with the laws of the State of Alabama, or the orders of the Supreme Court or the Board of Bar Commissioners governing the control, methods and details of conducting such examinations.

The Secretary of the Board of Bar Commissioners, at the time he (she) issues to an applicant the cer-

tificate hereinabove provided for, shall issue to the applicant also a card containing a personal distinguishing number, the purpose and use of which shall be carefully explained to the applicant, and shall preserve a duplicate thereof in this office. In standing the examination, the applicant may not sign his/her name to or upon any paper or document, or otherwise identify his/her examination answers than by said number, and is hereby forbidden to disclose this number to any member of the Board or to any other person whomsoever. If any applicant violates this requirement in any particular, the applicant's examination papers shall not be considered by the Board of Bar Examiners, and if it be discovered that such disclosure was made the applicant shall be subject to disciplinary action for deceit and misrepresentation. This requirement shall again be called to the attention of the applicant by the Board of Bar Examiners before he/she is permitted to begin the examination.

It is the express purpose hereof to provide a method whereby the Board of Bar Examiners, in passing upon the sufficiency of answers to questions propounded by it, shall be unacquainted with the identity of the person whose answers it is passing upon.

The members of the Board of Bar Examiners may divide among themselves the subjects to be covered by the examination, allocating to each member such subjects as the Board shall designate to be covered by such member. In propounding questions to applicants, it shall not be necessary that the examining member of the Board segregate the questions by subjects, nor that he designate the subject or subjects covered by any question or set of questions so propounded. Upon completion of the examination, each member of said Board shall determine the grade earned by each applicant in each subject covered by such member in the examination and shall certify such grades to the Secretary of the Board of Commissioners of the Alabama State Bar, using the numbers assigned to the respective applicants

to identify them.

(3) Grading of Examinations. Essay questions will test the applicant's ability to reason logically, to analyze accurately legal problems, and to demonstrate a knowledge of the fundamental principles of law and their application. The grade of the paper shall be measured by the reasoning power shown as well as by the correctness or incorrectness of the answers.

Each examiner shall grade his or her examination papers. After completing the initial grading of all of the examination papers, the examiner may regrade or review any grades before certifying the results to the Secretary. Based upon the combined score of the essay portion of the examination and the Multistate Bar Examination, papers receiving a score of 125, 126, or 127, computed as set forth in Rule VI, J(1), shall be designated by the Secretary to be regraded. Each examiner shall regrade all of his or her papers which have been so designated by the Secretary.

An examiner will be expected to grade the number of papers daily which will permit his or her grades to be received by the Secretary of the Alabama State Bar no later than April 15th following a February examination, and September 15th following a July examination. In the event of the death or disability of, or other emergency, involving an examiner prior to the submission of the grades on his or her portion of the examination, the Advisory Committee of the Board of Bar Commissioners for Bar Examinations shall determine the procedures to be followed in grading those papers.

The Secretary shall make a permanent record in the Secretary's office of the grades attained by each examinee in each subject, and shall inform each examinee whether the examinee has passed or failed the examination.

An examinee who fails the academic portion of the bar examination will be furnished the following information at the time of notification of the

failure: his or her Multistate Bar Examination scaled score, the grade made on each essay examination, and his or her highest combined score.

Within sixty (60) days after the announcement of the results, a failing examinee shall be entitled to examine his or her own papers in the State Bar Headquarters for the purpose of ascertaining that grades were transcribed correctly, and upon payment of \$5.00 per section of any essay examination, the examinee will be entitled to receive a copy of the question(s), and of his or her answer(s), and of the model answer(s) and to examine at the State Bar Headquarters the three top papers on that particular examination.

#### J. Results of Examination.

(1) Basic Rule. MBE scaled scores and essay scores will be combined according to the two methods for combining bar examination scores as described in the National Conference of Bar Examiners' Manual for the Use of Scores of the Multistate Bar Examination. (Methods: 1. Equipercentile; 2. Standard Deviation.) The combination will be on the basis of the MBE range of scores (0-200), rather than on the basis of the essay range of scores (0-100). An applicant who achieves a combined score of 128.000 or above by either of the two methods passes the academic portion of the bar examination. Scores which are not whole numbers shall be truncated to the next lowest whole number.

(2) Transfer of MBE Score. An applicant who, after July 1, 1984, has taken and passed a bar examination in another jurisdiction, who has been admitted to practice in that jurisdiction, and who made an MBE scaled score of 140 or above will be excused from taking the MBE. The transferred score will be valid for a period of twenty months after taking the MBE. The applicant's transferred MBE score will be combined with the applicant's essay score according to the basic rule.

The applicant shall have the option to take both the essay and MBE sections of the bar examina-

tions and the scores will be combined under the basic rule.

(3) Carryover of MBE Score. An applicant who, after July 1, 1984, has taken and failed the bar examination but who made a MBE scaled score of 140 or above will be excused from taking the MBE. The MBE scaled score will be carried over for any future examination for which the examinee is eligible within a period of twenty months after taking the earlier bar examination, and will be combined with the applicant's essay score according to the basic rule.

The applicant shall have the option to take both the essay and MBE sections of the bar examination and the scores will be combined under the basic rule.

(4) Carryover of Essay Score. An applicant who, after July 1, 1984, has taken and failed the bar examination, but who made an essay score which is equivalent to or greater than an MBE scaled score of 140, as determined in accordance with the basic rule, will be excused from taking the essay section of the bar examination. The essay score will be carried over for any future bar examination for which the examinee is eligible within a period of twenty months after taking the earlier bar examination, and will be combined with the applicant's MBE score according to the basic rule.

The applicant shall have the option to take both the essay and MBE sections of the bar examination and the scores will be combined under the basic rule.

(5) Time of Election to Transfer or Carry Over Score. Elections regarding the transfer from another jurisdiction of an MBE score, or the carryover of an MBE score or essay score from a previous Alabama examination, must be made at the time any application is filed.

#### K. Multistate Professional Responsibility Examination.

Before admission to the Bar, each applicant

must have successfully passed the Multistate Professional Responsibility Examination (MPRE). To complete successfully the MPRE, the applicant must have achieved a scaled score of at least 75 as that score is determined by the testing authority. Successful completion of the MPRE by an applicant at any time within the twelve-month (12) period prior to the taking of the Academic Bar Examination will be accepted and such successful completion may be carried over for a period of twenty (20) months from the time that the first Academic Bar Examination is taken, if such Academic Bar Examination is not passed. If an applicant has passed the Academic Examination, but has not successfully completed the MPRE, he shall have a period of twenty (20) months from the date of the Academic Examination in which to successfully complete the MPRE.

Complete application materials for testing, as well as all other correspondence, inquiries, and requests concerning application materials and the administration and processing of the National Conference of Bar Examiners' Multistate Professional Responsibility Examination (MPRE), should be directed to:

National Conference of Bar Examiners  
MPRE Application Department  
P.O. Box 4001  
Iowa City, Iowa 52243  
  
(319) 337-1287

(MPRE examinations are given in March, August and November of each year.)

#### L. Time of Bar Examinations.

Each examination will be given on Monday, Tuesday and Wednesday of that week in February and July on which the MBE\* examination is administered. The essay examinations will be on Monday and Tuesday, and the MBE on Wednesday.

\*MBE is given on the last Wednesday of each February and July.

## RULE VII

### ADMISSION OF FOREIGN ATTORNEYS PRO HAC VICE

A. Appearance of Foreign Attorneys Pro Hac Vice Permitted; Exceptions. An attorney or counselor-at-law who is not licensed in good standing to practice law in Alabama, but who is currently a member in good standing of the bar of another state, the District of Columbia, or other United States jurisdiction (hereinafter called a foreign attorney) and who is of good moral character and who is familiar with the ethics, principles, practices, customs, and usages of the legal profession in the State of Alabama, may appear as counsel pro hac vice in a particular case before any court or administrative agency in the State of Alabama upon compliance with this rule (for purposes of this rule, an administrative agency is any board, bureau, commission, department, hearing officer, or other administrative office or unit of the state). However, except as provided in Section I below, no foreign attorney is eligible to appear as counsel pursuant to this rule if that attorney (a) is a resident of the State of Alabama, or (b) is regularly employed in the State of Alabama, or (c) is regularly engaged in substantial business, professional, or other activities in the State of Alabama.

B. Foreign Attorney Appearing Pro Hac Vice Subject to Local Jurisdiction. A foreign attorney appearing as counsel pro hac vice before any court or administrative agency of the State of Alabama shall be subject to the jurisdiction of the courts of this state in any matter arising out of the attorney's conduct in such proceedings. The attorney shall be familiar with and shall comply with the standards of professional conduct required of members of the Alabama State Bar and shall be subject to the disciplinary jurisdiction of the courts of this state, of the disciplinary tribunals of the Alabama State Bar, and of the Board of Commissioners of the Alabama State Bar with respect to any acts occurring during the course of the attorney's appearance. The judge, hearing offi-

cer, or agency may examine the foreign attorney to satisfy the court, hearing officer, or agency that the foreign attorney is aware of and will observe the ethical standards required of attorneys in this state. If the judge, hearing officer, or agency is not satisfied that the foreign attorney is reputable and will observe the ethical standards required of attorneys in this state, the court, hearing officer, or agency may in its discretion revoke the authority of the attorney to appear.

C. Association of Local Counsel. No foreign attorney may appear pro hac vice before any court or administrative agency of this state unless the attorney has associated in that cause an attorney who is a member in good standing of the Alabama State Bar (hereinafter called local counsel). The name of local counsel shall appear on all notices, order, pleadings, and other documents filed in the cause. Local counsel shall personally appear and participate in all pretrial conferences, hearings, trials, and other proceedings conducted in open court, unless specifically excused from such appearance by the court or administrative agency. Local counsel associating with a foreign attorney in a particular case shall thereby accept joint and several responsibility with the foreign attorney to the client, to opposing parties and counsel, and to the court or administrative agency in all matters arising from that particular cause.

D. Verified Application. In order to appear as counsel before a court or administrative agency in this state, a foreign attorney shall file with the court or agency where the cause is pending a verified application for admission to practice (a form for such an application follows this rule), together with proof of service by mail, in accordance with the Alabama Rules of Civil Procedure, of a copy of the application and of the notice of hearing upon the Alabama State Bar at its Montgomery, Alabama, office. In the event application is made before any defendant in an action has appeared, a copy of the application and notice must also be served upon such defendant. The copy of the appli-

cation and the notice of hearing served upon the Alabama State Bar shall be accompanied by a non-refundable \$100 filing fee. The notice of hearing shall be given at least 21 days before the time designated for the hearing, unless the court or agency has prescribed a shorter period. In criminal cases involving indigent defendants, the court or agency may waive the filing fee and notice requirements for good cause shown.

Upon receipt of any application for admission, the Alabama State Bar shall file with the court or agency and serve upon all counsel of record, or upon any parties not represented by counsel, and upon the applicant, before the scheduled hearing date, a statement indicating whether the applicant or other attorney members of the firm with which he or she is associated have previously made any application for admission, the date of such application, and whether it was granted. No application shall be granted before this statement of the Alabama State Bar has been filed with the court or agency. Once this statement is received, the court or administrative agency shall issue an order granting or denying the application. A copy of each order granting or denying an application shall be mailed by the local counsel to the Alabama State Bar at its Montgomery, Alabama, office.

E. Form of Application. The application required by this Rule shall be on a form approved by the Alabama State Bar and the Supreme Court (a form so approved for such application follows this rule) and shall state: (1) the applicant's residence; (2) the court or courts to which the applicant has been admitted to practice and the date or dates of admission; (3) that the applicant is a member in good standing of such court or courts (with such exceptions as may be the case); (4) that the applicant is not currently suspended or disbarred from practice in any court (stating exceptions); (5) the title of the court and cause in which the applicant or any member of the firm of attorneys with which the applicant is associated has filed an application for admission as counsel under this rule in this

state in the preceding three years, the date of each application, and whether it was granted: (6) the name, address, and telephone number of local counsel who is attorney of record; and (7) the name of each party and the name and address of counsel of record who appeared for that party. The applicant shall also provide such other information and statements as may be called for by the form approved by the Alabama State Bar and the Supreme Court.

Before any application is granted, local counsel must appear as attorney of record in the particular cause or must consent in writing to the association.

The granting or denial of an application for admission as counsel pursuant to this rule is discretionary with the court or administrative agency before which the application is made. Absent special circumstances, repeated appearances by any person or firm of attorneys pursuant to this rule shall be cause for denial of an application. In any case where the foreign attorney has entered an appearance pro hac vice in five cases within the preceding 12 months, the court or administrative agency shall examine the foreign attorney to establish good cause for according such privilege, including facts or circumstances affecting the personal or financial welfare of the client and not the attorney. Such facts may include, but are not limited to, the following: (1) a showing that the cause involves a complex field of law in which the foreign attorney is a specialist, (2) a long-standing attorney client relationship, (3) lack of local counsel with expertise in the field involved, (4) the existence of legal questions involving the law of a jurisdiction in which the foreign attorney regularly practices, or (5) the need for extensive discovery proceedings in the foreign jurisdiction.

In the event the action or cause is transferred from one court or administrative agency of this state to another or in the event the action is appealed, a foreign attorney authorized to appear in the cause while it was pending before the first court or administrative agency shall be deemed

admitted to the court or agency to which the cause has been transferred or appealed; provided, however, that the court or agency having jurisdiction over the transferred or appealed cause may, for good cause, revoke the authority of the foreign attorney to appear. (See Section F. "Appearance Before an Appellate Court.")

F. Appearance Before an Appellate Court.

(1) Upon filing an appearance in a matter in an appellate court of this state (i.e., the Supreme Court, the Court of Civil Appeals, or the Court of Criminal Appeals), a foreign attorney previously admitted to appear in the matter before a trial court or administrative agency shall furnish to the clerk of the appellate court proof of the previous admission, along with a certification by the foreign attorney that the admission has not been rescinded.

(2) If the appearance before the appellate court is to be the foreign attorney's first appearance in the matter, then admission shall be by motion to the appellate court, and the motion shall be supported by a certificate of good standing from the bar of another United States jurisdiction.

(3) Any foreign attorney moving for admission to appear before an appellate court of this state shall be required to associate local counsel, whose name, address, and telephone number shall be included in the foreign attorney's motion for admission. Although local counsel is not required to be an active participant in the matter, the foreign attorney is required, in the motion for admission pro hac vice, or in the initial filing in the appellate court (in the event the foreign attorney has been previously admitted in the matter by a trial court or an administrative agency), to designate which attorney shall be lead counsel for purposes of service in the manner prescribed in the Alabama Rules of Appellate Procedure. On proper motion, and for good cause shown, the appellate court may waive the required association of local counsel.

(4) A foreign attorney admitted to practice in a

matter before the Court of Criminal Appeals or the Court of Civil Appeals is deemed admitted in any subsequent proceedings in that same matter before the Supreme Court.

(5) At any time, for good cause shown, and on the application of any party, the previous order admitting the foreign attorney to practice in a matter may be reviewed and/or rescinded, without hearing, by the appellate court before which the matter is then pending.

G. Quarterly Report. The executive director of the Alabama State Bar shall prepare a quarterly report listing all applications filed during that quarter and during the preceding 12 months and listing the names of the applicants and indicating as to each application whether the application was granted or denied. The report shall be transmitted to the clerk of each circuit and district court, each circuit and district judge, the clerk of the Supreme Court, and such other persons as the Board of Commissioners directs.

H. Suspension or Disbarment Terminates Permission To Appear Pro Hac Vice.

(1) Permission for a foreign attorney to appear pro hac vice under the provisions of this rule shall terminate upon that attorney's suspension or disbarment in any jurisdiction in which the foreign attorney has been admitted. The foreign attorney shall have the duty to promptly report to the court or administrative agency of this state before which the attorney is appearing any disciplinary action that has been taken against the attorney in any other jurisdiction.

(2) In the event local counsel in a particular case is suspended or disbarred from the practice of law in the State of Alabama, the foreign attorney shall, before proceeding further in the pending cause, associate new local counsel who is in good standing to practice law in the State of Alabama and shall file a verified motion thereof with the court or administrative agency of this state before which the foreign attorney is appearing.

## I. Exceptions.

(1) Nothing in this rule shall be construed to prohibit any foreign attorney from appearing before any court or administrative agency of this state on his or her individual behalf in any civil or criminal matter.

(2) Foreign attorneys representing the United States Government shall be permitted to appear and to represent it in any matter in which it is interested, without the association of local counsel.

## J. Enforcement.

(1) No court clerk or filing officer of any administrative agency of this state shall accept for filing any pleadings or other documents from a foreign attorney who has not complied with the requirements of this rule. Any pleadings or other documents filed in violation hereof shall be stricken from the record upon the motion of any party or by the court or administrative agency *sua sponte*.

(2) The courts and administrative agencies of this state shall have the duty and authority to enforce the provisions of this rule by denying violators the right to appear. If a foreign attorney engages in professional misconduct during the course of an appearance, the judge or the hearing officer of the administrative agency before which the foreign attorney is appearing may revoke permission to appear *pro hac vice* and may cite the attorney for contempt. In addition, the judge or hearing officer shall refer the matter to the Disciplinary Commission of the Alabama State Bar for appropriate action.

(3) Violation of this rule is deemed to be the unlawful practice of law. The Alabama State Bar or its designated commissioners shall have the right to take appropriate action to enforce these rules under the provisions of Ala. Code 1975, § 34-3-43.

(4) The provisions of this rule shall be cumulative to all other statutes and rules related to or dealing with the unauthorized practice of law within the State of Alabama.

\* Application forms may be obtained from PHV Admissions, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101 (334/269-1515)

STATE OF ALABAMA  
COUNTY OF MONTGOMERY

I, Keith B. Norman, Secretary of the Alabama State Bar, do hereby certify that the foregoing is a true and correct copy of rules adopted, formulated, and promulgated by the Board of Commissioners of the Alabama State Bar and approved by the Supreme Court of Alabama.

Witness my hand this 1st day of August, 1999.

Keith B. Norman, Secretary  
Alabama State Bar

APPENDIX  
FEE SCHEDULE

Effective with the FEBRUARY 2003 Examination:

- (1) \$375.00, See Rule II (B), 1.
- (2) \$575.00, See Rule II (B), 2.
- (3) \$375.00, See Rule II (E).

The Board of Commissioners of the Alabama State Bar voted to increase the fees as set out above .