

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2015

In the Matter of the Amendments to the)
Rules and Procedures Governing)
Admission to the Practice of Law)

**ORDER AMENDING THE RULES AND PROCEDURES GOVERNING
ADMISSION TO THE PRACTICE OF LAW**

The Wyoming Board of Law Examiners and the Wyoming State Bar's Character and Fitness Committee have recommended that this Court amend the Rules and Procedures Governing Admission to the Practice of Law. This Court finds the recommendations should be adopted. It is, therefore,

ORDERED that the amendments to the Rules and Procedures Governing Admission to the Practice of Law, attached hereto, are adopted by the Court to be effective April 15, 2016; and it is further

ORDERED that 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; and it is further

ORDERED that this order and the attached amendments shall be published in the advance sheets of the Pacific Reporter; the attached amendments shall be published in the Wyoming Court Rules Volume; and that this order and the attached amendments shall be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The amendments shall also be recorded in the journal of this Court.

DATED this 8th day of March, 2016.

BY THE COURT:

/s/

E. JAMES BURKE
Chief Justice

Rules and Procedures Governing Admission to the Practice of Law

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 ~~of the Wyoming State Board of Law Examiners~~, 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.

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. ~~Each member of the Board shall take and subscribe an oath to faithfully, carefully and impartially perform all of the duties imposed as a member of the Board, which oath shall be entered upon the minutes retained by the Bar on behalf of the Court.~~ 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 ~~examination and review of all applicants~~ 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. ~~Members of the Board are excused from court appearances in all courts of the State of Wyoming while in attendance at any meeting of the Board duly called by its chair provided reasonable and timely notice of such a meeting is conveyed to the appropriate court and to opposing counsel. It shall further be the duty of the Board to certify and recommend all applicants for admission to the Court.~~ All

~~petitions/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 verify information on review each applicant's petition application, investigate each applicant's qualifications and conduct further proceedings described in Section IV as it deems necessary to determine character and fitness 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 investigation 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 receive compensation, a per diem and mileage allowance as allowed by the Court. Expenses incurred by Board members shall be directly and individually submitted upon an itemized voucher to the Executive Secretary of the Board for proper verification and certification. Upon obtaining such a voucher and securing the appropriate certification, the Executive Secretary shall promptly submit the voucher and certification to the Court for payment from revenues earmarked for the Board be compensated and reimbursed for expenses incurred in the performance of their duties as determined by the Court.~~

Rule 102. Character and Fitness Committee.

~~(a) To assist the Board in conducting such character and fitness investigation as it deems necessary, the Court may appoint a Character and Fitness Committee. The Character and Fitness Committee shall consist of not less than three nor more than five 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. ~~Committee members shall serve without compensation except that they shall be reimbursed their actual expenses incurred in performing their duties and in attending Committee meetings, in accordance with Rule 101(e) of these Rules.~~ 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 investigate make a recommendation to the Court regarding the good moral character, and fitness to practice law and moral qualifications of an applicant for admission upon the request of the Board. Upon receipt of such a request, accompanied by all information regarding the applicant as obtained by the Board, the Committee shall conduct such investigation as it deems necessary in order to report its recommendation to the Board in accordance with Section IV of these rules.~~

~~(c) The Committee shall determine an applicant's character, fitness and moral qualifications in accordance with:~~

- ~~(1) The provisions of these Rules; and~~
- ~~(2) The applicable decisions of the Court and the Supreme Court of the United States.~~

~~(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.

~~(d) Upon completion of its investigation the Committee shall submit to the Board its written recommendation concerning the applicant's character, fitness and moral qualifications. The Board, in its discretion, may, in whole or in part, accept or reject any such recommendation, or remand any such recommendation to the Committee for such further investigation as shall be requested by the Board.~~

Rule 103. Office of the Bar.

The office of the Bar shall serve as office of the Board and the Committee. ~~It~~ 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 ~~the~~ 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 ~~state law and the Court.~~ The Bar shall also draft and submit all budgets, vouchers and fiscal reports required by the State of Wyoming. The Bar shall also perform such other duties as may be requested by the Board, the Committee or the Court.

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, ~~Counsel for the 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.

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 a rule may be appealed to the Court.

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 ~~on motion or applications to take the bar examination or regarding the results thereof or eligibility for admission to the bar examination~~, 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.

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.

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~~ Bar staff, the Committee, its counsel 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.

**SECTION II
APPLICATION FOR ADMISSION BY EXAMINATION**

Rule 201. Applications for Examination.

(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 to take the UBE shall be filed with Clerk of the Court on a form prescribed by the Board and shall be accompanied by a fee established by the Board and the Court, together with a fee equal to the cost(s) of any credit or other report requested by the Board or the Committee. 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. The Board may require the payment of an additional fee for investigation, including but not limited to, the cost of any record or documents required by the Board or the Committee in the conduct of an investigation or inquiry concerning the applicant, the cost of the character report from NCBE and the cost of the services of an investigator.

(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 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.

Rule 209. Misconduct by Applicants.

If, during an examination, the Board or its designee has ~~brought to its attention~~ 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.

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 upon completion of grading and the scaling process by the NCBE, and 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 application 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.

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.

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, ~~and~~ (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 ~~on~~ 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, in 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, good moral character and fitness to practice law; and who
- (h) Is currently a member in good standing in all jurisdictions where admitted.

Rule 304. Applications for Admission on Motion, Fees and Filing Deadlines.

(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.

(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 Committee shall, in each case, give consideration to such ~~certificates~~ evidence of moral character it has required along with the character report by the NCBE and shall, ~~either directly or indirectly or through the Committee,~~ make independent inquiry and investigation as to the applicant's moral character and fitness to be a member of the Bar. The Board Committee may, ~~either directly or through the Committee,~~ 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 accompanied by a fee established by the Board and the Court and, in addition, the fee required to obtain a Character Report from the NCBE. Refunds will not be made for withdrawal of an application, but may only be allowed by the Court upon motion and for good cause shown. 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) ~~Completed applications are to be filed with the Clerk of the Court. Incomplete applications will not be accepted for filing.~~ 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.

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

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

(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 of 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. ~~Wyoming does not accept~~ 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.

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 ~~Board~~ Committee shall not recommend an applicant be admitted to practice law if the ~~Board~~ 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:

(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.

~~(b)~~ (c) Factors Considered. The following ~~may be treated as cause for non-recommendation or for further inquiry before the Committee determines whether the applicant possesses the 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) Evidence of mental or emotional instability~~ Conduct demonstrating an inability to meet one or more essential eligibility requirements for the practice of law;

~~(11) Evidence of drug or alcohol dependency~~ 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.

Rule 402. ~~Investigation of Applicants~~ Review of Applications.

~~(a) Prior to the Board's recommendation to the Court that an applicant be admitted to practice law in Wyoming, the Committee shall make such investigation as it deems necessary into the applicant's character and fitness to practice law. Each applicant shall provide written authorization for such investigation, and each applicant shall authorize all persons with information about the applicant to furnish the Committee with such information and documents as it may request. The authority granted by an applicant shall expire upon the applicant's admission to the practice of law in Wyoming, denial of the application, or upon the applicant's written withdrawal of the application. 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) The Committee may contact all persons who may have information which the Committee believes may be relevant to the determination of the applicant's character and fitness to practice law. 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) To supplement the character report of the NCBE for applicants for admission the Committee may contact persons listed as references on an applicant's character report, persons providing requisite certification of character and fitness, an applicant's previous employer(s) or such other persons as may offer relevant information regarding the applicant's ability and fitness to assume the duties and responsibilities of a member of the Bar. When deemed appropriate by the Committee, the Committee may engage one or more non-lawyer consultants to assist in evaluating an applicant's character and fitness to practice law. 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) The Committee may request additional information from an applicant and may request an applicant to appear before the Committee in person or otherwise prior to the Committee's determination on the applicant's character and fitness to practice law. An application will be deemed withdrawn if the applicant fails to provide additional information or to appear before the Committee within 60 days of the Committee's request, unless a longer response time is allowed the applicant. 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) 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;~~
- ~~(4) The seriousness of the conduct;~~
- ~~(5) The factors 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.~~

(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) An applicant who affirmatively asserts rehabilitation from prior conduct as set forth in Rule 401(b) must produce evidence of rehabilitation which may include, but is not limited to, the following:~~

~~(1) compliance with the specific conditions of any disciplinary, judicial, administrative, or other order, where applicable;~~

~~(2) good character and moral standing in the community;~~

~~(3) good reputation for professional ability, where applicable;~~

~~(4) lack of malice and ill feeling toward those who, by duty, were compelled to bring about the disciplinary, judicial, administrative, or other proceeding;~~

~~(5) personal assurances, supported by corroborating evidence, of a desire and intention to conduct one's self in an exemplary fashion in the future;~~

~~(6) restitution of funds or property, where applicable;~~

~~(7) positive action showing rehabilitation by occupation, community service or civic service; and~~

~~(8) any other evidence which reflects rehabilitation of the applicant.~~

(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.

~~Rule 403. Committee's Determination, Permissive Withdrawal of Applications, Reapplication.~~

~~(a) If following its investigation the Committee determines that an applicant possesses the necessary character and fitness to practice law it shall so inform the Board.~~

~~(b) If following its investigation the Committee determines that the applicant does not possess the necessary character and fitness to practice law, it shall promptly notify the applicant of its determination. Such notice shall be sent to the applicant by certified mail, return receipt requested, and to the applicant's counsel, if any. A copy of the notice shall be provided to the Board.~~

~~(c) Upon written request an applicant may withdraw his/her application before a final recommendation on such application has been filed by the Board with the Court. In the event of a reapplication, any information obtained from any previous filing may be considered by the Board and the Committee.~~

~~Rule 404. Request for Hearing.~~

~~(a) The applicant shall have the right to file with the Board a written request for hearing within 30 days after receipt of the notice described in Rule 403. Failure to file a timely request for hearing shall constitute a waiver of any right to hearing, and the applicant shall be deemed to have abandoned the application.~~

~~(b) Following receipt by the Board of a request for a hearing the applicant shall be provided with a copy of all documents reviewed by the Character and Fitness Committee in arriving at its determination regarding the applicant's character and fitness to practice law.~~

~~(c) The Board shall notify the applicant and the Committee of the date, time and place of the hearing.~~

~~Rule 405. Procedure for Conduct of Formal Hearings.~~

~~At the hearing, the applicant shall have the burden of proving his/her character and fitness to practice law by clear and convincing evidence. Neither the Wyoming Rules of Civil Procedure nor the Wyoming Rules of Evidence shall apply.~~

~~(a) Pleadings. The docket for all hearings before the Board shall be maintained at the office of the Bar. All original pleadings shall be filed with the Executive Director of the Bar. The form, style and content of all pleadings shall be: "In The Matter of An Application Before The Board".~~

~~(b) Service of Notice or Any Other Pleading. All pleadings or other notices shall be served upon the Board and the Committee by delivery of duplicate copies of such pleadings to the Executive Director of the Bar 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 or by U.S. mail.~~

~~(c) Conduct of Formal Hearings.—~~

~~(1) A stenographic record of the hearing shall be made with all testimony being received under oath. The hearing record shall include the information before the Committee in reaching its determination.~~

~~(2) The applicant shall have the right to be represented by counsel and shall have the right to call witnesses, introduce exhibits and cross-examine witnesses called by the Committee.~~

~~(3) The Committee shall be represented by Bar Counsel, who shall have the right to call witnesses, introduce exhibits and cross-examine witnesses called by the applicant.~~

~~(d) Findings and Conclusions.—~~

~~The Board's final decision as to the hearing shall be in writing and filed with the Court. If the Board recommends against admission, it shall make separate Findings of Fact and Conclusions of Law. The Board's final decision shall be mailed to the applicant at the applicant's last known address by certified mail, return receipt requested, and a copy shall be mailed to the applicant's attorney of record, if applicable.~~

~~(e) Appeals.— An applicant may file a response with the Court to a final decision of the Board which recommends against admission within fifteen (15) days of service of the final decision on the applicant. The applicant shall serve a copy of such response upon the Executive Director.~~

~~(1) A response shall state explicit reasons for the exceptions to the final decision together with a brief prepared in accordance with Rule 7.01, W.R.A.P.~~

~~(2) The applicant may file a statement that the applicant does not wish to file exceptions to the report.~~

~~(3) If the applicant files a statement that the applicant does not wish to file exceptions to the report or if the applicant fails to respond, the Court shall proceed with such action on the final decision as it may determine to be appropriate.~~

~~(4) If the applicant files proper exceptions, the Court shall calendar the matter for such briefs or argument as it may deem appropriate and shall thereafter enter its judgment. The Court shall not receive or consider any evidence that was not presented to the Board.~~

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.

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.

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.

Rule 406. Reapplication after Denial.

~~The Board shall not accept a A new application from an applicant who has received a recommendation of denial 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 a tentative order of denial becomes final, a final decision is issued after a hearing and not appealed, or a final decision is affirmed by the Court, the latest of which date is applicable of the order denying admission.~~

**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 ~~its~~ their recommendations to the Court that the applicant is eligible for admission to the practice of law. ~~Certification may be in such form as the Board prescribes, including a letter, bearing the signature of the Chair or someone delegated by the Chair, provided that person is a member of the Board or the Executive Secretary to the Board.~~

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

Subject to the provisions of Rule 503, the Court, upon receiving ~~the Board's~~ 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. ~~in substantially the following form:~~

"In the Matter of Admission of _____ to the Wyoming State Bar. It appearing that heretofore on the _____ day of _____, (year), the State Board of Law Examiners filed its report recommending that the above named applicants, having met the requirements prescribed by law, are persons of good moral character, and of legal age; and it further appearing to the Wyoming Supreme Court that said report should be approved and that the applicants possess the qualifications required by law, are persons of good moral character, and of legal age; it is ORDERED that said applicants be and hereby are, admitted to practice as attorneys and counselors at law in all of the courts of this state upon taking the oath prescribed by the court and with the filing of said oath with the Clerk of the Wyoming Supreme Court.
DATED this _____ day of _____, _____ by the Chief Justice, Wyoming Supreme Court."

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 Board. ~~The Board shall make 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 ~~and the Board~~ 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, ~~Board~~ 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 ~~by the Committee to the Board~~ to Bar Counsel. If ~~the Board~~ Bar Counsel determines that the requirements of the Monitoring Agreement have been violated and the violation is material, ~~the Board~~ Bar Counsel shall ~~cause Bar Counsel to~~ initiate proceedings to determine whether the conditional admission should be terminated, extended or modified.

(h) *Termination.* ~~The 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 ~~shall~~ 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 ~~Board~~ Committee for hearing and recommendation.

(4) Following the hearing, the ~~Board~~ 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.

~~(5) The hearing shall be conducted as provided in Rule 405.~~

(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) 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.

(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 ~~Board~~ 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.

⊕ (1) *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.
