

***IN THE SUPREME COURT, STATE OF WYOMING***

***October Term, A.D. 2020***

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***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 Board of Law Examiners for the Wyoming State Bar** and the Character and Fitness Committee of the Wyoming State Bar, through Bar Counsel, have recommended this Court amend the Rules and Procedures Governing Admission to the Practice of Law. This Court finds that the proposed amendments as modified in the attachment to this order 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 January 4, 2021; 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 5<sup>th</sup> day of November, 2020.

**BY THE COURT:**

/s/

**MICHAEL K. DAVIS**  
**Chief Justice**

# Rules and Procedures Governing Admission to the Practice of Law

## SECTION I GENERAL PROVISIONS

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### **Rule 100. Statutory authority; Definitions.**

(a) These Rules are promulgated pursuant to W.S. §§ 33-5-101 et seq. These rules shall be known as the Wyoming Admission Rules and shall be cited as “W.Admission.R.”, as applicable and appropriate. 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.

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### **Rule 102. Character and Fitness Committee.**

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

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

~~(1)~~ (i) 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)~~ (ii) Conduct hearings concerning matters of character and fitness bearing upon the qualification of applicants referred to the Committee by Bar Counsel;

~~(3)~~ (iii) Request medical or other treatment records, hear testimony from and ask questions of medical or other treatment providers;

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

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

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

~~(7)~~ (vii) 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.

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### **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) (i) 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) (ii) Information may be disclosed to the Court;

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

(6) (vi) Information and records may be disclosed as provided by order of the Court.

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### **Rule 110. Appeals.**

Except as expressly provided herein, applicants shall have no right to appeal or otherwise seek relief from, or review of, any decision of the Board or the Committee.

## **SECTION II APPLICATION FOR ADMISSION BY EXAMINATION**

### **Rule 201. Applications for Admission by Examination, Fees.**

(a) The UBE shall be administered in February and July of each year and on such alternate dates as the Court may designate. 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~~ third Friday in 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~~ third Friday in April. Filing will not be measured by postmark dates. Faxes and emails will not be accepted.

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

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

(1) (i) Indicate the desire to use a personal computer to type the examination on the Application for Admission to the Wyoming State Bar;

(2) (ii) Supply a personal computer that meets the current requirements of the Board;

(3) (iii) Register and use examination software prescribed by the Board, according to instructions provided to applicant, including payment of any fees associated with use of the software; and

(4) (iv) Acknowledge the acceptance of any risk inherent to using electronics, including but not limited to power failure, software malfunction, and equipment failure.

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**Rule 208. Monitors.**

The Board shall appoint a sufficient number of monitors to insure the examination is conducted in an orderly and expeditious manner and to insure no applicant gives or receives aid in taking the examination. Monitors shall enforce, and applicants shall comply with, all rules for taking the UBE as may be established by the Admissions Director.

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**Rule 210. Examination Accommodations.**

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(e) *Definitions.*

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

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

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

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

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

(A) fundamentally altering the nature of the UBE, including but not limited to compromising the validity or reliability of the examination;

(B) imposing an undue burden on the Board; or

(C) jeopardizing examination security.

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

(f) *Applying for test accommodations.* All forms necessary to complete a request for special testing accommodations shall be obtained from the Court’s website, <https://www.courts.state.wy.us>.

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

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

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

(A) The application to take the UBE was timely filed and complete in all other respects;

(B) At the time of filing the application to take the UBE, the applicant did not have the disability or was unaware of a disability that would necessitate special testing accommodations;

(C) After acquiring the disability, the applicant promptly submits a request for special testing accommodations on the forms required by the Board. An emergency request shall not be accepted fewer than seven days preceding the scheduled bar examination.

(g) Following receipt of a completed application for special testing accommodations, the Board will determine what accommodations are reasonable, if any. The Board may provide accommodations different from those requested by the applicant if the Board determines that the accommodations provided will effectively ameliorate the impact of the applicant's disability. The Board shall notify the applicant in writing of any reasonable accommodations the Board has determined to provide.

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

~~(4)~~ (i) In reviewing an emergency request, the Board shall first determine whether the request qualifies as an emergency request under this policy. If it does not qualify as an emergency, the Board shall deny the request.

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

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

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

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### **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.

~~(4)~~ (i) The formula for determining the total UBE score is: MBE Scaled Score + MEE/MPT Scaled Score = UBE Total Scaled Score.

~~(2)~~ (ii) 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)~~ (iii) 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 sealing process by the NCBE. For each applicant who receives a passing UBE score, the Board shall notify the Court of the results of the examination after receipt of results from the MPRE and after the Committee has made its recommendation regarding the applicant's good moral character and fitness to practice law.

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

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

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

(3) (iii) 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.

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#### **Rule 212. Review of Examination Answers.**

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

### **SECTION III**

#### **APPLICATION FOR ADMISSION ON MOTION OR BY TRANSFER OF UBE SCORE**

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#### **Rule 302. Eligibility for Admission on Motion.**

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

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

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

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

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

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

(f) Has engaged in the active, authorized practice of law for a minimum of 300 hours per year for five of the seven years immediately preceding the date of application, and is an active member in good standing of the bar of, a UBE jurisdiction or a jurisdiction (or jurisdictions) that grants bar admission without examination to attorneys licensed in Wyoming on the basis of practice in Wyoming. The determination of whether an applicant satisfies the requirements of this subsection will be made utilizing a seven-year look-back from the date the application is submitted; 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.

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### **Rule 303. Definition of the Active, Authorized Practice of Law.**

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

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

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

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

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

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

(1) (i) Furnishing legal counsel;

(2) (ii) Drafting legal documents and pleadings;

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

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

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

### **Rule 304. Applications for Admission on Motion, Fees.**

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(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) (i) 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) (ii) One of the following:

(i) (A) 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) (B) 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) (C) 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) (A), (ii) (B) and (iii) (C) 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) (iii) ~~Evidence~~ A certificate of compliance with the Continuing Legal Education requirements of all jurisdictions in which the applicant is admitted to practice law, if applicable;

(4) (iv) An authorization and release form; and

(5) (v) Proof the applicant has passed the MPRE with a scaled score of 85 points or greater (75 points or greater for MPREs administered between January 1, 1999, and October 1, 2014). If the date of the applicant's first admission in any jurisdiction was prior to 1999, a certification by the applicant that the applicant obtained a passing score on the MPRE in connection with that admission will suffice.

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

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

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

(1) (i) Has obtained a scaled score of 85 points or greater on the MPRE; and

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



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

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**Rule 306. Admission of Military Spouse Attorneys.**

(a) Due to the unique mobility requirements of military families who support the defense of our nation, an attorney who is a spouse or a registered domestic partner of a member of the United States Uniformed Services ("service member"), stationed within this jurisdiction, may obtain a license to practice law pursuant to the terms of this rule.

(b) *Eligibility.* An applicant who meets this rule must:

(1) (i) have been admitted to practice law in another U.S. state, territory, or the District of Columbia;

(2) (ii) have been awarded a juris doctor (JD) by a law school accredited by the American Bar Association;

(3) (iii) establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

(4) (iv) establish that the applicant is not currently subject to attorney discipline or the subject of a pending disciplinary matter in any jurisdiction;

(5) (v) establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

(6) (vi) demonstrate presence in Wyoming as a spouse or registered domestic partner of a member of the United States Uniformed Services.

(c) All applicants for admission pursuant to this rule 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. The Clerk shall not collect an application fee from applicants seeking admission pursuant to this rule. Incomplete applications will not be accepted for filing. The application shall be accompanied by all supporting data required by the Board to determine eligibility under this rule. Supporting data to the application shall include the following:

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

(3) (iii) An authorization and release form; and

(4) (iv) Proof the applicant has passed the MPRE with a scaled score of 85 points or greater (75 points or greater for MPREs administered between January 1, 1999, and October 1, 2014). If the date of the applicant's first admission in any jurisdiction was prior to 1999, a certification by the applicant that the applicant obtained a passing score on the MPRE in connection with that admission will suffice.

(d) Applications for admission pursuant to this rule shall be accompanied by a copy of the applicant's Request for Preparation of a Character Report to the NCBE.

(e) The Board shall notify the Court of an applicant's eligibility for admission 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.

(g) Attorneys licensed under this rule shall be entitled to all privileges, rights, and benefits and subject to all duties, obligations, and responsibilities of active members of Bar.

(h) The license to practice law under this rule shall terminate sixty (60) days after the occurrence of any of the following events:

~~(1)~~ (i) the service member is no longer a member of the United States Uniformed Services;  
~~(2)~~ (ii) the attorney admitted pursuant to this rule is no longer married to, or a registered domestic partner of, the service member; or

~~(3)~~ (iii) the service member receives a permanent transfer outside Wyoming, except that if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the attorney admitted pursuant to this rule may continue to practice pursuant to the provisions of this rule until the service member is assigned to a location with dependents authorized.

In the event that any of the events listed in this paragraph occur, the attorney admitted pursuant to this rule shall notify the Court of the event in writing within thirty (30) days of the date upon which the event occurs. If the event occurs because the service member is deceased or disabled, the attorney shall notify the Court within sixty (60) days of the date upon which the event occurs.

## 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 make accurate and complete disclosures in the application to the Court and to the NCBE and to cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by the Admissions Director, Bar Counsel or the Committee consistent with these rules. Failure to appear as directed or to furnish additional proof or answer as required or to cooperate fully shall be sufficient reason for the Committee to recommend the denial of an application.

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

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

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

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

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

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

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

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

(1) (i) Unlawful conduct;

(2) (ii) Academic misconduct;

(3) (iii) 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) (iv) Misconduct in employment;

(5) (v) Acts involving dishonesty, fraud, deceit or misrepresentation;

(6) (vi) Abuse of legal process;

(7) (vii) Neglect of financial responsibilities;

(8) (viii) Neglect of professional obligations;

(9) (ix) Violation of an order of a court;

(10) (x) Conduct demonstrating an inability to meet one or more essential eligibility requirements for the practice of law;

(11) (xi) Conduct that physically threatens or harms another person;

(12) (xii) Denial of admission to the bar in this or another jurisdiction on character and fitness grounds;

(13) (xiii) Disciplinary action by the lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction;

(14) (xiv) Conduct evidencing any current mental or emotional instability that may interfere with the ability to practice law condition or impairment (including, but not limited to, substance abuse, alcohol abuse, or a mental, emotional or nervous disorder or condition) that in any way affects the applicant's ability to practice law in a competent, ethical, and professional manner; and

~~(15) (xv) Conduct evidencing current drug or alcohol dependence or abuse that may interfere with the ability to practice law; and~~

~~(16) Any other conduct which reflects adversely upon the good moral character 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) (i)~~ The applicant's age at the time of the conduct;

~~(2) (ii)~~ The recency of the conduct;

~~(3) (iii)~~ The reliability of the information concerning the conduct;

~~(4) (iv)~~ The seriousness of the conduct;

~~(5) (v)~~ The factors or circumstances underlying the conduct;

~~(6) (vi)~~ The cumulative effect of the conduct or information;

~~(7) (vii)~~ The evidence of rehabilitation;

~~(8) (viii)~~ The applicant's positive social contributions since the conduct;

~~(9) (ix)~~ The applicant's candor in the admissions process;

~~(10) (x)~~ The materiality of any omissions or misrepresentations.

~~(11) (xi)~~ 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) (i)~~ Race, color or ethnic identity;

~~(2) (ii)~~ Gender or gender identity;

~~(3) (iii)~~ Sexual orientation;

~~(4) (iv)~~ Marital status;

~~(5) (v)~~ Creed or religion;

~~(6) (vi)~~ Political beliefs or affiliation;

~~(7) (vii)~~ Sensory, mental or physical disability;

~~(8) (viii)~~ National origin;

~~(9) (ix)~~ Age; or

~~(10) (x)~~ Any other class protected under state or federal law.

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### **Rule 403. Hearing Procedure.**

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(e) *Committee to conduct hearing; Committee chair authority as chief hearing officer.* The Committee shall conduct the hearing. The Committee chair or the chair's designee shall serve as the chief hearing officer and shall have the following powers and duties:

- (1) (i) To issue and enforce subpoenas;
- (2) (ii) To administer oaths and affirmations;
- (3) (iii) To conduct a scheduling conference if requested by a party, and to enter a scheduling order following the conference;
- (4) (iv) To conduct pre-hearing conferences and establish pre-hearing procedures;
- (5) (v) To rule upon nondispositive pre-hearing motions;
- (6) (vi) To preside at hearings and to rule on evidentiary matters as requested;
- (7) (vii) To compel obedience to rulings, orders, and subpoenas, including the imposition of sanctions pursuant to the provisions of Rule 37, W.R.Civ.P.

(A) In the event any person fails or refuses to comply with a subpoena, the party causing the subpoena to be issued may file with the Admissions Director a motion for order to show cause why the person should not be held in contempt of court.

(B) The person against whom the motion is made shall file a written response within ten (10) days of service of the motion.

(C) The motion shall be heard by the Committee chair. In the absence of good cause shown, the chair shall submit a report and recommendation to the Court. The Court shall then determine whether to impose contempt.

(f) *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.

(g) *Admissibility of Evidence.*

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

(4) (iv) 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) (v) 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) (vi) 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. Such 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.

(h) *Independent Medical Examination.* If the testimony and evidence presented at a hearing has failed to resolve the Committee's reasonable concerns regarding the applicant's ability to meet

the essential eligibility requirements to practice law, an Independent Medical Examination (IME) may be requested by the Committee, and the hearing shall be continued as necessary. If the applicant has not previously been requested to provide information regarding the applicant's drug or alcohol dependence, health diagnosis or treatment, the Committee shall continue the hearing and 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)~~ (i) *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)~~ (ii) *Failure to Comply*. The failure of an applicant to agree to or submit to a required IME may result in a recommendation to the Court that the applicant's application be denied.

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

~~(4)~~ (iv) *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)~~ (v) *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.

~~(6)~~ (vi) After receiving information regarding the applicant's drug or alcohol dependence, health diagnosis or treatment not previously requested or upon completion of the IME and any rebuttal IME or other evidence, the Committee may re-open the hearing and take any further testimony or evidence it deems necessary or may close the hearing and make its decision and recommendation based upon the record before it.

(i) *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.

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## SECTION V ADMISSION TO PRACTICE

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### **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)~~ (i) substance abuse or dependence;

~~(2)~~ (ii) 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)~~ (iii) neglect of financial affairs, may be admitted to practice law conditioned upon the applicant's compliance with appropriate post-admission requirements.

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

(1) (i) 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) (ii) 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.

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

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

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

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

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

(i) *Hearing procedure.*

(1) (i) *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) (ii) *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) (iii) *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) (iv) *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)~~ (v) *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.

(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. The Court shall calendar the matter for such proceedings or argument as it may deem appropriate and shall thereafter enter its order.

(k) *Expiration of Monitoring Agreement.*

~~(4)~~ (i) 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)~~ (ii) In such case, the Committee shall notify the Court that the conditionally admitted attorney has complied with all requirements of the Monitoring Agreement and that the terms of conditional admission have been satisfied.

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