

**PROPOSED REVISIONS TO THE RULES GOVERNING ADMISSION TO THE BAR  
PROPOSAL 2023-022**

**March 24, 2023**

The Board of Bar Examiners has recommended a new Preface to Rule Set 15 and new Rules 15-307, 15-308, 15-309, 15-501, 15-502, 15-503, 15-504, 15-505, 15-506, 15-507, 15-601, 15-602, 15-603, 15-604, 15-605, 15-606, 15-607, and 15-608 NMRA, amendments to Rules 15-101, 15-102, 15-103, 15-201, 15-202, 15-203, 15-205, 15-206, 15-207, 15-208, 15-301, 15-302, 15-303, 15-401, 15-402, 15-403, and 15-404 NMRA, amendments and recompilation of Rules 15-301.1 (as Rule 15-304), 15-301.2 (as Rule 15-305), and 15-301.3 (as Rule 15-306) NMRA, amendments and reinstatement of 15-204 NMRA, and the withdrawal of Rules 15-104, 15-105, 15-106, 15-107, 15-405, and 15-406 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, New Mexico 87504-0848  
[nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov)  
505-827-4837 (fax)

**Your comments must be received by the Clerk on or before April 24, 2023**, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's web site for public viewing.

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**[NEW MATERIAL]**

**Preface**

The Supreme Court, pursuant to its constitutional power of superintending control, has the inherent authority to regulate the practice of law, prescribe the qualifications for admission to the bar, and grant or withhold the right to practice law.

[Adopted Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary. –**

[1] Article VI, Section 3 of the New Mexico Constitution grants the Supreme Court the constitutional power of superintending control, with the inherent power to regulate all practice affecting the judicial branch. That regulatory power includes the authority and duty to prescribe the qualifications for admission to the bar. *In re Treinen*, 2006-NMSC-013, 139 N.M. 318, 131 P.3d 1282. Defining, regulating, granting or withholding the right of admission to practice law is a fundamental component of that power. *See, e.g., State Bar v. Guardian Abstract*, 1978-NMSC-016, 91 N.M. 434, 575 P.3d 943; *Application of Sedillo*, 1959-NMSC-095, 66 N.M. 267, 347 P.2d

162; *see also* Section 36-2-1 NMSA 1978 (codifying the Supreme Court's constitutional authority to define and regulate the practice of law); Section 40-51-10 NMSA 1978 (stating the Supreme Court is to adopt rules for licensing lawyers).

[2] The Immigration and Nationality Law Practice Act, Sections 36-3-1 through 36-3-10 NMSA 1978, prevents the unauthorized practice of law by nonlawyers who hold themselves out as immigration consultants rendering services in immigration, nationality or citizenship matters and who are outside pertinent federal regulations regulating the practice of immigration law.

[3] Rules regarding foreign legal consultants are contained in Rules 26-101 through 26-106 NMRA.

[4] Rules governing pro hac vice practice are addressed in Rule 24-106 NMRA.

[5] Rules governing admission as an emeritus attorney are addressed in Rule 24-111 NMRA.

[6] Rules concerning the unauthorized practice of law are contained in Rule 16-505 NMRA.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

## ARTICLE 1 [~~Applications~~] General Provisions

### 15-101. [~~Definitions; title~~]Title.

[A. — ~~Definitions.~~ For purposes of these rules:

(1) — ~~“notice” means notice sent to the person affected by the action which shall be effective on placing the document or letter in the United States mail;~~

(2) — ~~“MBE” means the Multi State Bar Examination;~~

(3) — ~~“MPRE” means the Multi State Professional Responsibility Examination;~~

(4) — ~~“practice of law” means being actively and continuously engaged in full-time, gainful employment in the performance of legal services;~~

(5) — ~~“lawyer” means a person, admitted to a bar, who by education and training may legally perform legal services for others;~~

(6) — ~~“legal service” means advising, advocating or counseling to or for others about a matter involving law which may not be lawfully performed by a nonlawyer;~~

(7) — ~~“grader” means one who is scholastically, professionally and psychologically qualified to review and grade the essay portions of the bar examination and who is appointed by the Board of Bar Examiners;~~

(8) — ~~“in good standing” means admitted to the bar of another state and:~~

(a) — ~~has not been disbarred;~~

(b) — ~~is not under disciplinary suspension or suspended for nonpayment of bar dues or failure to complete mandatory continuing legal education requirements;~~

(c) — ~~has not resigned from the bar of the other state while under disciplinary suspension or while under disciplinary proceedings;~~

(d) — ~~has not been the subject of current or pending disciplinary proceedings; or~~

(e) — ~~if the applicant has been disbarred or suspended, has been duly and fully reinstated;~~

(9) — ~~“serious crime” means:~~

(a) — ~~any felony; or~~

(b) — ~~any lesser crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves:~~

- (i) — conduct as an attorney;
- (ii) — interference with the administration of justice;
- (iii) — false swearing;
- (iv) — misrepresentation;
- (v) — fraud;
- (vi) — willful failure to file tax returns;
- (vii) — deceit;
- (viii) — bribery;
- (ix) — extortion;
- (x) — misappropriation;
- (xi) — theft; or
- (xii) — an attempt to commit, a conspiracy to commit or a

solicitation of another to commit a “serious crime”; and

(10) — “state” means any of the fifty (50) states, territories or protectorates of the United States and the District of Columbia.

B. ~~Title.~~ These rules shall be known as the Rules Governing Admission to the Bar. [As amended, effective November 1, 1994; May 19, 2004; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

Committee commentary. – The entirety of the Rules Governing Admission to the Bar have been recompiled and amended, with significant portions rewritten. These amended and recompiled rules apply to all applications submitted to the board after the effective date of the Supreme Court’s adoption, and Articles 1 and 6 are effective on the date of the Supreme Court’s order adopting them.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### 15-102. ~~[Admission requirements.]~~ Definitions and rules of construction.

~~[The Supreme Court shall determine and prescribe by rules the qualifications and requirements for admission to the practice of law, including the amount of fee to be charged applicants for admission. The rules governing requirements for admission to the bar will be furnished by the Board of Bar Examiners upon request of any applicant. Anyone desiring to be admitted to the practice of law in the State of New Mexico may apply for admission by examination as administered in New Mexico under Article 2 of these rules or by motion without examination under Rule 15-107 NMRA.]~~

For purposes of these rules:

A. “ABA” means the American Bar Association;

B. “active practice of law” means:

(1) the following activities, if performed in a state in which the applicant is admitted and authorized to practice law, or, if performed in a state that affirmatively permits such activity by a lawyer not admitted in that state, however, in no event shall any activities performed under any rule regarding the practice of law pending admission or in advance of admission to practice law in another state be accepted toward the durational requirements:

- (a) representation of one or more clients in the private practice of law;

(b) service as a lawyer with a local, state, territorial or federal agency, or governmental branch, including United States military service with any branch of the United States military;

(c) full time teaching at a law school formally accredited by the ABA;

(d) service as a judge in a local, state, territorial, or federal court of record of the United States;

(e) service as a judicial law clerk in a local, state, territorial, or federal court of record of the United States;

(f) service as in-house counsel provided to the applicant's employer or its organizational affiliates; or

(g) any combination of the above.

(2) The active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the state in which it was performed or in the state in which the clients receiving the unauthorized services were located.

C. "admission" means the admission, re-admission, or reinstatement of a license to practice law in the State of New Mexico and membership in the State Bar of New Mexico;

D. "bar examiner" means a member of the board.

E. "board" means the Board of Bar Examiners of the State of New Mexico, which is a standing committee of the Supreme Court;

F. "conditional admission" means the grant of a license to practice law subject to the supervision the board, and under conditions approved by the Supreme Court;

G. "dependent" is used as defined by the United States Department of Defense (or, for the Coast Guard when it is not operating as a service in the United States Navy, by the United States Department of Homeland Security);

H. "government entity" means any state agency or any local public body as defined in these rules;

I. "in good standing" means unconditionally admitted to the practice of law by a state lawyer licensing authority, and:

(1) not disbarred in any state;

(2) not suspended from practice of law in any state for disciplinary reasons;

(3) not resigned from any state lawyer licensing authority while under disciplinary suspension by, or while undergoing disciplinary proceedings by, that state;

(4) not the subject of current or pending disciplinary proceedings in any state;  
and

(5) if previously disbarred or suspended by a state lawyer licensing authority, duly and fully reinstated in that state;

J. "lawyer" means a person, admitted to a state bar, who by education and training may legally perform legal service in that state;

K. "legal service" means advising, advocating or counseling to or for others as to a matter involving law which may not be lawfully performed by someone who is not a lawyer;

L. "local public body" means all political subdivisions of this state and their agencies, instrumentalities, and institutions;

M. "MBE" means the Multi-State Bar Examination prepared and administered by the NCBE;

N. “MEE” means the Multi-State Essay Examination prepared and administered by the NCBE;

O. “military spouse attorney” means an attorney who is the spouse of an active duty service member of the United States Uniformed Services stationed within the State of New Mexico and resides or intends to reside in the State of New Mexico within the next six (6) months of the date of application for limited license;

P. “MPRE” means the Multi-State Professional Responsibility Examination prepared and administered by the NCBE;

Q. “MPT” means the Multi-State Performance Test prepared and administered by the NCBE;

R. “NCBE” means the National Conference of Bar Examiners;

S. “notice” means delivery to the person affected by the item being delivered, which shall be effective either on (1) placing the document or letter in the United States first class mail with a proper address and postage pre-paid, or (2) submitting the document or letter by electronic means previously authorized by the intended recipient, which is not returned as undeliverable; notice to the board under these rules is effective by sending an electronic submission to the email address(es) or electronic submission portal identified by the board for that purpose, or, when permitted under these rules, in-hand delivery of paper documents to front desk personnel at the board’s offices during normal business hours;

T. “practice law,” “practice of law,” and variations thereof, means providing or performing legal services;

U. “prove” means, unless otherwise specified, to prove by a preponderance of the evidence;

V. “public defender clients” means persons represented under contract with the Law Offices of the Public Defender for the State of New Mexico;

W. “qualified legal services provider” means a not-for-profit legal services organization whose primary purpose is to provide legal services to low income clients or a legal department within a non-profit organization that employs at least one (1) lawyer full-time to provide legal services to low income clients; and

(1) is an organization described in Section 501(c)(3) and exempt from federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 or corresponding provisions of federal income tax laws from time to time in effect;

(2) is registered with the New Mexico Attorney General Registry of Charitable Organizations in compliance with the New Mexico Charitable Solicitations Act; and

(3) is recommended by the New Mexico Commission on Access to Justice;

X. “reciprocal state” and “reciprocal states” means a state or states approved as reciprocal to New Mexico by the Supreme Court as of the date an application is submitted, the current list for which is available from the board and publicly posted on the board’s website;

Y. “rules” and “these rules” means the Rules Governing Admission to the Bar, Rules 15-101 to -608 NMRA;

Z. “serious crime” means:

(1) any felony; or

(2) any lesser crime a necessary element of which, as determined by the statutory or common law definition of that crime, involves:

(a) conduct as an attorney;

(b) interference with the administration of justice;  
 (c) false swearing;  
 (d) misrepresentation;  
 (e) fraud;  
 (f) willful failure to file tax returns;  
 (g) deceit;  
 (h) bribery;  
 (i) extortion;  
 (j) misappropriation;  
 (k) theft; or  
 (l) an attempt to commit, a conspiracy to commit or a solicitation of another to commit a “serious crime”;  
 AA. “service member” is used as defined by the United States Department of Defense;  
 BB. “service on the board,” “serving the board” and reasonable variations thereof, means un-returned electronic submission or delivery of documents described in these rules to the email address(es) or electronic submission portal identified by the board for that purpose, and, when permitted under these rules, in-hand delivery of paper documents to front desk personnel at the board’s offices during normal business hours;  
 CC. “state” means any of the fifty (50) states, territories or protectorates of the United States, and the District of Columbia;  
 DD. “state agency” means any of the branches, agencies, departments, boards, instrumentalities, or institutions of the State of New Mexico;  
 EE. “Supreme Court” means the New Mexico Supreme Court;  
 FF. “suspended” and “suspension” means suspension, lapse or other prohibition from the practice of law, for reasons other than nonpayment of dues or failure to complete mandatory continuing legal education requirements; and  
 GG. “UBE” means the Uniform Bar Examination and administered by the NCBE.  
 [As amended, effective November 1, 1994; as amended by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

### 15-103. [Qualifications.] Confidentiality.

[A. — ~~Requirements mandatory.~~ License to practice law shall be granted only to applicants who fulfill all of the requirements of these rules. License to practice law shall not be denied based solely on the applicant’s citizenship or immigration status.

— B. — ~~Qualifications.~~ A person seeking admission to practice law in New Mexico shall file a formal application as prescribed by these rules and as required by the New Mexico Board of Bar Examiners. Submission of the application shall constitute submission by the applicant to the jurisdiction of the New Mexico Board of Bar Examiners until a final determination on admission of the applicant may be completed. An applicant shall have the burden of establishing to the satisfaction of the Board of Bar Examiners that the applicant possesses all of the following qualifications:

- (1) — ~~is at least eighteen (18) years of age;~~
- (2) — ~~is a graduate with a juris doctor or bachelor of laws and letters degree (at the time of the bar examination for which application is made or at the time of application for~~

~~admission by transferred Uniform Bar Examination (UBE) score) of a law school formally accredited by the American Bar Association or is a graduate of any law school who has been engaged in the practice of law in another state or states for at least four (4) of the six (6) years immediately preceding the person's application for admission to practice in New Mexico;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ is a person of good moral character, physically and mentally fit to practice law;~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ is, if ever admitted to practice in any other state or states, in good standing in this state or states;~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ is professionally qualified for admission to the bar of New Mexico; and~~

~~\_\_\_\_\_ (6) \_\_\_\_\_ is in compliance with all child support and spousal support obligations imposed under a "judgment and order for support" as defined in the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978, or imposed under a child support or spousal support order entered by any other court of competent jurisdiction. If an applicant is not in compliance with a child support or spousal support obligation, the applicant will not be recommended for admission to the bar until the applicant provides the Board of Bar Examiners with evidence that the applicant is in compliance with the judgment or order. If the applicant has appeared on the Human Services Department's certified list of obligors, the applicant shall submit a certified statement from the Human Services Department that the applicant is in compliance with the judgment and order for support. In all other cases, the applicant shall provide evidence acceptable to the Board of Bar Examiners of compliance with all applicable child and spousal support orders.~~

~~C. Character and fitness standards and investigation.~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ The purpose of character and fitness investigation before admission to the Bar is to assure the protection of the public and to safeguard the justice system.~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ The applicant bears the burden of proving good character in support of the application.~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ The revelation or discovery of any of the following may be treated as cause for further inquiry before the Board of Bar Examiners determines whether the applicant possesses the character and fitness to practice law:~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ unlawful conduct;~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ academic misconduct;~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ misconduct in employment;~~

~~\_\_\_\_\_ (d) \_\_\_\_\_ acts involving dishonesty, fraud, deceit, or misrepresentation;~~

~~\_\_\_\_\_ (e) \_\_\_\_\_ acts which demonstrate disregard for the rights or welfare of others;~~

~~\_\_\_\_\_ (f) \_\_\_\_\_ abuse of legal process, including the filing of vexatious or frivolous lawsuits;~~

~~\_\_\_\_\_ (g) \_\_\_\_\_ neglect of financial responsibilities or professional obligations;~~

~~\_\_\_\_\_ (h) \_\_\_\_\_ violation of an order of a court, including child support orders;~~

~~\_\_\_\_\_ (i) \_\_\_\_\_ conduct that evidences current mental or emotional instability that may impair the ability to practice law;~~

~~\_\_\_\_\_ (j) \_\_\_\_\_ conduct that evidences current drug or alcohol dependence or abuse that may impair the ability to practice law;~~

~~\_\_\_\_\_ (k) \_\_\_\_\_ denial of admission to the bar in another jurisdiction on character and fitness grounds;~~

~~\_\_\_\_\_ (l) \_\_\_\_\_ disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction;~~

~~\_\_\_\_\_ (m) \_\_\_\_\_ making of false statements, including omissions, on bar applications in this state or any other jurisdiction; or~~

~~\_\_\_\_\_ (n) \_\_\_\_\_ as otherwise determined by the Board of Bar Examiners for just and good cause.~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ The Board of Bar Examiners shall determine whether the present character and fitness of an applicant qualifies the applicant for admission. In making this determination, the following factors should be considered in assigning weight and significance to prior conduct:~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ the applicant's age at the time of the conduct;~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ the recency of the conduct;~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ the reliability of the information about the conduct;~~

~~\_\_\_\_\_ (d) \_\_\_\_\_ the seriousness of the conduct;~~

~~\_\_\_\_\_ (e) \_\_\_\_\_ the factors underlying the conduct;~~

~~\_\_\_\_\_ (f) \_\_\_\_\_ the cumulative effect of the conduct or information;~~

~~\_\_\_\_\_ (g) \_\_\_\_\_ the evidence of rehabilitation;~~

~~\_\_\_\_\_ (h) \_\_\_\_\_ the applicant's positive social contributions since the conduct;~~

~~\_\_\_\_\_ (i) \_\_\_\_\_ the applicant's candor in the admissions process; and~~

~~\_\_\_\_\_ (j) \_\_\_\_\_ the materiality of any omissions or misrepresentations.~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ The applicant has a continuing obligation to update the application with respect to all matters inquired of on the application. This obligation continues during the pendency of the application, including the period when the matter is on appeal to the Board of Bar Examiners or the Supreme Court.~~

~~\_\_\_\_\_ D. \_\_\_\_\_ **Conviction; rehabilitation.** A person who has been convicted of a serious crime as defined under these rules shall prove good moral character by demonstrating by clear and convincing evidence that the applicant is rehabilitated and satisfies all other requirements for good moral character.~~

~~\_\_\_\_\_ E. \_\_\_\_\_ **Examination.** Unless otherwise provided with respect to law faculty at the University of New Mexico and applicants for admission by motion under Rule 15-107 NMRA, all applicants shall be required to take and pass the bar examination in New Mexico or meet the requirements of these rules for admission by transferred Uniform Bar Examination score.~~

~~\_\_\_\_\_ F. \_\_\_\_\_ **Ethics exam.** Applicants must receive a minimum scaled score of eighty (80) on the Multistate Professional Responsibility Examination (MPRE) prepared and administered by the National Conference of Bar Examiners to be eligible for admission. Applicant must pass the MPRE within one (1) year after the date of notification that the applicant has passed the bar examination or within one (1) year after the date of administration of the Uniform Bar Examination in which a transferred score was earned. For purposes of this paragraph, the date of the notification shall be the date notification is mailed to the applicant by the secretary of the Board of Bar Examiners.~~

~~\_\_\_\_\_ G. \_\_\_\_\_ **Course on New Mexico law.** All applicants must submit evidence of in-person attendance at, and successful completion of, a course approved by the Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism, within three (3) years before being approved for admission.~~

~~\_\_\_\_\_ H. \_\_\_\_\_ **Certificate of understanding.** All applicants must submit a signed certificate stating that the applicant has read and is familiar with the New Mexico Rules of Professional Conduct, including the succession planning requirements set forth in Rule 16-119 NMRA; the~~



~~New Mexico Rules Governing Discipline, including the trust accounting requirements set forth in Rule 17-204 NMRA; the Creed of Professionalism of the State Bar of New Mexico; and the rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys.]~~

A. **Board records and examination records confidential.** All records of the board and its committees regarding applications it receives, investigations, interviews and hearings it conducts, and all proceedings by the board, including board meetings, committee meetings, minutes, and communications among examiners and committee members about an application, shall not be considered part of the applicant's file and shall be confidential except as provided by these rules or by order of the Supreme Court. NCBE examination information and materials shall be confidential unless authorized for release by the NCBE. The Supreme Court may request and review the board's records for any applicant without affecting the confidential status of that record.

B. **Filings with the Supreme Court not confidential.** Motions and petitions filed by the board with the Supreme Court about an application are not confidential. However, the board's submission to the Supreme Court of lists of applicants who have passed and failed the examination of the minimum competence to practice law shall be confidential until the Supreme Court makes some or all of the list public, but those portions of the list not made public shall remain confidential.

C. **Release of records to NCBE and agencies.** The board may release records of any applicant to the NCBE, and to any state's agency responsible for the licensing and discipline of lawyers. The board shall not be responsible for the confidentiality of records so released.

D. **Application copy.** An applicant may request a copy of that applicant's application and any records submitted by the applicant to the board by delivering a written request to the board along with payment of fees for preparing the copy. An applicant's request for a copy may designate a third party to receive the copy in lieu of the applicant. The board may prescribe a form for making requests for copies, and a table of fees for the preparation and delivery of copies.

E. **Written waiver of confidentiality.** An applicant may waive confidentiality of that applicant's application by written authorization. The board may prescribe a form required to be used for a waiver of confidentiality. An applicant's waiver of confidentiality under this Paragraph or Paragraph (F) shall not affect the confidential nature of documents identified in Paragraph (A).

F. **Waiver of confidentiality on filing of proceedings.** If an applicant files proceedings in any court which concerns that applicant's application, the proceedings of the board or Supreme Court about the applicant, or the board's recommendation or petition to the Supreme Court, then that applicant shall be deemed to have waived the confidentiality of the board's file about that applicant. Proceedings before, and papers and records filed with, the Supreme Court are not confidential except as required by law, as set forth in these rules, or as may be ordered by the Supreme Court.

G. **Sealing.** The Supreme Court on its own motion, or on motion of applicant or the board, may seal all or part of proceedings initiated by petition, and a record on appeal, including filings and transcripts. Any motion to seal filed by the applicant or the board shall be made under Rule 12-314 NMRA, and shall specify the portions of the record or filings for which sealing is sought.

[As amended, effective November 14, 1988; July 24, 1996; as amended by Supreme Court Order No. 05-8300-010, effective September 1, 2005; by Supreme Court Order No. 08-8300-028, effective for the February 2009 bar examination; as amended by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. 15-8300-018, effective

November 1, 2015; as amended by Supreme Court Order No. 17-8300-022, effective December 31, 2017; as amended by Supreme Court Order No. 22-8300-013, effective October 1, 2022; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

~~[Committee commentary. The requirements of this rule are intended to assist the Board of Bar Examiners in assessing whether an applicant has demonstrated~~

~~(a) the ability to reason, recall complex factual information, and integrate that information with complex legal theories;~~

~~(b) the ability to communicate with clients, attorneys, courts, and others with a high degree of organization and clarity;~~

~~(c) the ability to use good judgment on behalf of clients and in conducting one's professional business;~~

~~(d) the ability to conduct oneself with respect for and in accordance with the law;~~

~~(e) the ability to avoid acts that exhibit disregard for the rights, health, safety, and welfare of others;~~

~~(f) the ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes, and any applicable order of a court or tribunal;~~

~~(g) the ability to act diligently and reliably in fulfilling one's obligations to clients, attorneys, courts, and others; and~~

~~(h) the ability to comply with deadlines and time constraints.]~~

[Adopted by Supreme Court Order No. 10-8300-018, effective July 4, 2010; as amended by Supreme Court Order No. 22-8300-013, effective October 1, 2022; as withdrawn by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

## **[WITHDRAWN]**

### **[15-104. Application.**

~~A. **Form of application.** All applications shall be under oath on forms provided by the Board of Bar Examiners, shall contain the information relating to the applicant's qualifications and eligibility as may be required by the board, and shall include applicant's age, residence, addresses for at least the five (5) years immediately preceding the date of application, citizenship, occupations, general and legal background, and information as to the applicant's background and moral character. The Supreme Court may revoke the license of any attorney at any time upon satisfactory showing that the license was obtained by false representations, fraud, or deceit.~~

~~B. **Filing requirements.** Applications for admission to the State Bar of New Mexico shall be submitted in duplicate on forms prescribed by the Board of Bar Examiners from time to time. Applications shall be filed with the board at its executive offices. Applications to take the bar examination shall be filed as follows:~~

~~(1) The filing deadline for the February bar examination is September 20th immediately preceding the examination and the filing deadline for the July bar examination is January 20th immediately preceding the examination.~~

~~(2) Applicants seeking a re-examination must file by December 10th for the February bar examination and May 10th for the July bar examination. No application for re-examination shall be accepted after the applicable deadline.~~

~~(3) No application will be accepted after the applicable filing date set forth in this rule except upon payment of any additional late fees as required by these rules.~~

~~\_\_\_\_\_ C. Documents needed. The following documents shall be furnished with the application:~~

~~\_\_\_\_\_ (1) a copy of the Federal Bureau of Investigation identification record of the applicant and a copy of the New Mexico Department of Public Safety identification record of the applicant;~~

~~\_\_\_\_\_ (2) a credit report from one (1) of the three (3) major credit reporting agencies printed within thirty (30) days of submission of the application for admission; the credit report shall be included with the application for admission;~~

~~\_\_\_\_\_ (3) a properly authenticated transcript (sent from the law school) evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school formally accredited by the American Bar Association along with a completed law school certification on a form prescribed by the board; except that if the applicant is not a graduate of an accredited law school, the applicant shall transmit with the application~~

~~\_\_\_\_\_ (a) a certificate of admission in another state;~~

~~\_\_\_\_\_ (b) three (3) certificates vouching for the applicant's good moral character by members of the bar of the other state; and~~

~~\_\_\_\_\_ (c) one (1) or more certificates by a judge or judges of the highest court of original jurisdiction in the other state, or the clerk thereof, to the effect that the applicant has been actively engaged in the actual practice of law in that state for at least four (4) years prior to the date of the certificate, and further that applicant is in good standing in the bar of the state and has not been disbarred, been placed under disciplinary suspension, or resigned from the bar while under disciplinary investigation, is not the subject of any pending disciplinary proceedings in the state, or if the applicant has been suspended or disbarred, that the applicant has been duly reinstated. Certificates of admission from other states may be sent directly to the board under separate cover. All of those papers will be returned to the applicant in due course. Other documents submitted will be returned to the applicant, if requested, upon approval by the chair or vice chair of the board; and (4) character and fitness statements from three (3) licensed attorneys in good standing in any jurisdiction in the United States, who are familiar with the applicant's qualifications, certifying that the applicant is a person of good moral character and physically and mentally qualified for admission to the State Bar of New Mexico.]~~

~~[As amended, effective November 14, 1988; effective November 1, 1994; November 17, 1999 for bar examinations after January 1, 2001; April 9, 2002; as amended by Supreme Court Order No. 08-8300-028, "effective for the February 2009 bar examination"; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. 16-8300-004, effective immediately for applications for the February 2017 bar examination and thereafter; as amended by Supreme Court Order No. 17-8300-008, effective for applications pending or filed on or after August 4, 2017; as withdrawn by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]~~

**[WITHDRAWN]**

**[15-105. Application fees.]**

~~\_\_\_\_\_ A. Fees. Every applicant shall pay the fees as prescribed by the Board of Bar Examiners from time to time. The following fees are fixed, until changed by the board, for applicants seeking admission by examination:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ five hundred dollars (\$500.00) for applicants whose graduation from law school is less than one (1) year prior to filing the application;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ a reduced fee of one hundred dollars (\$100.00) for applicants who apply to repeat the examination within one (1) year after the first unsuccessful examination result. If the applicant does not successfully complete the examination within the first year, the applicant shall pay the full applicable application fee for all subsequent re-examinations; an additional fee may also be required by the board to update the investigative report;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ reasonable additional costs to be determined by the board, in connection with any investigations or hearings. Such costs shall include, but not be limited to, board attorney fees, court reporter fees, medical evaluations, and any other fees for services to complete the investigation and hearing. Payment of such fees shall be a prerequisite for admission or for consideration of subsequent reapplications. In all cases, the applicant shall bear the applicant's own costs associated with the application, investigation, and hearing;~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ one thousand dollars (\$1,000.00) for all other applicants;~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ late filing fees shall be assessed as follows:~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ two hundred dollars (\$200.00) if an application is received and filed on or before November 2 immediately preceding the February bar exam and April 2 immediately preceding the July bar exam; and~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ five hundred dollars (\$500.00) if an application is received and filed on or before December 2 immediately preceding the February bar exam and May 2 immediately preceding the July bar exam. No applications for first time applicants will be accepted after these dates.~~

~~\_\_\_\_\_ B. **Remittance of fees.** All remittances for fees shall be made payable to the New Mexico Board of Bar Examiners, shall be deposited to an account designated as New Mexico Board of Bar Examiners general fund, and shall be disbursed by order of the board in carrying out the functions, duties, and powers vested in said board. Application fees and costs are not refundable and will be applied toward the expenses of the board, including appropriate investigation by the National Conference of Bar Examiners.~~

~~\_\_\_\_\_ C. **Budget.** The board shall submit on or before January 1 of each year a proposed budget to the Supreme Court.~~

~~\_\_\_\_\_ D. **Audit.** The board shall likewise, on or before March 1 of each year, submit to the Supreme Court an accounting and audit of all funds received and disbursed during the prior calendar year. Such audit shall be performed by an auditor to be selected by the Supreme Court.~~

~~\_\_\_\_\_ E. **Compensation.** Members of the board shall receive mileage and per diem at the same rate as provided for public officials and employees of the state and any other compensation for service to the board as approved by the Supreme Court.]~~

[As amended, effective August 21, 1987; November 14, 1988; December 15, 1993; November 1, 1994; April 23, 2001; August 23, 2002; December 12, 2003; as amended, by Supreme Court Order No. 05-8300-010, effective September 1, 2005; by Supreme Court Order No. 07-8300-009, effective April 17, 2007; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 13-8300-048, effective December 6, 2013, for applications for the July 2014 bar examination and subsequent bar examinations; as amended by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. 17-8300-008, effective for applications pending or filed on or after August 4, 2017; as withdrawn by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[WITHDRAWN]**

**[15-106. Repeat applications.]**

~~There shall be no limit on the number of repeat examinations an applicant may take. However, a completely new application shall be filed for each examination, accompanied by the appropriate application fee prescribed by Rule 15-105 NMRA. The secretary shall cause an appropriate reinvestigation of fitness to be made if directed by the board, or, if the applicant's last investigative report was dated more than fifteen (15) months prior to the date of the latest application, and charge a fee under Rule 15-105 NMRA. Applicants seeking reexamination must file their application for repeat examination in accordance with the deadlines set forth in Rule 15-104 NMRA.]~~

~~[As amended, effective November 1, 1994; July 8, 2003; as withdrawn by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]~~

**[WITHDRAWN]**

**[15-107. Admission by motion.]**

~~A. An applicant who meets the requirements of Rules 15-103 and 15-104 NMRA and this rule may, upon motion, be admitted to the practice of law in New Mexico if the applicant~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ has been admitted to practice law in one (1) or more reciprocal states, territories, or protectorates of the United States of America, or the District of Columbia, as such are defined in Paragraph F of this rule and is currently an active member in good standing in at least one (1) reciprocal state and has been admitted to and engaged in the active practice of law as defined in Paragraph D of this rule in one (1) or more states, territories, or protectorates of the United States of America, or the District of Columbia, including New Mexico, for at least five (5) of the past seven (7) years preceding application to New Mexico;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ has never been denied certification because of character and fitness to practice law in New Mexico or any other state;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ has not, within the five (5) years preceding application under this rule, taken and failed the New Mexico Bar Examination;~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ is not now nor ever has been admitted to the practice of law in New Mexico, unless the applicant voluntarily withdrew or resigned from membership in the State Bar of New Mexico while in good standing;~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ has not been previously denied admittance to practice law on application or motion to practice law in New Mexico or any other state;~~

~~\_\_\_\_\_ (6) \_\_\_\_\_ has not previously engaged in the unauthorized practice of law in New Mexico or any other state;~~

~~\_\_\_\_\_ (7) \_\_\_\_\_ establishes that the applicant is currently a member in good standing in every state where the applicant is admitted to practice law or, if the applicant is not presently a member eligible to practice in a state, territory, protectorate, or District of Columbia, establishes that the applicant resigned in good standing. An applicant who is disbarred or suspended for any reason from the practice of law in another state at the time of filing an application for admission on motion shall not be eligible for admission on motion;~~

~~\_\_\_\_\_ (8) \_\_\_\_\_ submits evidence of a passing scaled score on the Multistate Professional Responsibility Examination as described in Paragraph E of Rule 15-205 NMRA;~~

~~\_\_\_\_\_ (9) \_\_\_\_\_ otherwise establishes to the satisfaction of the Board and the Supreme Court of New Mexico that the applicant possesses the character and fitness to practice law in this state; and~~

~~\_\_\_\_\_ (10) \_\_\_\_\_ submits evidence of in-person attendance at, and successful completion of, a course approved by the Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism, before being approved for admission.~~

~~\_\_\_\_\_ B. **Amendment of application.** Every applicant is required promptly to amend his or her application in the event any of the answers on the application has been affected by intervening conduct or events.~~

~~\_\_\_\_\_ C. **Documents needed.** The following documents shall be furnished with each application, in addition to any and all other information that may be required by the Board:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ a copy of the Federal Bureau of Investigation identification record of the applicant and a copy of the New Mexico Department of Public Safety identification record of the applicant;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ a properly authenticated transcript (sent from the law school) evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school formally accredited by the American Bar Association including a completed law school certification on a form prescribed by the Board;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ a certificate of admission, currently valid license to practice law, or certificate of good standing from every state where admitted;~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ character and fitness statements from three non-related licensed attorneys in good standing in every state where the applicant is licensed to practice law, who are familiar with the applicant's qualifications, certifying that the applicant is a person of good moral character and physically and mentally qualified for admission to the bar of New Mexico;~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ a letter from the grievance or disciplinary entity of every state, district, territory, protectorate, province or foreign country in which the applicant is admitted indicating that there are no disciplinary complaints or charges pending against the applicant;~~

~~\_\_\_\_\_ (6) \_\_\_\_\_ one (1) or more certificates by a judge or judges of the highest court of original jurisdiction, or the clerk thereof, or by the authority designated in such other state to provide such certificate or certificates to that effect that~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ the applicant has been eligible to engage in the actual practice of law in that state for at least five (5) of the seven (7) years immediately prior to the date of the certificate;~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ the applicant is in good standing in the bar of such state and has not been disbarred, placed under disciplinary suspension, or resigned from such bar while under disciplinary investigation;~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ the applicant is not the subject of any pending disciplinary complaints or proceedings in such state; and~~

~~\_\_\_\_\_ (d) \_\_\_\_\_ if the applicant has been suspended or disbarred, that the applicant has been duly reinstated; and~~

~~\_\_\_\_\_ (7) \_\_\_\_\_ an affidavit executed by the applicant describing the applicant's active practice of law for the required durational period in every applicable jurisdiction, which shall include a detailed explanation of how it satisfies the definition of the active practice of law as set forth in Paragraph D of this rule.~~

~~\_\_\_\_\_ D. **Active practice of law defined.**~~

~~\_\_\_\_\_ (1) For the purposes of this rule, the “active practice of law” shall include the following activities, if performed in a state in which the applicant is admitted and authorized to practice law, or, if performed in a state that affirmatively permits such activity by a lawyer not admitted in that state, however, in no event shall any activities performed pursuant to any rule regarding the practice of law pending admission or in advance of bar admission in another state be accepted toward the durational requirements:~~

- ~~\_\_\_\_\_ (a) representation of one or more clients in the private practice of law;~~
- ~~\_\_\_\_\_ (b) service as a lawyer with a local, state, territorial or federal agency, or governmental branch, including United States military service with any branch of the United States military;~~
- ~~\_\_\_\_\_ (c) full time teaching at a law school formally accredited by the American Bar Association;~~
- ~~\_\_\_\_\_ (d) service as a judge in a local, state, territorial, or federal court of record of the United States;~~
- ~~\_\_\_\_\_ (e) service as a judicial law clerk in a local, state, territorial, or federal court of record of the United States;~~
- ~~\_\_\_\_\_ (f) service as in-house counsel provided to the applicant’s employer or its organizational affiliates; or~~
- ~~\_\_\_\_\_ (g) any combination of the above.~~

~~\_\_\_\_\_ (2) “Full time, gainful employment in the performance of legal services” is defined for the purpose of this rule to require that during each of the required five (5) years in the durational period, the applicant spent at least one thousand (1,000) hours per year engaged in one or more of the activities listed above, and derived at least fifty percent (50%) of the applicant’s non-investment income from such activity or activities.~~

~~\_\_\_\_\_ (3) The active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the state in which it was performed or in the state in which the clients receiving the unauthorized services were located.~~

~~\_\_\_\_\_ E. **Application and filing fees.** Any applicant seeking admission to the practice of law on motion shall meet the requirements of Paragraphs A through D of this rule and shall~~

~~\_\_\_\_\_ (1) file an application for admission by motion, including character and fitness investigation information, in a manner established by the Board, including all required supporting documents;~~

~~\_\_\_\_\_ (2) pay the non-refundable application fee of two thousand five hundred dollars (\$2,500). There shall be no refund of, or credit for, this application fee for any reason, including but not limited to denial of admission, withdrawal of the application, or failure to pursue admission after application, regardless of the date of notification by the applicant; and~~

~~\_\_\_\_\_ (3) as provided in Subparagraph (A)(3) of Rule 15-105 NMRA, pay all costs as determined by the Board in connection with any investigation and hearings, and bear his or her own costs associated with any application, investigation, and hearing.~~

~~\_\_\_\_\_ F. **Reciprocal states.** Upon recommendation by the Board and due consideration by the Supreme Court of New Mexico, the Court shall approve and maintain a list of states considered “reciprocal” to New Mexico for purposes of this rule, and that list shall be posted publicly on the Board’s website. Upon recommendation of the Board, or on the Court’s own motion, the Court may modify the list of reciprocal states based upon recognition of rule changes in the various states and other relevant considerations in the Court’s discretion. The status of reciprocal states will be~~

~~considered current as of the later of June 1, 2015, or the date of receipt of an application for admission by motion and the current “reciprocal” status of states determined applicable to that applicant as of such date.]~~

[Adopted by Supreme Court Order No. 14-8300-001, effective June 1, 2015; as amended by Supreme Court Order No. 14-8300-021, effective June 1, 2015; as withdrawn by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

## **ARTICLE 2 ~~[Examinations]~~ Admission Requirements and Procedures**

### **15-201. ~~[Written examination.]~~ Admission to the practice of law.**

~~[A. — **Necessity.** All applicants for admission to the bar of New Mexico shall be required to take and pass a written examination prescribed by the Board of Bar Examiners in accordance with these rules.~~

~~B. — **Purpose.** The bar examination shall be designed to test the applicant’s minimum competence to practice law in this state.]~~

A. **Requirements for practice of law.** Unless otherwise ordered by the Supreme Court, no person may practice law in New Mexico or be an active member of the State Bar of New Mexico until that person has qualified and met the requirements of these rules to the satisfaction of the Supreme Court.

B. **Delegation to board.** The board shall administer the process for admission, including determining whether an applicant has the necessary qualifications and meets the requirements prescribed by these rules, recommending an applicant’s admission to the Supreme Court, and other steps for finalizing an applicant’s licensure as may be delegated by the Supreme Court.

C. **Methods of licensure.** The various methods of licensure by which a person may apply for admission, and the qualifications and requirements for each license, are described in Article 3 of these rules.

D. **Admission process.** Any applicant desiring admission must, for the applicant’s desired method of licensure:

(1) Submit to the board an application identifying the method of licensure being applied for, the required information described for that license, and any additional information requested by the board;

(2) Pay to the board the fees required for the method of licensure;

(3) Prove the applicant meets the qualifications, including character and fitness, as described for the method of licensure; and

(4) On issuance of an order authorizing that applicant’s admission, comply with the admission procedures described for the method of licensure.

E. **Jurisdiction.** Submission of an application shall subject an applicant to the jurisdiction of the Supreme Court and the board. If a license to practice law is granted to an applicant, the board’s jurisdiction over the applicant shall terminate three (3) years after grant of the license. The board’s jurisdiction over an applicant who has withdrawn an application or who has been denied admission shall terminate thirty (30) days after the withdrawal or denial and conclusion of any appeal thereof.

F. **Revocation.** In addition to any grounds and procedures for revocation specified for a method of licensure, the board may hold a hearing to recommend to the Supreme Court the



revocation of any license obtained by an applicant's false representations, fraud, or deceit in the application process. The Supreme Court may revoke a license at any time on satisfactory showing that the license was obtained by an applicant's false representations, fraud, or deceit.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary. —**

[1] See Restatement (Third) of Law Governing Lawyers, section 2.

[2] See Rule 24-101 NMRA; Section 36-2-27, NMSA 1978; Section 45-51-10 NMSA 1978.

[3] See Section 36-2-24 NMSA 1978 (within three years, the court may revoke a license obtained by false representation, fraud or deceit).

[4] Rules regarding *pro hac vice* practice are contained in Rule 24-106 NMRA.

[5] Rules governing admission as an emeritus attorney are addressed in Rule 24-111 NMRA.

[Adopted by Supreme Court Order \_\_\_\_\_, effective for all applications submitted after \_\_\_\_\_.]

**15-202. [Admission by transferred Uniform Bar Examination score.] Qualifications.**

[An applicant who meets all other requirements of these rules may be admitted to practice law in New Mexico if the applicant has earned a total scaled score of two hundred sixty (260) or higher of the Uniform Bar Examination taken in another jurisdiction within thirty-six (36) months preceding the date of application for admission.]

A. **Required qualifications.** Every applicant for any method of licensure shall prove to the satisfaction of the board that the applicant possesses each of the following qualifications:

(1) **Age.** Is at least eighteen (18) years of age;

(2) **Law degree.** Is a graduate with a juris doctor or bachelor of laws and letters degree (but not only a masters of law degree) from a law school that is:

(a) formally accredited by the ABA; or

(b) not formally accredited by the ABA, in which event the applicant must also show admission to the practice of law in one or more other states for at least four (4) of the six (6) years immediately preceding submission of an application under these rules;

(3) **Good standing.** Is, for every state in which applicant has ever been admitted to practice law, in good standing, by providing a certificate to that effect from each state in which applicant has ever been licensed;

(4) **Child support obligations.** Is in compliance with all child support and spousal support obligations imposed under a "judgment and order for support" as defined in the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978, or imposed under a child support or spousal support order entered by a court of any state. Any applicant who is subject to an order shall provide evidence acceptable to the board of compliance with all applicable child and spousal support orders. An applicant who has appeared on the State of New Mexico Human Services Department's certified list of obligors shall submit a certified statement from that department showing applicant is in compliance with the judgment and order for support; and

(5) **Certificate of understanding.** Has read and is familiar with (a) the New Mexico Rules of Professional Conduct, including the succession planning requirements set forth in Rule 16-119 NMRA, (b) the New Mexico Rules Governing Discipline, including the trust accounting requirements set forth in Rule 17-204 NMRA; (c) the Creed of Professionalism of the State Bar of New Mexico; (d) the rules of the Supreme Court of New Mexico; and (e) the New

Mexico statutes relating to the conduct of attorneys; proof shall be made by submitting a signed certificate in a form prescribed by the board confirming compliance with this subparagraph, and that the applicant understands those items.

**B. Citizenship or immigration status.** An applicant shall inform the board whether the applicant is a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States, although admission shall not be denied solely on that status.

[As amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary. —**

[1] The requirements of this rule are intended to assist the board in assessing whether an applicant has demonstrated:

(a) the ability to reason, recall complex factual information, and integrate that information with complex legal theories;

(b) the ability to communicate with clients, attorneys, courts, and others with a high degree of organization and clarity;

(c) the ability to use good judgment on behalf of clients and in conducting one's professional business;

(d) the ability to conduct oneself with respect for and in accordance with the law;

(e) the ability to avoid acts that exhibit disregard for the rights, health, safety, and welfare of others;

(f) the ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes, and any applicable order of a court or tribunal;

(g) the ability to act diligently and reliably in fulfilling one's obligations to clients, attorneys, courts, and others; and

(h) the ability to comply with deadlines and time constraints.

[2] See section 40-5A-10 NMSA 1978 (requirements specified in Parental Responsibility Act).

[3] See Rules 23-101 through 23-115 NMRA (New Mexico Supreme Court General Rules).

[4] See NMSA 1978, §§ 36-1-1 through 36-3-10 (New Mexico statutes relating to the conduct of attorneys).

[5] See the Creed of Professionalism of the State Bar of New Mexico.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_]

**15-203. [Subjects for examination.] Application.**

[The examination shall be the Uniform Bar Examination (UBE) prepared by the National Conference of Bar Examiners and comprised of six (6) Multistate Essay Examination (MEE) questions, two (2) Multistate Performance Test (MPT) items, and the Multistate Bar Examination (MBE). Applicants may be tested on any subject matter listed by the National Conference of Bar Examiners as areas of law to be tested on the UBE. Questions will be unlabeled and not necessarily limited to one (1) subject matter.]

**A. Form of application.** All applications shall:

(1) be made under oath;

(2) be on forms or in a method as may be required by the board;

(3) include applicant's full name, any aliases or other names used, age, current residence, residential addresses for at least the five (5) years immediately preceding the date of application, citizenship, occupations, general and legal background, information as to the applicant's background and moral character, and other information as may be required by the board; and

(4) contain any information relating to the applicant's qualifications and eligibility as may be required by the board.

B. **Additional documentation.** Unless otherwise specified for the chosen method of licensure, after submitting an application, an applicant shall cause to be submitted to the board the following within the prescribed time period:

(1) **Credit report.** A full credit report issued by one (1) of the three (3) major credit reporting agencies, and printed within thirty (30) days of submission of the application for admission.;

C. **Separate documentation.** Unless otherwise specified for the chosen method of licensure, an applicant shall promptly arrange for the following to be submitted to the board directly from the appropriate issuing person or body:

(1) **Transcript.** A properly authenticated law school transcript evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school;

(2) **Law school certification form.** A grant of permission, in a form prescribed by the board, permitting the board to obtain specified information from applicant's law school;

(3) **Fingerprints.** Fingerprints pursuant to a method or service prescribed by the board, for the purposes of obtaining applicant's identification record from the Federal Bureau of Investigation and New Mexico Department of Public Safety; and

(4) **Character and fitness statements.** Character and fitness statements from three (3) actively licensed attorneys certifying that the applicant is a person of good moral character and physically and mentally qualified for admission; the statements must be from persons who are in good standing in any state, familiar with the applicant's qualifications, and not related to applicant.

D. **Documentation if admitted to another bar.** Unless otherwise specified for the chosen method of licensure, for each state in which an applicant is, or has previously been admitted to practice law, the applicant shall also arrange for the following to be submitted directly to the board:

(2) **Good standing certificate.** One (1) or more certificates by the state's law license issuing authority to the effect that the applicant:

(a) is in good standing to practice law and has not been disbarred, been placed under suspension, or resigned from the practice of law while under disciplinary investigation,

(b) is not the subject of any pending disciplinary investigations or proceedings, and

(c) if the applicant has been suspended or disbarred, that the applicant has been duly reinstated;

(2) **Disciplinary history.** A document showing the applicant's disciplinary history from that state's issuing authority, describing all of the applicant's history of discipline that is disclosable based on that state's rules and policies.

(3) **Unaccredited law school applicants.** If the applicant is not a graduate of a law school accredited by the ABA at the time of the applicant's graduation:

(a) The character and fitness statements referenced above must be from members of the bar of each state in which applicant is admitted; and

(b) Each of the good standing certificate(s) referenced above must also state that the applicant has been licensed to practice law in that state for at least four (4) years before the date of the certificate.

E. **Course on New Mexico law.** All applicants must submit to the board, prior to being issued a license, evidence of attendance at, and successful completion of, a course approved by the board or Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism.

F. **Filing deadlines.** The filing deadlines, if any, for an application and required documentation, are as described in the rule for each method of licensure. For any application-related deadline specified in these rules, a filing shall be considered timely if the document is submitted in the manner specified by the board before 5:00 p.m. Mountain Time on the day of the deadline. The board shall not accept an application filed after the specified deadlines.

G. **Updating required.** Throughout the pendency of an application, including any character and fitness review, and any period during which a matter is on appeal to the Supreme Court, an applicant shall continually update the board with respect to all matters inquired of in the application or by the board.

H. **Repeat applications.** The number of repeat applications for any method of licensure that an applicant may make, or the number of examinations that an applicant may take, is unlimited. Thus, if an applicant is denied admission, withdraws an application, or after submitting an application does not receive a license for any other reason, the applicant may again submit an application according to Rule 15-201(D) NMRA. Any resubmitted application shall be accompanied by payment of all prescribed fees for the selected method of licensure, however if the date of the investigative report in the applicant's records for prior application is less than twelve (12) months old, then before submitting the application, the applicant may contact the board to request waiver of the investigation fee. The board's decision regarding the waiver of the investigation fee shall be final and not subject to review or appeal.

I. **Withdrawal of application.** An applicant may, at any time before admission or denial of admission, withdraw an application by giving notice to the board. The board may deem an applicant's application withdrawn if the applicant has failed to submit all documents requested by the board by twelve (12) months after the submission date of the application, although an applicant may request a six (6)-month extension of time to submit documents requested by the board by submitting a written request before the expiration of the twelve (12) month period. An applicant whose application has been withdrawn may file a new application following the procedure described in Rule 15-201(D) NMRA. Fees and costs paid on a withdrawn application shall be forfeited, and not be returned except as described in Rule 15-204 NMRA.

J. **Document retention and destruction.** No original papers submitted by an applicant will be returned. The board may destroy documents in compliance with records retention requirements set forth in 1.21.2.667-668 NMAC.

K. **No deferrals.** An application may not be deferred.

[As amended, effective November 14, 1988; July 24, 1996; February 28, 2002; as amended by Supreme Court Order No. 07-8300-004, effective March 1, 2007; as amended by Supreme Court Order No. 14-8300-021, effective for the February 2015 bar examination and subsequent bar examinations; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[REINSTATED]**

**15-204. Fees and costs.**

A. **Application fees and costs.** Every submitted application shall be accompanied by the fees and costs described in the rule for the applicant's chosen method of licensure in the manner identified by the board. Except for deposits made under Subparagraph (C) of this rule, all fees and costs paid to the board under these rules shall be non-refundable. Regardless of timing, fees and costs shall not be returned by the board for any reason, including but not limited to denial of admission, withdrawal of an application, and failure to pursue admission after application.

B. **Pass-through costs.** Applications for certain methods of licensure require the board to purchase services and materials, or obtain information directly from certain sources, the actual costs for which shall be directly passed through to an applicant. The board shall publish a schedule of the items and the costs, which shall be updated by the board from time to time. The board may collect some pass-through costs up front, may direct the applicant to pay some pass-through costs directly to the vendor, or may require payment of pass-through costs as they are incurred (or about to be incurred) by the board. Items for which costs and fees are passed through to an applicant may include, but are not limited to:

- \_\_\_\_\_ (1) NCBE investigation;
- \_\_\_\_\_ (2) NCBE application;
- \_\_\_\_\_ (3) NCBE scoring;
- \_\_\_\_\_ (4) MPRE score transfer or reporting as may be required by the NCBE;
- \_\_\_\_\_ (5) UBE score transfer or reporting as may be required by the NCBE;
- \_\_\_\_\_ (6) law school transcripts requested by the board;
- \_\_\_\_\_ (7) Certificates of Good Standing and Certificates of Disciplinary History requested by the board;
- \_\_\_\_\_ (8) Fingerprinting;
- \_\_\_\_\_ (9) Credit reports; and
- \_\_\_\_\_ (10) Examination materials.

C. **Advance deposits against certain costs.** If the board requires an applicant to place funds on deposit in anticipation of the board incurring certain costs related to character and fitness evaluations, any hearing, and any appeals, the applicant shall submit the required funds to the board which shall be placed in an IOLTA account. The board shall apply the deposited funds to actual costs as they are incurred, and account to applicant as funds are expended. On payment of the final invoice of costs, the board shall return any surplus funds to applicant. If the funds on deposit are less than the costs incurred, applicant shall the pay the deficiency to the board.

[Withdrawn by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as reinstated and amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**15-205. [~~Grading and scoring.~~] Evaluation of qualifications, character and fitness.**

~~[—— A.—— **Policies and graders.** Subject to the approval of the Supreme Court, the Board of Bar Examiners may adopt grading policies as it deems appropriate provided the policies are not inconsistent with the policies applicable to grading of the UBE as coordinated by the National Conference of Bar Examiners. Graders shall be appointed by the Board of Bar Examiners for the grading of examinations.~~

~~—— B.—— **Nonidentity grading.** Every applicant shall be assigned an examination number at random. Grading of the MEE and MPT answers shall be strictly anonymous, and the information matching the names and code numbers of the applicants shall be kept in the custody of the secretary of the board, or such other person as is designated by the board, until all papers have been finally graded, all numerical or percentage grades for each applicant have been compiled, and each applicant has been determined by examination number to have either passed or failed the bar examination.~~

~~—— C.—— **Weighting; scaling; minimum passing score.** The raw scores assigned to the MEE and MPT answers by the graders shall reflect the relative quality of each answer (ranging from non responsive to well above average). The MEE and MPT raw scores shall be combined and converted to the MBE scale to calculate written scaled scores according to the method used by the National Conference of Bar Examiners for jurisdictions that administer the UBE. The written scaled scores and the MBE scaled scores shall be combined to determine UBE total scores, with the MEE weighted thirty percent (30%), the MPT weighted twenty percent (20%), and the MBE weighted fifty percent (50%). Scaled scores shall be used to assure that the standard used to measure competence is not affected by the difficulty of the particular test or the ability of the applicants sitting for a particular examination. A total UBE score of two hundred sixty (260) shall be the minimum passing score.~~

~~—— D.—— **Uniformity of grading.** In order to assure maximum fairness and uniformity in grading, the Board of Bar Examiners shall prescribe standards for grading to be used by all graders. To the extent possible, all the answers to a particular question should be graded by the same grader.~~

~~—— E.—— **Ethics exam.** The Board of Bar Examiners shall test applicants on professional responsibility and legal ethics by separate examination. Regardless of test results on the other examination parts, applicants must receive a minimum scaled score of eighty (80) on the MPRE to be eligible for admission. A passing scaled score of eighty (80) or above achieved no more than five (5) years before filing a first application for admission in New Mexico will be accepted. The MPRE must be passed by the applicant within one (1) year after the date of notification that the applicant has passed the MEE, MPT, and MBE parts of the examination or within one (1) year after application for admission by transfer of Uniform Bar Examination score or admission on motion. For purposes of this paragraph, the date of notification shall be the date notification is mailed to the applicant by the secretary of the board.]~~

A. **Purpose; burden.** To assure the protection of the public and to safeguard the justice system, an applicant for any methods of licensure must prove the applicant is qualified, has good character, and is fit to practice law.

B. **Applicant's history.** To enable the board to evaluate an applicant's character and fitness, an applicant shall inform the board of applicant's history regarding the following:

- a. unlawful conduct;
- b. academic misconduct;
- c. misconduct in employment;
- d. acts involving dishonesty, fraud, deceit, or misrepresentation;

- e. acts which demonstrate disregard for the rights or welfare of others;
- f. abuse of legal process, including the filing of vexatious or frivolous lawsuits;
- g. neglect of financial responsibilities or professional obligations;
- h. violation of an order of a court, including child support orders;
- i. conduct that evidences current mental or emotional instability that may impair the ability to practice law;
- j. conduct that evidences current drug or alcohol dependence or abuse that may impair the ability to practice law;
- k. denial of admission to the bar in another jurisdiction on character and fitness grounds;
- l. disciplinary action by a lawyer disciplinary agency or other professional disciplinary entity;
- m. suspension of a lawyer's license by any entity, including suspensions for non-payment of dues and failure to comply with mandatory continuing legal education requirements;
- n. making of false statements, including omissions, on bar applications in any state; or
- o. as otherwise determined by the board for just and good cause.

C. **Review.** The board shall review each application to determine whether an applicant is qualified for admission including whether the applicant's present character and fitness qualifies the applicant for admission. To enable the board to reach a determination, an applicant shall supply additional information as requested by the board. The board may conduct further inquiry into an applicant's qualifications by conducting investigations, interviews, and hearings as described in Article 4.

D. **Factors considered.** In making its determination, the board shall consider the following factors in assigning weight and significance to an applicant's prior conduct:

- a. the applicant's age at the time of the conduct;
- b. the recency of the conduct;
- c. the reliability of the information about the conduct;
- d. the seriousness of the conduct;
- e. the factors underlying the conduct;
- f. the cumulative effect of the conduct or information;
- g. the evidence of rehabilitation;
- h. the applicant's positive social contributions since the conduct;
- i. the applicant's candor in the admissions process; and
- j. the materiality of any omissions or misrepresentations.

E. **Conviction; rehabilitation.** An applicant who has been convicted of a serious crime must put forth clear and convincing evidence of good moral character by showing that applicant is rehabilitated and satisfies all other requirements for good moral character.

[As amended, effective November 14, 1988; November 1, 1994; July 17, 1995; July 24, 1996; July 6, 1998; February 28, 2002; as amended by Supreme Court Order No. 11-8300-032, effective September 1, 2011; as amended by Supreme Court Order No. 13-8300-048, effective December 6, 2013, for applications for the July 2014 bar examination and subsequent bar examinations; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by

Supreme Court Order No. 16-8300-004, effective immediately for applications for the February 2017 bar examination and thereafter; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**15-206. [~~Examination results.~~] Requirements of licensees.**

[A. — **Notification.** Upon completion of grading, the secretary of the board shall notify each applicant of the results of the applicant's examination, and such other information as the board may deem to be appropriate.

— B. — **Publication.** Bar examination statistics and other information determined by the board or Supreme Court to be nonconfidential may be made available to prospective students, applicants, members of the legal profession and to members of the public who are interested in standards for admission to the bar.]

On admission under these rules, and except as described in the rule pertaining to a licensee's method of licensure, a licensee shall:

- A. be a member of the State Bar of New Mexico;
- be subject to the Rules of Professional Conduct and the Rules Governing Discipline;
- B. pay the applicable annual State Bar of New Mexico membership fee;
- C. pay annual disciplinary fees assessed under Rule 17-203(A) NMRA;
- D. comply with the Rules for Minimum Continuing Legal Education, Rules 18-101 to -303 NMRA; and
- E. comply with any other requirements for maintaining in good standing a license to practice law.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**15-207. [~~Unsuccessful applicants; right of inspection.~~] Licensure.**

[A. — **Test scores; inspection.** Beginning thirty (30) days after notice to the applicant involved and ending on the sixtieth (60th) day thereafter, any unsuccessful applicant shall be entitled to the applicant's MBE, MEE, and MPT scores and shall be entitled under conditions specified by the board to a reasonable inspection of the following:

- (1) — the MEE and MPT questions of the examination;
- (2) — the applicant's answers to such MEE and MPT questions; and
- (3) — sample answers for each question.

— B. — **Inspection not allowed.** No inspection of the Multistate Bar Examination, Multistate Essay Examination, Multistate Performance Test, or the Multistate Professional Responsibility Examination questions or answers shall be allowed unless authorized by the National Conference of Bar Examiners.

— C. — **Bar examination grading.** Any applicant who has failed the bar examination but is otherwise qualified for admission may, within thirty (30) days of notice to the applicant of examination results, upon written request, cause the board (or member or secretary thereof) to review the mathematical accuracy of the scoring of the applicant's examination. There shall be no right to hearing or appeal with regard to the grade that an applicant received for answers to exam questions; provided, however, that before the publication of the results of the exam, a committee of the board shall review and regrade as necessary the MEE and MPT answers for any applicant



~~whose total UBE score is within six (6) points below the minimum passing score. The total UBE score after the regrade shall be the final score for that applicant.]~~

A. **Recommendation and order.** On determination that an applicant has qualified for admission, the board shall recommend admission to the Supreme Court, and identify whether the license is a limited license. On receipt of the board's recommendation, the Supreme Court may review an applicant's application and record, and if satisfied the applicant is qualified, enter an order granting the applicant admission subject to any limitations or conditional admission identified by the board or imposed by the Supreme Court. If the Supreme Court is not satisfied an applicant is qualified, it may refuse the board's recommendation, set the matter for oral argument, remand the matter to the board for further proceedings, or take other action it deems appropriate.

B. **Admitted applicants; roll of attorneys; swearing-in; deadline.** An applicant who receives an order granting admission shall sign the roll of attorneys and be sworn-in using the oath in Rule 15-208 NMRA. Admitted applicants may be sworn-in and sign the roll of attorneys: (1) at a ceremony arranged by the board and Supreme Court; or (2) by making arrangements with the Clerk of the Supreme Court. All admitted applicants shall complete this process within six (6) months of the date of the order granting admission. If, before the expiration of this six (6) month deadline, the board receives a written request from an applicant showing good cause for an extension, the board may grant an extension. Any applicant who fails to complete the process by the deadline without timely extension shall be deemed to have withdrawn the application for admission.

[As amended, effective November 1, 1994; July 24, 1996; as amended by Supreme Court Order No. 11-8300-032, effective September 1, 2011; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. \_\_\_\_\_; effective \_\_\_\_\_.]

**15-208. [Periodic studies.] Oath.**

~~[A thorough study should be made of the bar examination results periodically to determine its effectiveness and to discover defects and suggest improvements in the bar examination system.]~~

I, \_\_\_\_\_, do solemnly swear or affirm:

I will support the Constitution of the United States and the Constitution of the State of New Mexico;

I will maintain the respect due to courts of justice and judicial officers;

I will comply with the Rules of Professional Conduct adopted by the New Mexico Supreme Court;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval;

I will maintain civility at all times, abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;

I will never reject from any consideration personal to myself the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.

[As amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

### **ARTICLE 3 [~~Admission~~] Methods of Licensure**

#### **15-301. [~~Investigation, interviews and appeals.~~] Examination method.**

~~[A. — **Investigations.** The board shall conduct an investigation and otherwise inquire into and determine the character, fitness, and general qualifications of every applicant for admission. In every investigation and inquiry the board may obtain information relating to the character, fitness, and general qualifications of the applicant; and may take and hear testimony, administer oaths and affirmations, and compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents. Any member of the board may administer the oaths and affirmations. Investigations and inquiries shall be informal, but shall be thorough, with the object of ascertaining the truth. Technical rules of evidence need not be observed. Any hearing for that purpose may be held by a division of the board consisting of not less than three (3) members of the board, and the board chair, the board vice chair, or a member of the board appointed by the board chair to preside shall serve as the division's presiding officer, who shall have power to issue subpoenas. A complete record shall be made of all hearings held under this rule, and each applicant shall be advised of the nature of any allegations or charges made which may lead to denial of licensure, and may cross examine adverse witnesses, be represented by counsel, and present relevant evidence. Subpoenas shall be freely issued on the written request of any applicant. Failure to respond to subpoenas issued under this rule will be an act of contempt of the Supreme Court and shall forthwith be reported by the board to the Supreme Court.~~

~~——— B. — **Interviews.** The board, any member of the board, or a committee of the board, shall investigate and may hold interviews as to an applicant's qualification. An interview is not a "hearing" as described in these rules; however, information gathered at an interview of the applicant shall be admissible at hearings and an applicant's truthfulness shall be considered relevant to the applicant's qualifications.~~

~~——— C. — **Hearings.** The board may hold a hearing on the qualifications of any applicant. The hearing may be held by a committee consisting of not less than three members, of whom no fewer than one (1) shall be a member of the board. Members of hearing committees shall be members of the bar of this state, appointed by the chair of the board upon recommendation of the board. The chair of the board or any member of the board appointed by the chair shall chair the committee. The applicant shall be advised of the nature of the subject and purpose of the hearing and may cross examine witnesses, be represented by counsel, and present evidence on the applicant's behalf. A record shall be made of all committee hearings. The committee chair shall have the power to issue subpoenas on behalf of the committee. Subpoenas shall be freely issued on the written request of the applicant. Failure to respond to a committee subpoena will be an act of contempt of the Supreme Court and shall be reported by the board to the Supreme Court.~~

~~——— D. — **Appeals.** If after a hearing the board refuses to recommend the admission of an applicant, the board shall make written findings of fact and conclusions. The findings and conclusions of the board shall be filed with the secretary of the board and a copy sent by certified or registered mail to the applicant. Any applicant aggrieved by a decision or action of the board may within sixty (60) days after the date of mailing of the findings and conclusions to the applicant,~~

~~appeal to the Supreme Court by filing a petition and brief in chief with the clerk of the Court specifying wherein the board has erred, and by serving copies on the secretary of the board. A docketing statement and docket fee will not be required. The record on appeal to the Supreme Court shall consist of the application and file of the board, the record of the hearing, whether by tape recording or transcript, and the findings and conclusions of the board. Within forty five (45) days after the board has received the petition on appeal it will file a response. Oral arguments shall be made in accordance with the Rules of Appellate Procedure. The petitioner shall be responsible for making satisfactory arrangements with the secretary of the board for the record on appeal, whether by tape recording or transcript. The Supreme Court may tax the costs of appeal against the petitioner or the board, or partially against both, as it may deem equitable.]~~

A. **Description.** As further specified in this rule, a qualified applicant may apply for a license to be issued on applicant's satisfactory completion of all requirements for this method of licensure, including receipt of a passing score on the bar examination. Recent law school graduates typically select this method of licensure, although the method of licensure described in this rule may be sought by any qualified applicant.

B. **Application deadlines.** A complete application for a license under this rule, along with required fees, must be submitted to the board on or before the deadlines specified below. An application may not be submitted more than nine (9) months before an examination date. An application submitted after the pertinent filing deadline will be rejected.

(1) September 20 to take the examination the following February;

(2) December 10, plus the late-filing fee, to take the examination the following February;

(3) January 20 to take the examination the following July; or

(4) May 10, plus the late-filing fee, to take the examination the following July.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and must pass all examinations described in Rule 15-501(A) NMRA.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph (C), then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA;

(2) the applicant may take examinations described in Article 5, even if a character and fitness evaluation is not yet complete; and

(3) on the board's determination the applicant is qualified and possesses the requisite character and fitness, and that the applicant has passed all examinations, the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant, and the applicant shall comply with the requirements of Rule 15-207(B) NMRA.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court;

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA; and

(3) **Late fee.** When applicable as set forth in Paragraph (B) of this rule, a late fee of \$500.00.

G. **Specific ongoing requirements.** An applicant approved for a license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA.

H. **Limitations.** A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. **Expiration.** A license issued under this rule does not expire.

J. **Suspension of license.** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 20-8300-001, effective August 31, 2020; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

### **15-302. [Admission to practice.] UBE score transfer method.**

~~[A. **Time for admission.** Applicants who have qualified for admission and applicants who are being admitted with conditions set by the Supreme Court shall be granted a license to practice law in all the courts of this state. Applicants will be admitted at the next regular session of the Supreme Court following fulfillment by the applicant of all requirements of these rules. Successful applicants shall arrange with the court clerk to present themselves for admission within six (6) months after notification that they have satisfied all requirements for admission or follow the requirements for out-of-state swearing-in, as prescribed by the Board of Bar Examiners. On good cause presented in writing prior to expiration of the six (6) month period, the Board of Bar Examiners may extend the period for admission. Applicants who fail to present themselves or apply for an extension within the period above fixed, or who fail to arrange for out-of-state swearing-in as prescribed by the Board of Bar Examiners, will be deemed to have abandoned their application for admission.~~

~~B. **Reinstatement from inactive status or suspension under Rule 24-102 NMRA.**~~

~~(1) A member of the bar who has been on inactive status and in good standing in the state bar for a period of more than one (1) year under the Rules Governing the New Mexico Bar who wishes to return to active status shall be required to file an application for reinstatement to active status with the Board of Bar Examiners for recommendation to the Supreme Court, and shall be required to pay to the Board of Bar Examiners a fee of three hundred fifty dollars (\$350.00), plus any reasonable additional expenses, attorney fees, and costs in connection with any investigations and hearings as the Board of Bar Examiners deems necessary. Reinstatement shall be recommended upon a showing that the applicant satisfies all applicable requirements for an active status attorney in New Mexico. Upon receipt of a recommendation for reinstatement from the Board of Bar Examiners, the clerk of the Supreme Court shall issue a certificate of reinstatement to active status unless otherwise ordered by the Supreme Court.~~

~~(2) A member of the bar who has been suspended under Rule 24-102 NMRA and has been referred to the Board of Bar Examiners under Rule 24-102(F)(2) NMRA, who wishes to be reinstated to active status shall be required to file an application for reinstatement to active status with the Board of Bar Examiners for recommendation to the Supreme Court, and shall be required to pay to the Board of Bar Examiners a fee of three hundred fifty dollars (\$350.00), plus any reasonable additional expenses, attorney fees, and costs in connection with any investigations and hearings as the Board of Bar Examiners deems necessary. Reinstatement shall be recommended upon a showing that the applicant has remedied the deficiencies that led to the suspension, paid the reinstatement fee to the State Bar of New Mexico required under Rule 24-102(F)(1) NMRA, and satisfies all other applicable requirements for an active status attorney in New Mexico. Upon receipt of a recommendation for reinstatement from the Board of Bar Examiners, the clerk of the Supreme Court shall issue a certificate of reinstatement to active status unless otherwise ordered by the Supreme Court.~~

~~(3) Unless otherwise ordered by the Supreme Court, an applicant for reinstatement under this paragraph will not be required to take the bar examination.~~

~~C. **Reinstatement; additional condition.** The Supreme Court, as a condition of reinstatement, may impose a requirement that the applicant enroll in continuing legal education classes or a bar review course or any other requirement that the Supreme Court may deem necessary.]~~

A. **Description.** As further specified in this rule, a qualified applicant may apply for a license to be issued on applicant's satisfactory completion of all requirements for this method of licensure, including receipt of a passing score on the UBE in a state other than New Mexico.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and must provide proof that the applicant has received passing scores on all examinations described in Rule 15-501(A) NMRA within five (5) years before the date of submission of the application.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph (C), then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA; and

(2) on the board's determination the applicant is qualified and possesses the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court; and

(2) ***Investigation costs.*** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. ***Specific ongoing requirements.*** An applicant approved for a license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA.

H. ***Limitations.*** A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. ***Expiration.*** A license issued under this rule does not expire.

J. ***Suspension of license.*** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. ***Revocation.*** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 15-8300-018, effective November 1, 2015; as amended by Supreme Court Order No. 16-8300-035, effective for status changes on or after December 31, 2016; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

### **15-303. [~~Limited privilege to practice law.~~] Reciprocal license method.**

[A. ~~**Privilege afforded law professors.**~~ A law professor who is not a member of the state bar, or any lawyer or law professor who is an inactive member of the state bar, may practice as a lawyer in any state court or before any state administrative tribunal but only to the extent necessary to supervise clinical law students in a clinical law program which is approved by the law school dean.

B. ~~**Requirements and limitations for law school professors.**~~ In order to make an appearance as lawyer pursuant to this rule, the law professor must:

(1) ~~be duly employed as a full-time permanent or visiting faculty member of the University of New Mexico School of Law, teaching in a classroom setting at the law school, and supervising students in a clinical law program;~~

(2) ~~be admitted by examination to the bar of another state or the District of Columbia;~~

(3) ~~neither ask for nor receive any compensation or remuneration of any kind for services rendered by the law professor under this rule, other than salary as a law professor; and~~

(4) ~~certify in writing that the law professor has read and is familiar with the New Mexico Rules of Professional Conduct and the Rules of the Supreme Court of New Mexico and New Mexico statutes relating to the conduct of lawyers.~~

C. ~~**Certification.**~~

(1) ~~The law school dean shall certify the law professor or the supervisor in the clinical law program. This certification and the written certification as required by Subparagraph (4) of Paragraph B shall be filed with the clerk of this Court at the beginning of each academic year and shall remain in effect for that academic year.~~

(2) ~~Any law professor certified pursuant to this rule shall not be a member of the state bar but shall be subject to all disciplinary procedures provided by law, Supreme Court rule governing the discipline of lawyers, or both, and shall be required to pay the annual disciplinary fee. Any person allowed to practice under this rule may be permanently barred from~~

~~practicing law in New Mexico or receive any lesser sanction, if he is found in violation of the Rules of Professional Conduct.]~~

A. **Description.** As further specified in this rule, a qualified applicant who is already admitted to practice law in one or more reciprocal states may apply for a license to be issued on applicant's proof of having satisfied all requirements and qualifications set forth for this method of licensure.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and has received passing scores on all examinations described in Rule 15-501(A) NMRA. In addition, the applicant must:

(1) have been admitted to practice law in at least one (1) reciprocal state and currently be an active member in good standing in that state;

(2) be engaged in the active practice of law in at least one (1) reciprocal state for at least five (5) of the past seven (7) years preceding submission of the application;

(3) have never been denied a license to practice law in any state based on the applicant's character and fitness;

(4) have not, within the five (5) years preceding application under this rule, taken and failed the examination of minimum competence to practice law in New Mexico, as described in Article 5;

(5) not currently be, and have never been, admitted to the practice of law in New Mexico other than holding a limited license under these rules or voluntarily withdrew or resigned from membership in the State Bar of New Mexico while in good standing;

(6) have not been previously denied licensure in any state, when the application or motion for licensure was based on admittance in reciprocal states;

(7) have not previously engaged in the unauthorized practice of law in any state;

(8) establish that if the applicant is not presently a member eligible to practice in a state that the applicant resigned in good standing, and at the time of submitting an application has never been disbarred or suspended from practice of law in another state; and

(9) execute an affidavit describing the applicant's active practice of law for the required durational period in every applicable jurisdiction, which describe in detail how it satisfies the definition of the active practice of law as set forth in these rules.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with evaluating the applicant's character and fitness.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph (C), then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA; and

\_\_\_\_\_ (2) \_\_\_\_\_ on the board's determination the applicant is qualified and has the requisite character and fitness, and the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

\_\_\_\_\_ (1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court; and

\_\_\_\_\_ (2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA.

H. **Limitations.** A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. **Expiration.** A license issued under this rule does not expire.

J. **Suspension of license.** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### **[RULE 15-301.1 RECOMPILED AS RULE 15-304]**

#### **[~~15-301.1. Public employee limited license.~~ 15-304. Public employee and public defender limited license method.**

\_\_\_\_\_ [A. **Definitions.** As used in this rule

\_\_\_\_\_ (1) \_\_\_\_\_ “public employee” means any officer, employee, or servant of a governmental entity, excluding independent contractors;

\_\_\_\_\_ (2) \_\_\_\_\_ “governmental entity” means any state agency or any local public body as defined in Subparagraphs (3) and (4) of this paragraph;

\_\_\_\_\_ (3) \_\_\_\_\_ “local public body” means all political subdivisions of this state and their agencies, instrumentalities, and institutions;

\_\_\_\_\_ (4) \_\_\_\_\_ “state agency” means any of the branches, agencies, departments, boards, instrumentalities, or institutions of the State of New Mexico.

\_\_\_\_\_ B. **Eligibility.** Upon application, the clerk of the Supreme Court may issue a limited license to an attorney who

\_\_\_\_\_ (1) \_\_\_\_\_ is admitted to practice law in another state, territory, or protectorate of the United States or the District of Columbia;

\_\_\_\_\_ (2) \_\_\_\_\_ is not under disciplinary disbarment or suspension in any jurisdiction in which the attorney is licensed;

\_\_\_\_\_ (3) \_\_\_\_\_ has not resigned from the bar of such other jurisdiction while under disciplinary suspension or while under disciplinary proceedings;

\_\_\_\_\_ (4) \_\_\_\_\_ is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and



~~\_\_\_\_\_ (5) \_\_\_\_\_ satisfies the limited license requirements set forth in this rule.~~

~~\_\_\_\_\_ C. **Application procedure.** An applicant for a limited license to represent public defender clients or any governmental entity in this state shall file with the clerk of the Supreme Court an application for limited license which shall be accompanied by the following:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ a certificate of admission to practice and good standing from each jurisdiction in which the applicant currently has an active license to practice law and proof of compliance with Rule 15-103(B)(1) and (2) NMRA;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ a letter from the head of the governmental entity that has employed the applicant certifying employment with that governmental entity;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ a certificate signed by the applicant stating that the applicant has~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ read and is familiar with the New Mexico Rules of Professional Conduct, the Creed of Professionalism of the State Bar of New Mexico, and rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys; and~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ applied for a character and fitness investigation with the New Mexico Board of Bar Examiners in conformance with Rules 15-104(A) and (C) and 15-301 NMRA; and~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ a docket fee in the amount of one hundred twenty five dollars (\$125.00) payable to the New Mexico Supreme Court and two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for limited license being nonrefundable.~~

~~\_\_\_\_\_ D. **License; issuance and revocation.**~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ If an applicant for a limited license to represent public defender clients or a governmental entity complies with the provisions of this rule, the clerk of the Supreme Court may issue a limited license to represent public defender clients or practice law as an employee of a governmental entity.~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ A limited license issued under this rule only permits the limited licensee to practice law in New Mexico as a public employee representing public defender clients or a governmental entity.~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ The clerk of the Supreme Court shall revoke the limited license of any person found in violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys or if, after notice from the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board's character and fitness investigation. Upon revocation of a limited license, the limited licensee shall not appear in any court in this state as an attorney.~~

~~\_\_\_\_\_ E. **Suspension for failure to cooperate.**~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ *Petition for suspension for failure to cooperate.* The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by the Board to obtain the attorney's cooperation and compliance. A copy of the petition shall be served on the respondent attorney.~~

~~\_\_\_\_\_ (2) *Response to the petition.* If the respondent attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the attorney's limited license to practice law until further order of the Supreme Court. The attorney's response shall set forth facts showing that the attorney has complied with the requests or the reasons why the attorney has not complied, and the attorney may request a hearing.~~

~~\_\_\_\_\_ (3) *Supreme Court action.* Upon consideration of a petition for suspension and the attorney's response, if any, the Supreme Court may suspend the attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board's findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board.~~

~~\_\_\_\_\_ (4) *Reinstatement.* An attorney suspended under this paragraph may apply to the Supreme Court for reinstatement upon proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Court. A copy of the application must be delivered to the Board, who may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate an attorney suspended under the provisions of this paragraph upon proof of compliance with the requests of the Board.~~

~~\_\_\_\_\_ F. **Expiration.**~~

~~\_\_\_\_\_ (1) A limited license issued under this rule shall expire upon the occurrence of any of the earliest of the following events:~~

~~\_\_\_\_\_ (a) termination of employment with the governmental entity unless the provisions of Subparagraph (G)(5) of this rule are followed; or~~

~~\_\_\_\_\_ (b) admission to the New Mexico Bar upon~~

~~\_\_\_\_\_ (i) passing the bar examination;~~

~~\_\_\_\_\_ (ii) Uniform Bar Examination admission under Rule 15-202 NMRA; or~~

~~\_\_\_\_\_ (iii) admission on motion under Rule 15-107 NMRA.~~

~~\_\_\_\_\_ (2) The head of the governmental entity that employed the attorney shall notify the Clerk of the Supreme Court when the attorney is no longer employed by the governmental entity.~~

~~\_\_\_\_\_ (3) When a limited license expires or is revoked, an attorney who resides or maintains a legal residence in this state shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.~~

~~\_\_\_\_\_ G. **Limited licensee status.**~~

~~\_\_\_\_\_ (1) An applicant granted a limited license under this rule shall be a member of the State Bar of New Mexico and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.~~

~~\_\_\_\_\_ (2) Licensees under this rule shall pay the annual state bar membership fee of one hundred twenty five dollars (\$125.00).~~

~~\_\_\_\_\_ (3) The annual disciplinary fee assessment under Rule 17-203(A) NMRA is waived.~~

~~\_\_\_\_\_ (4) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.~~

~~\_\_\_\_\_ (5) To avoid the expiration of a limited license under Subparagraph (F)(1)(a) of this rule, an applicant who terminates employment with one governmental entity and accepts employment with another governmental entity must serve written notice on the clerk of the Supreme Court of the applicant's change in employment, and the employer must also comply with Subparagraph (C)(2) of this rule.]~~

A. **Description.** As further specified in this rule, an applicant may apply for a limited license which permits that applicant to practice on behalf of government agencies or in the representation of public defender clients. Submission of a complete application by a qualified applicant will result in expedient issuance of a temporary limited license until the board completes its investigation at which time the applicant may be issued a limited license.

B. **Application deadline.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant:

\_\_\_\_\_ (1) meets the qualifications set forth in Rule 15-202 NMRA;

\_\_\_\_\_ (2) is actively licensed to practice law in at least one other state without condition, restriction or limitation;

\_\_\_\_\_ (3) is in good standing in all states in which applicant has ever been licensed to practice law;

\_\_\_\_\_ (4) has passed the examination of professional responsibility and legal ethics described in 15-503 NMRA; and

\_\_\_\_\_ (5) is employed by a government entity, by providing a certificate from the applicant's supervisor confirming the applicant has been so employed, and committing to notify the board and the Supreme Court when the applicant is no longer employed by the government entity.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. **Procedure for issuance.** Within ten (10) business days of the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees, and (c) documents described in Subparagraphs (C)(1) and -(2), above, the board shall provide the applicant's name to the Supreme Court for issuance of a temporary limited license;

\_\_\_\_\_ (1) The Clerk of the Supreme Court shall then promptly issue a temporary limited license to applicant;

\_\_\_\_\_ (2) The board shall then complete an investigation and make a determination of the applicant's character and fitness; and

\_\_\_\_\_ (3) on the board's determination the applicant is qualified and has the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board.

G. **Specific ongoing requirements.** An applicant approved for a temporary limited license or limited license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA, and additionally, the attorney shall inform the board immediately on change of employment.

H. **Limitations.** A person practicing law under a license issued under this rule may only practice law as: (1) an employee of a governmental entity, or (2) as a private practice attorney exclusively employed in the exclusive representation of public defender clients.

I. **Expiration.** A license issued under this rule shall expire on the earlier of:

(1) the licensee's cessation of employment with the governmental entity, unless the licensee:

(a) has already accepted employment with another government entity;  
(i) notifies the board of the change in employment; and  
(ii) provides a new certificate as described in Subparagraph

(C)(4) of this rule; or

(b) the licensee being issued a license to practice law under another method of licensure described in these rules.

(2) On expiration of the limited license, the board shall notify the Supreme Court that the limited license has expired, and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

(3) An attorney whose temporary limited license or limited license has expired, and who resides or maintains a residence within this state, shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

J. **Suspension.** A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a temporary limited license issued under this rule may be suspended by the Supreme Court for an indefinite period as follows:

(1) **Petition by board.** The board may file a petition, under Rule 15-404 NMRA, to suspend a temporary limited license which shows that the licensee has not: qualified for the license, complied with board requirements for a character and fitness investigation, responded to requests for information, appeared for a scheduled hearing, or produced records or documents requested by the board. One or more affidavits shall be attached to the petition identifying the efforts undertaken by the board to obtain the licensee's cooperation and compliance, whether the licensee interposed objections to producing the records or documents, and whether objections interposed by licensee appear to have been made in good faith. In addition to service requirements required for a petition, a copy of the petition shall be served on licensee's employer. Any response filed by the licensee shall set forth facts showing that the licensee has complied with the board's requests or the reasons why the licensee has not complied.

(2) **Reinstatement.** The Supreme Court may summarily reinstate a temporary limited license suspended under the provisions of this paragraph, on licensee's filing a motion for reinstatement with the Supreme Court, which proves compliance with the requirements of the

board as alleged in the petition to suspend or as otherwise ordered by the Supreme Court. The licensee shall serve the motion on the board, and the board may file a response within five (5) business days of service. Licensee and board may also submit an agreed motion to reinstate licensee's temporary limited license.

(3) ***No pro hac vice admittance.*** A licensee suspended under this rule shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

K. ***Revocation.*** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a license issued under this rule may also be revoked by the Supreme Court as follows:

(1) ***Summary revocation on petition by board.*** The Clerk of the Supreme Court shall summarily revoke a license issued under this rule on filing of a petition by the board, under Rule 15-404 NMRA, which shows that the board has determined the licensee does not have the character and fitness to practice law in New Mexico. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(2) ***Other revocation.*** The Supreme Court may revoke a license issued under this rule on the board's filing a petition, under Rule 15-404 NMRA, showing the attorney's violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(3) ***No appearances; no pro hac vice admission.*** Except as ordered by the Supreme Court, a licensee whose license has been revoked under this rule shall not appear in any court in this state as an attorney, and shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

[Approved, effective June 13, 2000; as amended effective February 28, 2002; October 24, 2003; March 29, 2004; as amended by Supreme Court Order No. 05-8300-010, effective September 1, 2005; as amended by Supreme Court Order No. 17-8300-007, effective August 1, 2017; Rule 15-301.1 amended and recompiled as Rule 15-304 NMRA by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### [RULE 15-301.2 RECOMPILED AS RULE 15-305]

#### ~~[15-301.2]~~15-305. ~~[Legal]~~ **Qualified legal services provider limited [law] license method.**

[\_\_\_\_\_ A. ***Definitions.*** As used in this rule, the following definitions apply:

(1) ~~“applicant” means an attorney who meets the eligibility requirements set forth in Paragraph B of this rule and who completes the application process in Paragraph C of this rule;~~

(2) ~~“qualified legal services provider” means a not for profit legal services organization whose primary purpose is to provide legal services to low income clients or a legal department within a non-profit organization that employs at least one (1) lawyer full-time to provide legal services to low income clients; and~~

(a) ~~is an organization described in Section 501(c)(3) and exempt from federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 or corresponding provisions of federal income tax laws from time to time in effect;~~

(b) ~~is registered with the New Mexico Attorney General Registry of Charitable Organizations in compliance with the New Mexico Charitable Solicitations Act; and~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ is recommended by the New Mexico Commission on Access to Justice.~~

~~\_\_\_\_\_ B. **Eligibility.** Upon application, the clerk of the Supreme Court may issue a legal services limited license to represent legal services clients through a qualified legal services provider to an attorney who meets the following conditions:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ is an inactive member of the State Bar of New Mexico or an active or inactive member of the bar in another state, territory, or protectorate of the United States of America or the District of Columbia at the time of submitting an application under this rule;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ is not under disciplinary disbarment or suspension in any jurisdiction in which the attorney is licensed;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ has not resigned from the bar of such other jurisdiction while under disciplinary suspension or while under disciplinary proceedings;~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ satisfies the legal services limited license requirements set forth in this rule.~~

~~\_\_\_\_\_ C. **Application procedure.** An applicant for a legal services limited license to represent legal services clients through a qualified legal services provider shall file with the clerk of the Supreme Court an application for a legal services limited license. The application shall be accompanied by the following:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ a certificate of admission to practice and good standing from each jurisdiction in which the applicant currently has an active license to practice law or in the case of an inactive attorney a certificate showing that attorney's inactive status;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ a letter from the director of the qualified legal services provider that employs the applicant certifying the applicant's employment, whether for monetary compensation or otherwise;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ a certificate signed by the applicant stating that the applicant has~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ read and is familiar with the New Mexico Rules of Professional Conduct, other New Mexico Supreme Court rules and New Mexico statutes relating to the conduct of attorneys, and the Creed of Professionalism of the State Bar of New Mexico; and~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ applied for a character and fitness investigation with the New Mexico Board of Bar Examiners in conformance with Rules 15-104(A) and (C) and 15-301 NMRA;~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ a docket fee in the amount of one hundred twenty five dollars (\$125.00) payable to the New Mexico Supreme Court and two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for a legal services limited license being nonrefundable.~~

~~\_\_\_\_\_ D. **License; issuance and revocation.**~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ If an applicant for a legal services limited license to represent legal services clients through a qualified legal services provider complies with the provisions of this rule, the clerk of the Supreme Court may issue a legal services limited license.~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ A legal services limited license issued under this rule permits the applicant to practice law in New Mexico only as an attorney representing legal services clients through a qualified legal services provider.~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ The clerk of the Supreme Court shall revoke the legal services limited license of any person found in violation of this rule or any other rules approved by the Supreme~~

Court regulating the licensing and conduct of attorneys or if, after notice from the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board's character and fitness investigation. Upon revocation of a legal services limited license, the limited licensee shall not represent any legal services client or appear before any court of the State of New Mexico representing any legal services client.

~~\_\_\_\_\_~~ E. **Suspension for failure to cooperate.**

~~\_\_\_\_\_~~ (1) ~~*Petition for suspension for failure to cooperate.*~~ The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by the Board to obtain the attorney's cooperation and compliance. A copy of the petition shall be served on the respondent attorney.

~~\_\_\_\_\_~~ (2) ~~*Response to the petition.*~~ If the respondent attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the attorney's limited license to practice law until further order of the Supreme Court. The attorney's response shall set forth facts showing that the attorney has complied with the requests or the reasons why the attorney has not complied, and the attorney may request a hearing.

~~\_\_\_\_\_~~ (3) ~~*Supreme Court action.*~~ Upon consideration of a petition for suspension and the attorney's response, if any, the Supreme Court may suspend the attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board's findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board.

~~\_\_\_\_\_~~ (4) ~~*Reinstatement.*~~ An attorney suspended under this paragraph may apply to the Supreme Court for reinstatement upon proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Court. A copy of the application must be delivered to the Board, who may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate an attorney suspended under the provisions of this paragraph upon proof of compliance with the requests of the Board.

~~\_\_\_\_\_~~ F. **Expiration.** The director of the qualified legal services provider that employed the attorney shall notify the clerk of the Supreme Court when the attorney is no longer employed by the qualified legal services provider. A legal services limited license shall expire upon the occurrence of any of the earliest of the following events:

~~\_\_\_\_\_~~ (1) ~~termination of employment with a qualified legal services provider unless the provisions of Subparagraph (G)(5) of this rule are followed;~~

~~\_\_\_\_\_~~ (2) ~~admission to the New Mexico Bar upon~~

~~\_\_\_\_\_~~ (a) ~~passing the bar examination;~~

~~\_\_\_\_\_~~ (b) ~~Uniform Bar Examination admission under Rule 15-202 NMRA; or~~

~~\_\_\_\_\_ (c) admission on motion under Rule 15-107 NMRA; or~~  
~~\_\_\_\_\_ (3) reinstatement under Rule 15-302 NMRA of an inactive member of the State Bar of New Mexico.~~

~~\_\_\_\_\_ G. **Legal services limited licensee status.**~~

~~\_\_\_\_\_ (1) An applicant granted a legal services limited license under this rule shall be a member of the state bar and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.~~

~~\_\_\_\_\_ (2) Licensees under this rule shall pay the annual state bar membership fee of one hundred twenty five dollars (\$125.00).~~

~~\_\_\_\_\_ (3) The annual disciplinary fee assessment under Rule 17-203(A) NMRA is waived.~~

~~\_\_\_\_\_ (4) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.~~

~~\_\_\_\_\_ (5) To avoid the expiration of a limited license under Subparagraph (F)(1) of this rule, an applicant who terminates employment with one qualified legal services provider and accepts employment with another qualified legal services provider must serve written notice on the clerk of the Supreme Court of the applicant's change in employment, and the employer must also comply with Subparagraph (C)(2) of this rule.]~~

A. **Description.** As further specified in this rule, an applicant may apply for a limited license which permits that applicant to practice on behalf of qualified legal services provider. Submission of a complete application by a qualified applicant will result in expedient issuance of a temporary limited license until the board completes its investigation at which time the applicant may be issued a limited license.

B. **Application deadline.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant:

\_\_\_\_\_ (1) meets the qualifications set forth in Rule 15-202 NMRA;

\_\_\_\_\_ (2) is either:

\_\_\_\_\_ (a) actively licensed to practice law in at least one other state without condition, restriction or limitation, and not involved in disciplinary proceedings in that state; or

\_\_\_\_\_ (b) an inactive member of the State Bar of New Mexico or another state, and was not under disciplinary proceedings when inactive status was taken;

\_\_\_\_\_ (3) is in good standing in all states in which applicant has ever been licensed to practice law;

\_\_\_\_\_ (4) has passed the examination of professional responsibility and legal ethics described in 15-503 NMRA; and

\_\_\_\_\_ (5) has been employed (for compensation or otherwise) by a qualified legal services provider to represent legal services clients, by providing a letter from the legal services provider employing applicant.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. **Procedure for issuance.**



(1) Within ten (10) business days of the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees, and (c) documents described in Paragraph (C), above, the board shall provide the applicant's name to the Supreme Court for issuance of a temporary limited license;

(2) The Clerk of the Supreme Court shall then promptly issue a temporary limited license to applicant;

(3) The board shall then complete an investigation and make a determination of the applicant's character and fitness; and

(4) On the board's determination the applicant is qualified and has the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a temporary limited license or limited license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA, and additionally, the attorney shall inform the board immediately on change of employment.

H. **Limitations.** A person practicing law under a license issued under this rule may only practice law by representing legal services clients through a qualified legal services provider.

I. **Expiration.**

(1) A license issued under this rule shall expire on the earlier of:

(a) the licensee's cessation of employment with the qualified legal services provider, unless the licensee:

(b) has already accepted employment with another qualified legal services provider;

(c) notifies the board of the change in employment; and

(d) provides a new certificate as described in Subparagraph (C)(4) of this rule; or

(e) the licensee being issued a license to practice law under another method of licensure described in these rules.

(2) On expiration of the limited license, the board shall notify the Supreme Court that the limited license has expired, and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

(3) An attorney whose temporary limited license or limited license has expired, and who resides or maintains a residence within this state, shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

J. **Suspension.** A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a temporary limited

license issued under this rule may be suspended by the Supreme Court for an indefinite period as follows:

(1) **Petition by board.** The board may file a petition, under Rule 15-404 NMRA, to suspend a temporary limited license which shows that the licensee has not: qualified for the license, complied with board requirements for a character and fitness investigation, responded to requests for information, appeared for a scheduled hearing, or produced records or documents requested by the board. One or more affidavits shall be attached to the petition identifying the efforts undertaken by the board to obtain the licensee's cooperation and compliance, whether the licensee interposed objections to producing the records or documents, and whether objections interposed by licensee appear to have been made in good faith. Any response filed by licensee shall set forth facts showing that the licensee has complied with the board's requests or the reasons why the licensee has not complied.

(2) **Reinstatement.** The Supreme Court may summarily reinstate a temporary limited license suspended under the provisions of this paragraph, on licensee's filing a motion for reinstatement with the Supreme Court, which proves compliance with the requirements of the board as alleged in the petition to suspend or as otherwise ordered by the Supreme Court. The licensee shall serve the motion on the board, and the board may file a response within five (5) business days of service. Licensee and board may also submit an agreed motion to reinstate licensee's temporary limited license.

(3) **No pro hac vice admittance.** A licensee suspended under this rule shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

K. **Revocation.** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a license issued under this rule may also be revoked by the Supreme Court as follows:

(1) **Summary revocation on petition by board.** The Clerk of the Supreme Court shall summarily revoke a license issued under this rule on filing of a petition by the board, under Rule 15-404 NMRA, which shows that the board has determined the licensee does not have the character and fitness to practice law in New Mexico. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(2) **Other revocation.** The Supreme Court may revoke a license issued under this rule on the board's filing a petition, under Rule 15-404 NMRA, showing the attorney's violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(3) **No appearances; no pro hac vice admission.** Except as ordered by the Supreme Court, a licensee whose license has been revoked under this rule shall not appear in any court in this state as an attorney, and shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

[Adopted by Supreme Court Order No. 08-8300-024, effective August 29, 2008; as amended by Supreme Court Order No. 09-8300-001, effective January 14, 2009; by Supreme Court Order No. 11-8300-048, effective January 1, 2012; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. 17-8300-007, effective August 1, 2017; Rule 15-301.2 amended and recompiled as Rule 15-305 NMRA by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary.** — Emeritus attorneys should be aware of additional licensure options available as described in Rule 24-111 NMRA.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective for all applications submitted after \_\_\_\_\_.]

**[RULE 15-301.3 RECOMPILED AS RULE 15-306]**

**~~[15-301.3]~~15-306. Military spouse attorney limited license method.**

~~[A. —~~ **Definitions.** For purposes of this rule the following definitions apply:

~~(1) — “dependent” is used as defined by the United States Department of Defense (or, for the Coast Guard when it is not operating as a service in the United States Navy, by the United States Department of Homeland Security);~~

~~(2) — “military spouse attorney” means an attorney who is the spouse of an active duty service member of the United States Uniformed Services stationed within the State of New Mexico and resides or intends to reside in the State of New Mexico within the next six (6) months of the date of application for limited license; and~~

~~(3) — “service member” is used as defined by the United States Department of Defense.~~

~~B. —~~ **Eligibility.** On application, the clerk of the Supreme Court may issue a limited license to a military spouse attorney who

~~(1) — holds an active license to practice law in another state, territory, or protectorate of the United States or the District of Columbia;~~

~~(2) — is in good standing in all jurisdictions where the military spouse attorney is admitted to practice;~~

~~(3) — has not resigned from the bar of another jurisdiction while under disciplinary suspension or while under disciplinary proceedings;~~

~~(4) — is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and~~

~~(5) — satisfies the limited license requirements set forth in this rule.~~

~~C. —~~ **Application procedure.** A military spouse attorney applicant for a limited license shall file with the clerk of the Supreme Court an application for limited license which shall be accompanied by the following:

~~(1) — a certificate of admission to practice and good standing from each jurisdiction in which the applicant currently has an active license to practice law and proof of compliance with Rule 15-103(B)(1) NMRA;~~

~~(2) — documentation demonstrating~~

~~(a) — receipt of a juris doctor or bachelor of laws and letters degree of a law school formally accredited by the American Bar Association and license to practice law in another jurisdiction; or~~

~~(b) — receipt of a juris doctor or bachelor of laws and letters degree of any law school and proof of the active practice of law in another state or states for at least two (2) out of the last four (4) years immediately preceding the military spouse attorney’s application for limited admission to practice in New Mexico;~~

~~(3) — a certificate signed by the military spouse attorney stating that~~

~~(a) — the applicant has read and is familiar with the New Mexico Rules of Professional Conduct, including the succession plan requirements of Rule 16-119 NMRA; the New~~

~~Mexico Rules Governing Discipline, including the trust accounting requirements of Rule 17-204 NMRA; the Creed of Professionalism of the State Bar of New Mexico; and the rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys;~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ if an applicant is a graduate of a law school accredited by the American Bar Association, the applicant has applied for a character and fitness investigation with the New Mexico Board of Bar Examiners under Rules 15-103(C), 15-104, and 15-301 NMRA; and~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ if an applicant is not a graduate of a law school accredited by the American Bar Association, the applicant has applied for a character and fitness investigation with the New Mexico Board of Bar Examiners under Rules 15-103(C), 15-104, and 15-301 NMRA, excepting that active practice requirements for the certificate required by Rule 15-104(C)(3)(c) are two (2) years of active engagement in the actual practice of law out of the past four (4) years;~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ evidence of a minimum scaled score of eighty (80) on the Multistate Professional Responsibility Examination; and~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ the New Mexico Supreme Court docket fee, the New Mexico Board of Bar Examiners character and fitness investigation fee, and any fees and costs associated with a character and fitness hearing.~~

~~\_\_\_\_\_ D. \_\_\_\_\_ **Application fees and costs; return of documents.** All fees and costs associated with an application for limited license are nonrefundable. Certificates of admission from other states may be sent directly to the Board of Bar Examiners under separate cover. All those papers will be returned to the applicant in due course. Other documents submitted will be returned to the applicant, if requested, on approval by the chair or vice chair of the Board of Bar Examiners~~

~~\_\_\_\_\_ E. \_\_\_\_\_ **License; issuance and revocation.**~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ If an applicant for a limited license to practice as a military spouse attorney complies with the provisions of this rule, the clerk of the Supreme Court may issue a limited license to practice law as a military spouse attorney.~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ A limited license under this rule only permits the licensee to practice law in New Mexico as a military spouse attorney.~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ The clerk of the Supreme Court shall revoke the limited license of the military spouse attorney if~~

~~\_\_\_\_\_ (a) \_\_\_\_\_ the attorney is found in violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys; or~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ the Supreme Court revokes the limited license based on the character and fitness investigation conducted by the Board of Bar Examiners.~~

~~On revocation of a limited license, the military spouse attorney shall not appear in any court in this state as an attorney.~~

~~\_\_\_\_\_ F. \_\_\_\_\_ **Suspension for failure to cooperate.**~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ ***Petition for suspension for failure to cooperate.*** The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the military spouse attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by~~

the Board of Bar Examiners to obtain the military spouse attorney's cooperation and compliance. A copy of the petition shall be served on the military spouse attorney.

~~(2) **Response to the petition.** If the military spouse attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the military spouse attorney's limited license to practice law until further order of the Supreme Court. The military spouse attorney's response shall set forth facts showing that the military spouse attorney has complied with the requests or the reasons why the military spouse attorney has not complied, and the military spouse attorney may request a hearing.~~

~~(3) **Supreme Court action.** On consideration of a petition for suspension and the military spouse attorney's response, if any, the Supreme Court may suspend the military spouse attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the military spouse attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board of Bar Examiners for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board of Bar Examiners' findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board of Bar Examiners.~~

~~(4) **Reinstatement.** A military spouse attorney suspended under this paragraph may apply to the Supreme Court for reinstatement on proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Supreme Court. A copy of the application must be delivered to the Board of Bar Examiners, which may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate a military spouse attorney suspended under the provisions of this paragraph on proof of compliance with the requests of the Board of Bar Examiners.~~

~~G. **Expiration.**~~

~~(1) A limited license issued under this rule shall expire one hundred eighty (180) days after the occurrence of any of the earliest of the following events:~~

~~(a) the military spouse attorney ceases to be a dependent;~~

~~(b) the service member is permanently transferred outside the jurisdiction under military orders, but if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice under the provisions of this rule until the service member is assigned to a location with dependents authorized;~~

~~(c) the military spouse attorney permanently relocates to another jurisdiction for reasons other than the service member's permanent transfer outside the jurisdiction;~~

~~(d) the military spouse attorney is admitted to the State Bar of New Mexico under Rules 15-201, 15-202, or 15-107 NMRA; or~~

~~(e) the military spouse attorney requests termination.~~

~~(2) If any event listed in this paragraph occurs, the military spouse attorney shall notify the Board of Bar Examiners, clients, and courts in which the military spouse attorney has entered an appearance of the event in writing within sixty (60) days of the date on which the~~

~~event occurs and take appropriate action under Rule 16-116 NMRA of the New Mexico Rules of Professional Conduct in those matters for which the termination of the limited license requires declining or terminating representation.~~

~~(3) When a limited license expires or is revoked, a military spouse attorney who resides or maintains a legal residence in this state may be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.~~

~~H. **Limited licensee status.**~~

~~(1) A military spouse attorney granted a limited license under this rule shall be a member of the State Bar of New Mexico and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.~~

~~(2) Licensees under this rule shall pay the annual license fee under Rule 24-102 NMRA and the annual disciplinary fee assessment under Rule 17-203(A) NMRA.~~

~~(3) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.~~

~~(4) Within one (1) year of receiving a limited license, licensees shall complete a trust accounting class to comply with Rule 17-204 NMRA of the New Mexico Rules Governing Discipline, unless the licensee is exempt under Rule 17-204(E) NMRA.~~

~~(5) Within one hundred twenty (120) days of receiving a limited license, the licensee shall submit a statement to the Board of Bar Examiners certifying that the licensee or the law firm employing the licensee is in compliance with the succession planning requirements of Rule 16-119 NMRA of the New Mexico Rules of Professional Conduct.]~~

A. **Description.** As further specified in this rule, an applicant may apply for a limited license which permits a military spouse attorney to practice law in New Mexico. Submission of a complete application by a qualified applicant will result in expedient issuance of a temporary limited license until the board completes its investigation at which time the applicant may be issued a limited license.

B. **Application deadline.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant:

(1) meets the qualifications set forth in Rule 15-202 NMRA, except the requirements of Rule 15-202(A)(2)(b) NMRA and Rule 15-203(D)(3)(b) NMRA, if applicable, are modified to require that the applicant show admission to the practice of law in one or more other states for at least two (2) of the four (4) years immediately preceding submission of an application under these rules;

(2) is either:

(a) actively licensed to practice law in at least one other state without condition, restriction or limitation, and not involved in disciplinary proceedings in any state; or

(b) an inactive member of the State Bar of New Mexico or another state, and was not under disciplinary proceedings when inactive status was taken;

(3) is in good standing in all states in which applicant has ever been licensed to practice law;

(4) has passed the examination of professional responsibility and legal ethics described in Rule 15-503 NMRA;

(5) is the spouse of an active duty service member currently stationed within the State of New Mexico, or to be stationed within the State of New Mexico within the next six (6) months; and

(6) either:

(a) currently resides in the State of New Mexico; or

(b) intends to reside in the State of New Mexico within the next six (6) months by providing a certificate to that effect signed by the applicant.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with a character and fitness hearing.

E. **Procedure for issuance.**

(1) Within ten (10) business days of the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees, and (c) documents described in Subparagraphs (C)(1) and -(2), above, the board shall provide the applicant's name to the Supreme Court for issuance of a temporary limited license;

(2) The Clerk of the Supreme Court shall then promptly issue a temporary limited license to the applicant;

(3) The board shall then complete an investigation and make a determination of the applicant's character and fitness; and

(4) If the board determines the applicant is qualified and has the requisite character and fitness, then the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a temporary limited license or limited license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA, and:

(1) shall inform the board immediately on an expiration event described in Paragraph (I);

(2) within one (1) year of receiving a license under this rule, shall complete a trust accounting class to comply with Rule 17-204 NMRA of the New Mexico Rules Governing Discipline, unless the licensee demonstrates the exemption under Rule 17-204(E) NMRA applies; and

(3) within one hundred twenty (120) days of receiving a license under this rule, the licensee shall certify to the board the licensee or licensee's employer is in compliance with, or exempt from, the succession planning requirements of Rule 16-119 NMRA of the New Mexico Rules of Professional Conduct.

H. **Limitations.** A person practicing law under a license issued under this rule may only practice law in New Mexico as a military spouse attorney.

**I. Expiration.**

(1) A license issued under this rule shall expire:

(a) One hundred eighty (180) days after the earliest occurrence of any of the following events:

(i) the licensee ceases to be a dependent;

(ii) the service member is permanently transferred outside the jurisdiction under military orders, but if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the licensee may continue to practice under the provisions of this rule until the service member is assigned to a location with dependents authorized;

(iii) the licensee permanently relocates to another jurisdiction for reasons other than the service member's permanent transfer outside the jurisdiction; or

(iv) the licensee requests termination of the license.

(b) On the licensee being issued a license to practice law under another method of licensure described in these rules; in which event the licensee shall notify the board.

(2) If any event listed in Subparagraph (1)(a) occurs, the licensee shall notify in writing the board, clients, and courts in which the licensee has entered an appearance of the event within sixty (60) days of the date on which the event occurs and take appropriate action under Rule 16-116 NMRA of the New Mexico Rules of Professional Conduct in those matters for which the termination of the limited license requires declining or terminating representation.

(3) On expiration of a license under this rule, a licensee who resides or maintains a legal residence in this state may be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

(4) On expiration of a license under this rule, the board shall notify the Clerk of the Supreme Court that the limited license has expired, and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

**J. Suspension.** A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a temporary limited license issued under this rule may be suspended by the Supreme Court for an indefinite period as follows:

(1) **Petition by board.** The board may file a petition, under Rule 15-404 NMRA, to suspend a temporary limited license which shows that the licensee has not: qualified for the license, complied with board requirements for a character and fitness investigation, responded to requests for information, appeared for a scheduled hearing, or produced records or documents requested by the board. One or more affidavits shall be attached to the petition identifying the efforts undertaken by the board to obtain the licensee's cooperation and compliance, whether the licensee interposed objections to producing the records or documents, and whether objections interposed by licensee appear to have been made in good faith. In addition to other service requirements required for a petition, a copy of the petition shall be served on licensee's employer. Any response filed by licensee shall set forth facts showing that the licensee has complied with the board's requests or the reasons why the licensee has not complied.

(2) **Reinstatement.** The Supreme Court may summarily reinstate a temporary limited license suspended under the provisions of this paragraph, on licensee's filing a motion for reinstatement with the Supreme Court, which proves compliance with the requirements of the



board as alleged in the petition to suspend or as otherwise ordered by the Supreme Court. The licensee shall serve the motion on the board, and the board may file a response within five (5) business days of service. Licensee and board may also submit an agreed motion to reinstate licensee's temporary limited license.

(3) ***No pro hac vice admittance.*** A licensee suspended under this rule shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

K. **Revocation.** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA. In addition, a license issued under this rule may also be revoked by the Supreme Court as follows:

(1) ***Summary revocation on petition by board.*** The Clerk of the Supreme Court shall summarily revoke a license issued under this rule on filing of a petition by the board, under Rule 15-404 NMRA, which shows that the board has determined the licensee does not have the character and fitness to practice law in New Mexico. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(2) ***Other revocation.*** The Supreme Court may revoke a license issued under this rule on the board's filing a petition, under Rule 15-404 NMRA, showing the attorney's violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys. In addition to service requirements required for petitions, a copy of the petition shall be served on the licensee's employer.

(3) ***No appearances; no pro hac vice admission.*** Except as ordered by the Supreme Court, a licensee whose license has been revoked under this rule shall not appear in any court in this state as an attorney and shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

[Adopted by Supreme Court Order No. 22-8300-013, effective October 1, 2022; Rule 15-301.3 amended and recompiled as Rule 15-306 by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

## [NEW MATERIAL]

### 15-307. Law professor limited privilege to practice method.

A. **Description.** As further specified in this rule, a person not already licensed to practice law, or who is an inactive member of the State Bar of New Mexico, may be admitted to practice law in any New Mexico court or administrative tribunal, for the purpose of supervising clinical law students in a clinical law program of the University of New Mexico School of Law, under this method of licensure.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall provide:  
proof that the applicant is duly employed as a full-time permanent or visiting faculty member of the University of New Mexico School of Law, teaching in a classroom setting at the law school, and supervising students in a clinical law program approved by the dean of the law school;  
proof that the applicant is admitted by examination to the bar of another state;  
certificates of good standing;

written certification that the applicant will neither seek for nor accept compensation or remuneration of any kind for legal services rendered by the law professor under this rule, other than salary as a law professor; and  
written certification as described in Rule 15-202(A)(5) NMRA.

D. **Character and fitness.** The board will not make a determination about the character and fitness of an applicant for this method of licensure unless otherwise ordered by the Supreme Court. If the Supreme Court orders a character and fitness evaluation for an applicant for this method of licensure, then the applicant shall pay any fees and costs associated with that evaluation.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, and (b) documents required by Paragraph (C), then the board shall determine if the applicant is qualified:

(1) if qualified the board shall provide the applicant's name to the Supreme Court for issuance of a limited license; and

(2) The Clerk of the Supreme Court shall then promptly issue a temporary limited license to the applicant.

F. **Fees and costs.** No fees or costs apply to this method of licensure, except for annual disciplinary fees assessed under Rule 17-203(A) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a limited license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA, and additionally, the applicant:

(1) shall submit a new certification described in Subparagraph (C)(1), above, before the start of each academic year; and

(2) shall inform the board immediately on cessation of employment that complies with Subparagraph (C)(1), above.

H. **Limitations.** A person practicing law under this method of licensure may neither ask for, nor receive, any compensation or remuneration of any kind for legal services rendered in New Mexico, other than the salary received as a law professor, and may only practice law to the extent necessary to supervise clinical law students in a clinical law program at the University of New Mexico School of Law.

I. **Expiration.** A license issued under this rule expires (1) on cessation of employment described in Subparagraph (C)(1), above, or (2) at the conclusion of each academic year unless a new certification described in Subparagraph (C)(1) is submitted to the board before start of the next academic year.

J. **Suspension of license.** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### [NEW MATERIAL]

#### 15-308. In-house counsel limited license method.

A. **Description.** As further specified in this rule, an applicant may apply for a limited license permitting that applicant to practice law as an in-house counsel in New Mexico under this method of licensure.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall provide proof that the applicant meets the qualifications set forth in Rule 15-202 NMRA, and has received passing scores on all examinations described in Rule 15-501(A) NMRA. In addition, the applicant must:

(1) have been admitted to practice law in at least one (1) state and be currently an active member in good standing in that state;

(2) be employed by a corporation, company, partnership, association or other non-governmental business entity with a place of business in New Mexico;

(3) submit a certificate from an officer, director, or the general counsel of the applicant's employer verifying the applicant is presently and exclusively employed as in-house counsel for that employer;

(4) have never been denied a license to practice law in any state based on the applicant's character and fitness;

(5) have not, within the five (5) years preceding application under this rule, taken and failed the examination of the minimum competence to practice law in New Mexico, as described in Article 5;

(6) not be, nor have ever been, admitted to the practice of law in New Mexico, unless the applicant had voluntarily withdrawn or resigned from membership in the State Bar of New Mexico while in good standing;

(7) have not been previously denied licensure in any state;

(8) have not previously engaged in the unauthorized practice of law in any state;

(9) at the time of submitting the application have never been disbarred or suspended from practice of law in another state; and

(10) establish that if the applicant resigned from the practice of law in another state, that when the resignation occurred the applicant was in good standing in that state.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with evaluating the applicant's character and fitness.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph (C), then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA; and

(2) on the board's determination the applicant has the requisite character and fitness, and meets the qualifications, the board shall follow the requirements of Rule 15-207(A) NMRA for recommending issuance of a license to the applicant, and the applicant shall comply with the requirements of Rule 15-207(B) NMRA.

F. **Fees and costs.** The following fees and costs must be paid by the applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) ***Application fee.*** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court; and

(2) ***Investigation costs.*** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA, and shall annually submit a certificate described in Subparagraph (C)(3), above.

H. **Limitations.**

(1) A person practicing law under a license issued under this rule may only:

(a) provide advice or legal services exclusively to the employer named in the application submitted for this method of licensure;

(b) provide legal advice to the directors, officers, employees, and agents of the business organization with respect to the employer's business affairs;

(c) negotiate and document matters for the business organization;

(d) represent the employer in its dealings with any New Mexico court, administrative agency or commission; and

(e) provide pro bono legal services in New Mexico under the auspices of organized legal aid societies, Supreme Court, or bar association projects, or under the supervision of an attorney licensed to practice law in New Mexico who is also working on the pro bono representation.

(2) A person practicing law under a license issued under this rule may not:

(a) represent or give advice to any shareholder, owner, partner, officer, employee or other agent with respect to any personal matter or transaction;

(b) offer legal services or advice to any third party having dealings with the attorney's employer; or

(c) offer legal services or advice to the public.

I. **Expiration.**

(1) A license issued under this rule shall expire on the earlier of:

(a) the licensee's cessation of employment with the employer identified in the application, unless the licensee has:

(i) been issued a license to practice law under another method of licensure described in these rules;

(ii) already accepted employment with qualified business; and

(iii) notified the board of the change in employment; or

(b) the licensee being issued a license to practice law under another method of licensure described in these rules.

(2) On expiration of a license issued under this rule, the board shall notify the Supreme Court that the in-house counsel license has expired, and whether the attorney has been issued a license under another method of licensure. The Supreme Court shall then summarily order that the attorney may no longer practice law under that limited license.

(3) An attorney whose in-house counsel license has expired, and who resides or maintains a residence within this state, shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

J. **Suspension.** A license issued under this rule is subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

K. **Revocation.** A license issued under this rule is subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary.** – See Rule 16-505 NMRA regarding unauthorized practice of law.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

## [NEW MATERIAL]

### 15-309. Reinstated license method.

A. **Description.** As further specified in this rule, a person who was previously admitted to practice law in New Mexico on a non-limited license may apply for admission under this method of licensure if the applicant (1) withdrew from the practice of law before January 1, 2017, (2) transferred to inactive status under Rule 24-102.2(E) NMRA, (3) was suspended from the practice law under Rule 24-102 NMRA and is required to submit an application to the board under Rule 24-102(F) NMRA, or (4) was ordered by the Court to reapply for licensure through the board.

B. **Application deadlines.** An application for a license under this rule may be submitted at any time.

C. **Qualifications.** An applicant for license under this rule shall submit an application for this method of licensure as prescribed by the board, and shall prove the applicant:

- (1) meets the qualifications set forth in Rule 15-202 NMRA;
- (2) satisfies all applicable requirements for an active status attorney in New Mexico;
- (3) has the requisite character and fitness to practice law in New Mexico; and
- (4) if referred to the board under Rule 24-102(F)(2) NMRA:
  - (a) has remedied all deficiencies that led to the suspension;
  - (b) is current on dues owed to the State Bar of New Mexico;
  - (c) has satisfied all mandatory continuing legal education credits required under Rules 18-101 to-303 NMRA;
  - (d) has complied with any other requirements imposed by the Supreme Court, including, but not limited to, enrollment in and attendance of specific continuing legal education classes or bar review courses; and
  - (e) has paid the fee described in Rule 24-102(F)(1) NMRA.

D. **Character and fitness.** The board shall make a determination about the character and fitness of an applicant as set forth in Rule 15-205 NMRA for any applicant who has submitted an application for license under this rule. An applicant shall pay any fees and costs associated with evaluating the applicant's character and fitness.

E. **Procedure for issuance.** On the board's receipt from an applicant of (a) a completed application for a license under this rule, (b) the required fees and costs, and (c) documents required by Paragraph (C), then

(1) the board shall evaluate the applicant's character and fitness as described in Rule 15-205 NMRA; and

(2) on the board's determination the applicant has the requisite character and fitness, is qualified, has complied with any requirements for that applicant set by the Supreme Court, the board shall recommend to the Supreme Court that the applicant be reinstated, and the Clerk of the Supreme Court shall summarily issue the applicant a certificate of reinstatement to active status unless otherwise ordered by the Supreme Court.

F. **Fees and costs.** The following fees and costs must be paid by applicant on submission of the application for license under this rule, and shall not offset fees and costs required to apply for another method of licensure:

(1) **Application fee.** An application fee according to a published schedule of application fees promulgated by the board and approved by the Court; and

(2) **Investigation costs.** Investigation costs according to the schedule of pass-through costs promulgated by the board as described in Rule 15-204(B) NMRA.

G. **Specific ongoing requirements.** An applicant approved for a license under this rule shall comply with the requirements of Rules 15-206 and -207 NMRA.

H. **Limitations.** A person practicing law under a license issued under this rule is not subject to any limitation, unless otherwise ordered by the Supreme Court.

I. **Expiration.** A license issued under this rule does not expire.

J. **Suspension of license.** A license issued under this rule is only subject to suspension as described in the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

**Revocation.** A license issued under this rule is only subject to revocation as described in Rule 15-201(F) NMRA and the Rules Governing Discipline, Rules 17-101 to -316 NMRA.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary.** – This rule only permits reinstatement in the specified instances. An attorney suspended under the Rules Governing Discipline, Rules 17-101 to -316 NMRA, must seek reinstatement as described in those rules. An attorney who withdrew from the State Bar of New Mexico on or after December 31, 2016 must apply for admission under another method of licensure. *See* Rule 24-102.2(G) NMRA.

An attorney suspended under Rule 24-102 NMRA is not required to submit an application to the board if it is that attorney's first suspension under that rule. *See* Rule 24-102(F)(2) NMRA. [Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### ARTICLE 4 [~~Bar Examiners~~] Investigations, Interviews, Hearings, and Appeals

##### 15-401. [~~Board of Bar Examiners.~~] Investigations.

[~~A. — Composition.~~ The Board of Bar Examiners shall be composed of twelve members of the state bar of New Mexico. The members of the board shall be appointed by the New Mexico Supreme Court. The Board of Bar Examiners shall be charged with the following duties:

~~\_\_\_\_\_ (1) — investigating the professional qualifications and good moral character of applicants for admission or reinstatement to the bar of New Mexico;~~

~~\_\_\_\_\_ (2) — preparing, arranging for and administering examinations for admission to the bar of New Mexico;~~

~~\_\_\_\_\_ (3) making recommendations to the Supreme Court with respect to reinstatement or readmission to practice of lawyers who have for any reason withdrawn from the state bar of New Mexico;~~

~~\_\_\_\_\_ (4) discussing with applicants for admission to the bar general problems of purposes, policies and procedures of the bar examination; and~~

~~\_\_\_\_\_ (5) administering these rules and adopting its own practices not inconsistent with these rules.~~

~~\_\_\_\_\_ B. **Officers.** There shall be a chairman and a vice chairman to be selected by the members. There shall be a secretary-treasurer of the board, who need not be a member of the board.~~

~~\_\_\_\_\_ C. **Administrative assistance.** The Board of Bar Examiners shall be provided with adequate administrative and clerical assistance.~~

~~\_\_\_\_\_ D. **Confidentiality.**~~

~~\_\_\_\_\_ (1) All records maintained by the board regarding applications for admission and reinstatement to the state bar and all proceedings by the board, including board meetings and meeting minutes, shall be confidential except as provided by these rules or by order of the Supreme Court; provided, however, the board may release a copy of an application to the applicant upon receipt of a written request from the applicant or to a third person or entity upon receipt of a properly executed authorization by the applicant. The board is authorized to release information with respect to any applicant, which would otherwise be confidential, to the licensing or disciplinary agencies of any jurisdiction and to the National Conference of Bar Examiners.~~

~~\_\_\_\_\_ (2) Upon the filing of proceedings in the Supreme Court, the proceedings, pleadings, supporting documents, and subsequent orders, including orders granting conditional admission, shall no longer be confidential or sealed unless ordered by the Supreme Court on its own motion or the motion of a party. A party may request all or part of the Court record be sealed by the Supreme Court by filing a motion to seal with the pleadings and transcript pursuant to Rule 12-314 NMRA. An order by the Supreme Court suspending or revoking admission to the State Bar of New Mexico shall be a matter of public record unless otherwise ordered by the Court.]~~

~~\_\_\_\_\_ A. **Purpose.** The board is required to conduct an investigation and otherwise inquire into and determine the character, fitness, and general qualifications of every applicant for admission.~~

~~\_\_\_\_\_ B. **Method.** The board or its agents may obtain investigative reports, gather information regarding, and conduct investigations for information relating to the character, fitness, and general qualifications of an applicant. Investigations and inquiries shall be informal, but shall be thorough, with the object of ascertaining the truth.~~

~~[As amended, effective April 1, 1989; November 1, 1994; January 1, 1999; December 1, 2000; as amended by Supreme Court Order No. 18-8300-010, effective December 31, 2018; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]~~

#### **15-402. [Qualifications.] Interviews.**

~~[A. **Attorneys and judges.** Bar examiners shall be attorneys or judges with an active bar membership and affirmative interest in legal education and requirements for admission to the bar.~~

~~\_\_\_\_\_ B. **Devotion to duty and compensation.** A bar examiner shall devote whatever time is necessary to perform the duties required of this office. The sole compensation that a bar examiner receives shall be per diem and mileage for attending meetings or hearings of the board,~~

or of any panel or committee thereof, at the same rate as provided in the Per Diem and Mileage Act for nonsalaried public officers attending meetings and any other compensation for service to the board as approved by the Supreme Court.

~~C. **Essential conduct.** A bar examiner shall be conscientious, studious, thorough, and diligent in learning the methods, problems, and progress of legal education, in preparing bar examinations, and in seeking to improve the examination, its administration, and requirements for admission to the bar. A bar examiner shall be just and impartial in recommending the admission of applicants.~~

~~D. **Adverse influence, conflicting duties and inconsistent obligations.** A bar examiner shall not have adverse interests, conflicting duties, or inconsistent obligations that will in any way interfere with the proper administration of the bar examiner's duties as a bar examiner. A bar examiner shall not participate directly or indirectly in courses for the preparation of applicants for bar admission, serve as a law school faculty member, or act as a trustee or regent of a law school or of a university of which a law school is a part, or with which a law school is affiliated. A bar examiner shall act in a manner that does not create any suspicion that the examiner may be swayed by improper considerations.]~~

A. **Purpose.** An interview panel may interview an applicant to assist the board in reviewing the application, making a determination about an applicant's qualifications (including character and fitness), and evaluating any items for which there are discrepancies or inadequate information.

B. **Interview panel.** The board chair, or its designee, may form an interview panel consisting of the board, a bar examiner, or a committee of the board. An interview panel may consist of one or more persons.

C. **Notice of interview.** If the board requires an interview of an applicant, it shall give notice to the applicant at least thirty (30) days in advance of the proposed interview date, or any shorter period of time as may be agreed by the board and the applicant, with copies of the notice sent to the interview panel. The notice shall:

(1) Describe the subject matter of the interview;  
(2) Give the date, time, place and method of the interview;  
(3) Inform the applicant of the applicant's duty to cooperate, and to appear and participate in the interview;

(4) Inform the applicant that the interview is confidential with no observers permitted, although the applicant may elect to have counsel present during the interview;

(5) Inform the applicant that the interview panel is obligated to reach its decision based on the information it receives and that the applicant bears the burden of proof.

D. **Format.** An interview is not a "hearing" as described in these rules, and is generally in the format of a collaborative discussion between the interview panel and the applicant, so that the panel may obtain a full understanding of the issues identified as the subject matter of the interview, and any other items concerning applicant's application for which the interview panel desires additional information or explanation. An interview is confidential with no other participants permitted, although an applicant may have counsel present to observe the interview. An interview may be recorded by the board. Information gathered at an interview, and the board's recording of an interview, shall be admissible at a hearing described in these rules. An applicant's truthfulness, candor, and responsiveness during an interview shall be considered relevant to the applicant's qualifications.



E. **Duty to cooperate.** An applicant has a duty to appear for interviews noticed by the board. The board may summarily deny admission to an applicant who fails to appear for an interview without good cause.

F. **Interview reports.** After an interview, the interview panel shall make a confidential written report to the board that:

(1) It recommends the applicant appears to be qualified for admission without further board action;

(2) It needs additional information, interview, action from the applicant, or combination thereof, before it can make a recommendation on the applicant's qualifications for admission;

(3) It recommends the applicant appears to be qualified for conditional admission, and identify the reasons together with the proposed conditions for admittance; or

(4) It recommends that the applicant should appear for hearing.

G. **Board action.** After completion of an interview, the board shall inform the applicant of the outcome of the interview, and the next steps for the application process.

[As amended, effective November 1, 1994; as amended by Supreme Court Order No. 13-8300-012, effective May 14, 2013; as amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### **15-403. [Tenure.] Hearings.**

~~[Each bar examiner shall serve for a term of up to five (5) years and shall be eligible for reappointment. The members of the Board of Bar Examiners shall be appointed for staggered terms to insure continuity of policy, but there shall be sufficient rotation in the personnel of the board to bring new views to it and to insure continuing interest in its work. Upon a vacancy occurring on the Board of Bar Examiners, a new member shall be appointed as provided by these rules to serve for the remainder of the unexpired term of the member being replaced.]~~

A. **Purpose.** A hearing panel may hold a hearing to enable it to make recommendations regarding an applicant's qualifications including character and fitness, and as specified in these rules. Hearings limited to requests for accommodations are addressed in Paragraph (H).

B. **Hearing panel.** The board chair, or its designee, may form a hearing panel consisting of at least three persons, at least one of whom must be a bar examiner. The board chair shall designate one member of the hearing panel to serve as the presiding hearing officer.

C. **Notice of hearing.** If the board requires a hearing for an applicant, it shall give notice to the applicant at least thirty (30) days in advance of the proposed hearing date, or any shorter period of time as may be agreed by the board and the applicant, with copies of the notice sent to the hearing panel. The notice shall:

(1) Describe the subject matter of the hearing, including the items with which the board is concerned and which may lead to denial of license to practice law;

(2) Give the date, time, place and method of the hearing;

(3) Identify the members of the hearing panel and the presiding hearing officer;

(4) Inform the applicant of the applicant's duty to cooperate, and to appear and participate in the hearing;

(5) Inform the applicant that the hearing is confidential with no observers permitted, except that the applicant may elect to have legal counsel for the hearing;

(6) Inform the applicant that the hearing panel is obligated to reach a decision based on the information presented in the hearing and that the applicant bears the burden of proof.

D. **Representation.** The board and applicant may be represented by counsel at the hearing and in any pre- or post-hearing proceedings.

E. **Subpoenas; oaths.** The hearing panel shall have subpoena power to compel live or deposition testimony of witnesses, and the production of books, papers, and documents. The board or applicant may present a subpoena to the presiding hearing officer for issuance. The party requesting the subpoena shall be responsible for serving the subpoena. Any member of the board may administer oaths and affirmations related to the hearing.

F. **Hearing procedure and evidence.** In a hearing held under these rules:

(1) **Burden of proof.** The applicant bears the burden of proof as to qualification for a license to practice law, and shall put forth evidence of the applicant's qualifications so as to address the items listed in the notice of hearing;

(2) **Conduct of hearing.** The parties or their counsel may make opening arguments, present relevant evidence and witness testimony, cross-examine adverse witnesses, and make closing arguments. The hearing panel may request the parties submit proposed findings of fact and conclusions in advance of, or at the conclusion of, the hearing;

(3) **Exclusion of evidence.** Strict adherence to the Rules of Evidence is not required; however, irrelevant, immaterial, unduly repetitious and unduly prejudicial evidence shall be excluded;

(4) **Judicial notice.** Official notice may be taken of all facts of which judicial notice may be taken under the Rules of Evidence;

(5) **Evidentiary rulings.** Rulings on evidence shall be made by the presiding officer;

(6) **Pre-hearing rulings.** Rulings on any pre-hearing motions shall be made by the presiding officer;

(7) **Exclusion of witnesses.** The hearing panel may exclude witnesses from the hearing at the request of either party; and

(8) **Record.** A complete record of the hearing shall be made by a court reporter or court monitor.

G. **Conclusion of hearing.** After a hearing, the hearing panel shall issue findings of fact and conclusions in which it determines:

(1) the applicant is qualified and recommends the applicant be issued a license;

(2) the applicant is not qualified and recommends the applicant be denied a license;

(3) the applicant is qualified but recommends the applicant only be conditionally admitted, along with the proposed conditions for admittance; or

(4) as otherwise appropriate for the matter being heard.

The board shall then act on the panel's recommendations.

H. **Procedure for hearings on denial of request for accommodation.** An applicant who is adversely affected by the board's denial or modification of a request for accommodation under Rule 15-501(D)(4) NMRA shall, within five (5) business days of receiving the board's denial or modification letter, request a hearing by submitting a written request for hearing to the board. The board chair or designee shall serve as a hearing officer, and schedule and hold an expedited hearing on the request, providing notice to the applicant at least five (5) business days

before the hearing (unless otherwise agreed). Within five (5) business days after conclusion of the hearing, the hearing officer shall prepare written findings of fact and conclusions on the request for accommodations, and send notice of same to the applicant.

[As amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**15-404. [Rulemaking powers.] Appeals and petitions to the Supreme Court.**

~~[The board shall have the authority to adopt rules of procedure, standards for grading, forms and other procedures necessary to the efficient and fair performance of its duties consistent with these rules.]~~

A. **Scope of rule.** This rule governs the procedure for appealing board determinations to the Supreme Court and for filing petitions described in these rules with the Supreme Court. This rule does not create a right of appeal except as specifically permitted in these rules. Filings and service under this rule shall be in conformance with Rule 12-307 NMRA, although no extensions of time shall be allowed for various methods of service, and service on the board shall be as contemplated in Rule 15-102(BB) NMRA.

B. **Appeals, other than request for accommodation.** An applicant may appeal from final orders, decisions, or actions of the board, only as specified in these rules.

(1) **Initiating an appeal.** An appeal from a final order, decision, or action of the board may be initiated by filing a petition with the Clerk of the Supreme Court within thirty (30) days of the date of item being appealed, in which the applicant must specify how the board erred. No docketing statement is required and no docket fee shall be paid, but a copy must be served on the board. On the board's receipt of the notice of appeal, it shall prepare and file with the Clerk of the Supreme Court the record on appeal (or agreed portion thereof), and promptly serve the applicant with notice of the filing. The record on appeal shall consist of the board's file about the applicant and transcripts or recordings of hearings, although the applicant and board may agree that only a limited portion of the record is required for the issues on appeal. After the record on appeal is filed, the applicant shall have thirty (30) days from the date the record is filed to file and serve a brief-in-chief conforming to Rule 12-318 NMRA. The brief-in-chief shall cite to the record for facts and documentation presented to the board which the applicant contends were overlooked or misapprehended by the board, and must contain a verified statement of applicant as to the truth and accuracy of the statements in the petition and brief-in-chief under penalty of perjury.

(2) **Answer to appeal; reply not allowed.** Within forty-five (45) days after the applicant files a brief-in-chief, the board shall file and serve an answer brief conforming with Rule 12-318 NMRA. No reply brief shall be filed.

(3) **Review.** The standard of review for appeals filed under this rule is whether the applicant has proven that the board's decision was arbitrary, capricious, or malicious based on the record before the board. The Supreme Court shall not consider evidence not in the record, and will not consider any diagnosis or disability not previously identified in the applicant's application, even if newly diagnosed or identified.

C. **Appeal of accommodation denial.** An applicant who remains adversely affected after receiving findings and conclusions from a hearing conducted pursuant to Rule 15-403(H) NMRA on an accommodation request may file a petition with the Clerk of the Supreme Court within five (5) business days of the date of the findings and conclusions, and serve a copy of the petition on the board. No docketing statement is required and no docket fee shall be paid. The board shall promptly file with the Clerk of the Supreme Court the record on appeal which shall

consist of the board's file about the applicant's requested accommodation, and transcripts or recordings of hearings. Within five (5) days of record being filed, the applicant shall file with the Supreme Court a brief that succinctly identifies how the record shows the facts and documentation presented to the board supports the applicant's requested accommodation, how the requested accommodation was reasonable, and contain verification by the applicant as to the truth and accuracy of the statements in the petition and brief-in-chief under penalty of perjury. The board shall file and serve a response within five (5) business days of the filing of the applicant's brief. No reply shall be filed.

D. **Petitions by board.** The board may file with the Supreme Court and serve, without filing fee, a petition as specified in these rules, showing the items specified in the rule on which the petition is based. A person who is the subject of a petition may file and serve a response within fourteen (14) days after the petition is filed. No reply shall be allowed. The board or responding party may request a hearing by so stating in their filing.

E. **Oral arguments; disposition.** For any appeal or petition, the Supreme Court may summarily act on the papers filed, order additional briefing, refer the matter to the board for an evidentiary hearing or expedited evidentiary hearing under Rule 15-403 NMRA, set oral argument, or order hearing before the Supreme Court. Any oral argument shall be in accordance with the Rules of Appellate Procedure. If the board is ordered to conduct an evidentiary hearing under this rule, the board shall file its findings and conclusions with the Supreme Court within seven (7) days of the later of: completion of the hearing or submission to the board of any information so identified during the hearing.

[As amended by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[WITHDRAWN]**

**[15-405. Preparation of questions.]**

~~The board shall adopt a policy as to the number, preparation and makeup of the questions. The Board of Bar Examiners may utilize the services of exam writers to prepare bar examination questions, either by arranging for the drafting services of qualified persons, including law school professors, or by using the services of the National Conference of Bar Examiners or other appropriate state or national agencies. The Board of Bar Examiners shall not use any questions prepared by any person who is affiliated with, teaches for or has any interest in a bar exam review course or who is in any way involved with assisting bar exam applicants with their exam preparation. The board, or a committee thereof, shall review and approve each question.]~~

~~[As amended, effective November 1, 1994; as amended, by Supreme Court Order No. 06-8300-013, effective May 12, 2006; as withdrawn by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]~~

**[WITHDRAWN]**

**[15-406. Regular and special meetings.]**

~~The Board of Bar Examiners may hold other examinations for the Multi-State Professional Responsibility Examination, or other examinations or meetings in the state for the purpose of passing upon the qualifications of applicants or for the disposition of the business before it as it may deem necessary. The board will meet on the second Saturday in December and the second Saturday in May of each year for the purpose of interviewing applicants and considering applications under Rules 15-104 and 15-301, unless the board designates another date. It may hold~~

~~examinations or meetings at such places and times as in its judgment will be most convenient for all parties concerned; but whenever examinations are held as provided in this rule, all persons whose applications are on file awaiting examination must be notified of the time and place at least ten (10) days prior thereto.]~~

[As withdrawn by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

[NEW ARTICLE]

**ARTICLE 5 Examinations**

[NEW MATERIAL]

**15-501. Examinations.**

A. **Necessity.** As further specified for each method of licensure, all applicants are required to pass, or demonstrate to the board's satisfaction they have passed, examinations that test an applicant's (1) minimum competence to practice law, and (2) understanding of and familiarity with the rules of professional conduct and legal ethics.

B. **Location; timing.** The board may designate places and times for examinations described in this Article as it determines will be most convenient for all parties concerned. Absent exigent circumstances, an applicant awaiting examination shall be notified of the time and place of the exam at least ten (10) days before the exam.

C. **Question preparation.** The board may use the services of examination writers and examination administrators for preparation of examinations, either by arranging for the drafting services of qualified persons, including law school professors, or by using the services of the NCBE or any other appropriate state or national agency. The board shall not permit use of any questions prepared by a person who is affiliated with, teaches for, or has any interest in a bar exam review course or who is in any way involved with assisting applicants with their exam preparation.

D. **ADA accommodations.** For examinations administered by the board, an applicant may submit to the board a written request for reasonable testing accommodations under the Americans with Disabilities Act, utilizing forms, policies and procedures as the board may promulgate. Requests for testing accommodations must be reasonable, not unduly burdensome, consistent with the nature and purpose of the examination, and necessitated by the applicant's disability. The board may, in whole or in part, grant, modify, or deny a request for accommodations.

(1) ***Timing of request for accommodations.*** An applicant requesting testing accommodations must submit to the board a request for accommodations using forms prescribed by the board. An applicant's request for accommodations must be (a) in the manner described on the request form, and (b) submitted on or before the last application deadline for the examination for which the request for accommodations is being made.

(2) ***Determination on request for accommodations.*** The board, or its designee, shall determine whether a request for accommodation is complete, and shall reject an incomplete request for accommodations. The board, or its designee, will evaluate a complete timely-submitted request for accommodations and will shall notify the requesting applicant of its determination no later than twenty (20) days before the date of the examination for which the accommodations are requested.

(3) **Emergency request for accommodations.** An applicant whose injury or disability arose after the deadline may submit an emergency request for accommodations along with a statement and supporting documentation explaining why the request could not have been timely submitted. The board, or its designee, will evaluate a complete emergency request for accommodations as soon as is practicable after its submission, and will notify the requesting applicant as soon as it makes a determination. The board shall deny an emergency request for accommodations which is impractical or unreasonable within the time remaining before the examination begins. While an applicant may seek hearing and subsequently appeal a decision on an emergency request for accommodation, there may not be sufficient time to reasonably complete those processes before the examination.

(4) **Hearing and appeal of decision on request for accommodations.** An applicant aggrieved by a decision on a request for accommodation may seek hearing and appeal as described in Rules 15-403(H) and 15-404(C) NMRA.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-502. Examination of minimum competence to practice law.**

A. **UBE.** The examination to test an applicant's minimum competence to practice law shall be the UBE. The UBE consists of six (6) MEE questions, two (2) MPT items, and the MBE, all administered during a single examination administered over two or more consecutive days. The examination may test any subject matter identified by the NCBE as areas of law that may be tested on the UBE. Questions on the examination will be unlabeled as to subject matter, and are not limited to a single subject matter.

B. **Passing score.** For all applicants, the minimum passing score on the UBE shall be two hundred sixty (260).

C. **Timing.** All components of the UBE must be taken, and a passing score received, within the same examination period.

D. **Results.** Results of the examination of minimum competence to practice law shall be as described in Rule 15-505 NMRA.

E. **Weighting; scaling.** The raw scores assigned to the MEE and MPT answers by the graders shall reflect the relative quality of each answer (ranging from non-responsive to well above average). The MEE and MPT raw scores shall be combined and converted to the MBE scale to calculate written scaled scores according to the method used by the NCBE for jurisdictions that administer the UBE. The written scaled scores and the MBE scaled scores shall be combined to determine UBE total scores, with the MEE weighted thirty percent (30%), the MPT weighted twenty percent (20%), and the MBE weighted fifty percent (50%). Scaled scores shall be used to assure that the standard used to measure competence is not affected by the difficulty of the particular test or the ability of the applicants sitting for a particular examination.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-503. Examination of professional responsibility and legal ethics.**

A. **MPRE.** The examination to test an applicant's understanding of and familiarity with the rules of professional conduct and legal ethics shall be the MPRE.

B. **Passing score.** For all applicants, the minimum passing score on the MPRE shall be a scaled score of eighty (80).

C. **Timing.** An applicant shall achieve a minimum passing score on the MPRE before being recommended for admission.

D. **Results.** Results of the examination to test an applicant's understanding of and familiarity with the rules of professional conduct and legal ethics shall be reported to the applicant and the board by the NCBE.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### [NEW MATERIAL]

##### **15-504. Grading and scoring.**

A. **Policies and graders.** Subject to the approval of the Supreme Court, the board may adopt grading policies and standards consistent with NCBE policies for grading of the various examinations administered by the NCBE, may delegate grading responsibility to the NCBE for any examination administered by the NCBE, or may adopt grading policies and standards, and appoint graders for examinations administered by the board.

B. **Nonidentity grading.** For examinations administered by the board, every applicant shall be assigned an examination number. Grading of examinations shall be anonymous, and the information matching the names and code numbers of the applicants shall be kept in the custody of the secretary of the board, or another person designated by the board, until all papers have been finally graded, all numerical or percentage grades for each applicant have been compiled, all examinations eligible for regrade have been regraded, and each applicant has been determined by examination number to have either passed or failed the bar examination. This information will not be provided to exam graders during the grading process.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### [NEW MATERIAL]

##### **15-505. Results.**

A. **Notification.** On completion of grading of exams administered and graded by the board, and approval by the Supreme Court, the board shall notify each applicant of the results of the applicant's examination, and any other information as the board may deem appropriate.

B. **Publication.** Bar examination statistics and other information determined by the board or Supreme Court to be nonconfidential may be made available to prospective students, applicants, members of the legal profession and to members of the public who are interested in standards for admission.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### [NEW MATERIAL]

##### **15-506. Right to inspect.**

A. **Test scores; inspection.** An applicant who did not receive a passing score on an examination may inspect the examination questions and answers only as described in this rule. An applicant who passes the examination shall have no right to inspect any portion of the exam or the applicant's answers. No inspection of questions or answers of an examination administered by the NCBE shall be allowed unless authorized by the NCBE. On NCBE's authorization to release examination information, an applicant may inspect the examination by

submitting the required fee to the board but must do so no later than sixty (60) days after an applicant is notified of the examination results. Only the following portions of an examination may be inspected:

- (1) the MEE and MPT questions of the examination;
- (2) the applicant's answers to the MEE and MPT questions; and
- (3) sample answers for each question.

B. **Examination grading.** Before the publication of the results of the UBE, the board or its designee shall review and regrade as necessary the MEE and MPT answers for any applicant whose total UBE score is six (6) points below the minimum passing score, the total UBE score after the regrade shall be the final score for that applicant. Any applicant who has not received a passing score on the UBE but otherwise is qualified for admission may, within thirty (30) days of being notified of the UBE examination results, make written request that the board review the mathematical accuracy of the scoring of the applicant's examination; the board or its designee shall promptly review the scoring and take any action necessitated by the review. The regrade shall be conducted by a different person than the original grader. Any actual cost for review of the mathematical accuracy of the scoring shall be paid by the applicant.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### **[NEW MATERIAL]**

##### **15-507. No hearing on or appeal of grade.**

The board will not conduct a hearing to review, and no petition or appeal to the Supreme Court may be filed regarding, grades an applicant receives on exams administered under this article.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

#### **[NEW ARTICLE]**

##### **ARTICLE 6 The Board of Bar Examiners**

#### **[NEW MATERIAL]**

##### **15-601. Composition and tenure.**

A. **Composition.** The board shall be composed of twelve bar examiners. The Supreme Court shall appoint each bar examiner.

B. **Term.** To ensure continuity of policy and procedures, bar examiners shall serve in staggered terms of five (5) years each, with the bar examiners divided into five classes; classes I and II shall each consist of three bar examiners, and classes III, IV and V shall each consist of two bar examiners. The term of board service for all classes shall commence on January 1. While a bar examiner may be reappointed by the Supreme Court for an indefinite number of terms, the Supreme Court may require rotation of the bar examiners to bring new viewpoints and promote continuing interest in the board's work. A bar examiner may resign by notifying the board chair who shall then inform the Supreme Court. If a bar examiner vacancy occurs mid-term, then the Supreme Court shall appoint a bar examiner to serve for the remainder of the unexpired term for the vacant seat.

C. **Officers.** The board shall nominate for the Court's approval a chair and a vice-chair from the bar examiners. The board shall select a secretary-treasurer, who need not be a bar



examiner. The chair shall preside at all meetings of the board and shall be responsible for communicating with the Supreme Court on behalf of the board.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-602. Qualifications and duties of a bar examiner.**

A. **Attorneys and judges.** A bar examiner shall be an attorney or judge, shall have active membership in the State Bar of New Mexico, and shall not have a conditional or limited license to practice law in the state. A bar examiner shall have an affirmative interest in legal education and requirements for admission.

B. **Duties.** A bar examiner shall be conscientious, studious, thorough, and diligent in learning the methods, problems, and progress of legal education, in preparing bar examinations, and in seeking to improve the examination, its administration, and requirements for admission. A bar examiner shall be just and impartial in recommending admission.

C. **Conflicts; avoid appearances of impropriety.** A bar examiner shall not have adverse interests, conflicting duties, or inconsistent obligations that will in any way interfere with the proper administration of the bar examiner's duties as a bar examiner. A bar examiner shall not participate directly or indirectly in courses for the preparation of applicants for admission. A bar examiner shall not serve as a law school faculty member, or act as a trustee or regent of a law school or of a university of which a law school is a part, or with which a law school is affiliated. A bar examiner shall act in a manner that does not create any suspicion that the examiner may be swayed by improper considerations. A bar examiner shall disclose to the chair any matter before the board about an applicant when that bar examiner's participation could suggest an appearance of impropriety, and may then be excused from participation as the chair deems appropriate.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-603. Duties of the board.**

The board shall:

- A. Perform the tasks identified in Rule 15-201(B) NMRA;
- B. Investigate the qualifications and moral character of applicants for admission or reinstatement;
- C. Prepare, arrange for and administer examinations for admission;
- D. Recommend to the Supreme Court with respect to applicants for admission;
- E. Recommend to the Supreme Court with respect to reinstatement or readmission of lawyers who have for any reason withdrawn from the bar;
- F. Recommend to the Supreme Court with respect to suspension, revocation or expiration of limited licenses to practice law;
- G. Discuss with applicants the purposes, policies and procedures of the admission process and examinations;
- H. Recommend to the Supreme Court modifications to the list of reciprocal states based on rule changes in New Mexico and the various states, and other relevant considerations in the Court's discretion;

I. Administer these rules and adopt practices and procedures not inconsistent with these rules;

J. Periodically perform, engage in, or contract with others for, thorough studies of examination results and admissions processes to determine effectiveness, identify defects, and suggest improvements in the admission process; and

K. Review and consider proposals to amend or change the rules.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

## [NEW MATERIAL]

### **15-604. Meetings, board action, and committees.**

A. **Regular meetings.** The board shall set a regular meeting schedule, with at least two meetings per year, to conduct board business. The chair may set a schedule of additional regular meetings on whatever basis deemed necessary to ensure that the board's work is accomplished. The board shall evaluate the operation of these rules, or receive a report from a rules committee, on a timely basis as needed. In the absence of the chair, the vice-chair shall preside; in the absence of both, any other bar examiner may preside, or board staff may preside, provided that any board staff temporarily chairing the board may not vote and shall not count for establishing a quorum.

B. **Special meetings.** The chair, vice-chair, or any two bar examiners, may call a special meeting of the board by giving notice to each bar examiner five (5) days in advance of proposed special meeting of the board. A meeting may be held on shorter notice if all bar examiners waive notice in writing.

C. **Executive session.** The board may meet in executive session to discuss any matter deemed confidential in these rules, to review and make decisions regarding denial of or proposed conditions for admission, and for personnel matters concerning board staff.

D. **Quorum; voting; no proxy votes.** A quorum of the board consists of a majority of the bar examiners, including the chair. A quorum includes any bar examiner present in person, by telephone, by videoconference, or by other simultaneous electronic communication. Once a quorum is present at a meeting, the departure of any bar examiner shall not terminate the quorum. The board may meet and discuss matters without a quorum present. All bar examiners, including the chair, shall have one (1) vote. Voting by proxy is not permitted. Board staff, guests, and liaisons may participate in meetings, but may not vote.

E. **Board action in lieu of meeting by unanimous consent.** The board may take action without holding a board meeting if all members unanimously consent or vote in writing to the proposed action. Board action by unanimous consent in lieu of meeting may occur by use of electronic communications.

F. **Committees.** The chair may appoint one or more committees or panels, as deemed necessary, and appoint bar examiners to serve on them. The members of a committee or panel may include other individuals with experience and expertise the chair determines would be helpful to its work. Each committee or panel shall have at least one bar examiner serving on it, who need not be the chair of the committee or panel.

G. **Immunity from civil suit.** Members of the board, members of hearing committees, board counsel, monitors or any other person acting on their behalf and staff shall be immune from suit as provided by statute or common law for all conduct in the course of their

official duties. Immunity from suit shall also extend, as provided by statute or common law, to witnesses, for their communications with the board or its counsel.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-605. Per diem and compensation.**

For attending board meetings, committee meetings, hearings and attending to board business, bar examiners, panelists, and board committee appointees shall receive mileage and per diem at the same rate as provided in the Per Diem and Mileage Act, Sections 10-8-1 through 10-8-8 NMSA 1978, for non-salaried public officers attending meetings for public officials and employees of the State of New Mexico, and other compensation for service to the board as may be approved by the Supreme Court.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-606. Board finances.**

A. **General fund.** The board shall deposit application fees and costs it receives into an account designated as the board's general fund. The general fund shall be disbursed by the board in carrying out its functions, duties, and powers.

B. **IOLTA Account.** The board shall deposit funds collected as a deposit against fees and costs under Rule 15-204(C) NMRA into an IOLTA account.

C. **Budget.** The board shall submit on or before January 1 of each year a proposed budget to the Supreme Court.

D. **Audit.** The board shall, on or before March 1 of each year, submit to the Supreme Court an accounting and audit of all funds received and disbursed during the prior fiscal year. This audit shall be performed by an auditor selected by the Supreme Court.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-607. Administrative assistance.**

The Supreme Court shall provide the board adequate administrative and clerical assistance. Subject to approval by the Supreme Court, the board shall hire an executive director; the board may hire other staff and engage contractors as it deems appropriate.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**[NEW MATERIAL]**

**15-608. Rulemaking powers.**

The board shall have the authority to adopt rules of procedure, standards for grading, forms and other procedures necessary to the efficient and fair performance of its duties consistent with these rules.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

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## [rules.supremecourt-grp] Rule Proposal Comment Form, 03/24/2023, 11:16 am

1 message

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**web-admin@nmcourts.gov** <nmcourtswebforms@nmcourts.gov>

Fri, Mar 24, 2023 at 11:16 AM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your  
Name: John P Burton  
Phone  
Number: 505-670-6325  
Email: [jburton@rodey.com](mailto:jburton@rodey.com)  
Proposal  
Number: 2023-022

Comment: In Paragraph A(1) of proposed Rule 15-203, after "oath", insert something like "or affirmation under penalties of perjury under the laws of New Mexico". Reason: some people are prohibited by religious reasons from taking an oath. Also, most, if not all of the Court's approved forms allow affirmations in lieu of oaths. Bar applicants should be accorded no less consideration. Thanks!

Paragraphs a, b, c, d. e, and part of g of proposed Rule15-205 are too broad for three reasons. First, they are unlimited in time. They go back as far as an applicant can remember, i.e. to to when an applicant is 6-7 years old. Surely you don't mean that. Second, they pick up unlawful conduct that everyone engages in, even if not charged, such as driving two miles per hour above the speed limit or staying too long at a parking meter. Surely you don't mean that, either. Third, even if you were to ask about only charged offenses, the data shows that people of color are charged more frequently than white people. New York just changed its bar application questions for this reason. Please send this proposed rule back to the drawing board. It is well meaning, but ill considered. Thanks!



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

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## [rules.supremecourt-grp] Rule Proposal Comment Form, 03/24/2023, 3:25 pm

1 message

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**web-admin@nmcourts.gov** <nmcourtswbforms@nmcourts.gov>

Fri, Mar 24, 2023 at 3:25 PM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Frank DePalma

Phone  
Number: 575-541-3193

Email: [frank.depalma@lopdm.us](mailto:frank.depalma@lopdm.us)

Proposal  
Number: PROPOSAL 2023-022

Comment: As it concerns Rule 15-304:

I believe some language that allows for the conversion of a public employee limited license to a full license would be of great value in terms of retaining young lawyers within the State.

Persons practicing under a limited license via Rule 15-304, licensed via either a non-UBE State, or having applied for limited licensure prior to the adoption of the UBE by their reciprocal jurisdiction, have no means of qualifying for full licensure absent the Examination Method in Rule 15-301.

Such persons would not qualify to be licensed under Rule 15-303, as their engagement of practice in the preceding five (5) of the past seven (7) years would have occurred within the State of New Mexico, as opposed to a reciprocal state as required under the rule.

Some caveat that would allow for the conversion of a limited license to a full license for persons who have practiced within the State of New Mexico under a Rule 15-304 license for five (5) of the preceding five (5) years would simplify the process of retaining young attorneys within the State.



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

## [nmsupremecourtclerk-grp] Comments regarding Proposed Rules regarding Admission to Bar

1 message

**Maureen Sanders** <mas@sanwestlaw.com>

Mon, Apr 24, 2023 at 10:10 AM

Reply-To: mas@sanwestlaw.com

To: "nmsupremecourtclerk@nmcourts.gov" <nmsupremecourtclerk@nmcourts.gov>

We write with a concern regarding the proposed Rule 15-202 (B) which relates to citizenship or immigration status of applicants to the State Bar. After much study and input from the legal community over several years, the Supreme Court adopted a change to the qualifications section in the Bar application rules in 2022. At that time the rule regarding qualifications was changed. As shown below, the highlighted sentence in paragraph A was added. Additionally, paragraph 7 (highlighted) was removed.

### 15-103. Qualifications

A. Requirements mandatory. License to practice law shall be granted only to applicants who fulfill all of the requirements of these rules. License to practice law shall not be denied based solely on the applicant's citizenship or immigration status.

B. Qualifications. A person seeking admission to practice law in New Mexico shall file a formal application as prescribed by these rules and as required by the [board] New Mexico Board of Bar Examiners. Submission of the application shall constitute submission by the applicant to the jurisdiction of the New Mexico Board of Bar Examiners until a final determination on admission of the applicant may be completed. An applicant shall have the burden of establishing to the satisfaction of the [board] Board of Bar Examiners that the applicant possesses all of the following qualifications:

- (1) is at least eighteen (18) years of age;
- (2) is a graduate with a juris doctor or bachelor of laws and letters degree (at the time of the bar examination for which application is made or at the time of application for admission by transferred Uniform Bar Examination (UBE) score) of a law school formally accredited by the American Bar Association or is a graduate of any law school who has been engaged in the practice of law in another state or states for at least four (4) of the six (6) years immediately preceding the person's application for admission to practice in New Mexico;
- (3) is a person of good moral character, physically and mentally fit to practice law;
- (4) is, if ever admitted to practice in any other state or states, in good standing in this state or states;
- (5) is professionally qualified for admission to the bar of New Mexico; and
- (6) is in compliance with all child support and spousal support obligations imposed under a "judgment and order for support" as defined in the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978, or imposed under a child support or spousal support order entered by any other court of competent jurisdiction. If an applicant is not in compliance with a child support or spousal support obligation, the applicant will not be recommended for admission to the bar until the applicant provides the [board] Board of Bar Examiners with evidence that the applicant is in compliance with the judgment or order. If the

applicant has appeared on the Human Services Department's certified list of obligors, the applicant shall submit a certified statement from the Human Services Department that the applicant is in compliance with the judgment and order for support. In all other cases, the applicant shall provide evidence acceptable to the [board] Board of Bar Examiners of compliance with all applicable child and spousal support orders[; and].

[(7) is a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States.]

Thus, currently immigration status is not mentioned in the qualifications section of the admission rules. The proposed rules currently under consideration by the Court unnecessarily reintroduces immigration to the qualifications section.

The proposed rule reads:

B. Citizenship or immigration status. An applicant shall inform the board whether the applicant is a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States, although admission shall not be denied solely on that status.

As you can see, the proposed rule includes some of the language recently stricken by the Court. That language raises several concerns. The choices described for immigration status is not the universe of possible applicants' immigration status and uses current federal descriptions which are subject to change in this volatile area of the law. A potential applicant may understand the language to suggest that applicants must be one of the three types described in the proposed rule to even apply for admission. We don't believe that is the intent of the Court given its recent amendment regarding immigration.

Secondly, we believe based on our previous submissions regarding applicants' immigration status rules as well as conversations over the years with members of the Court and the Board of Bar Examiners staff that the intent was to separate licensing from work authorization. While we understand the Supreme Court is the sole regulator of lawyers, the separation of license and work authorization would be consistent with the law passed by the Legislature in 2020. That law declared that "It is the policy of this state that a person is eligible for occupational or professional licensure or certification for which that person is qualified, regardless of the person's citizenship or immigration status." NMSA 61-1-35.

We would ask the Court to have the proposed rule be consistent with the recently enacted amendment. That can be easily accomplished by omitting the language in proposed section B and replacing it with: "A license to practice law shall not be denied based solely on the applicant's citizenship or immigration status."

Thank you for the opportunity to comment on the proposed rules. Please feel free to contact us if you want any additional information.

Maureen A. Sanders

David J. Stout

505-980-8889

505-350-8716



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

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## [rules.supremecourt-grp] Rule Proposal Comment Form, 04/24/2023, 3:23 pm

1 message

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**web-admin@nmcourts.gov** <nmcourtswebforms@nmcourts.gov>

Mon, Apr 24, 2023 at 3:23 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Elizabeth Holmes

Phone Number: 5058352903

Email: [elizabeth.holmes@lopdm.us](mailto:elizabeth.holmes@lopdm.us)

Proposal Number: 2023-0022

Comment: Comment attached.

Upload: [Proposal-2023-0022—Rules-Governing-Admission-to-the-Bar-Rule-Set-15-NMRA.pdf](#)



**Proposal-2023-0022—Rules-Governing-Admission-to-the-Bar-Rule-Set-15-NMRA.pdf**

104K





NEW MEXICO  
**LAW OFFICES OF THE  
PUBLIC DEFENDER**

**Chief Public Defender  
Bennett J. Baur**

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Monday, April 24, 2023

Elizabeth A. Garcia  
New Mexico Supreme Court  
PO Box 848  
Santa Fe, NM 87504-0848

Re: **Proposal 2023-0022 – Rules Governing Admission to the Bar [Rule Set 15 NMRA]**

Dear Ms. Garcia:

The criminal legal system is overburdened with case backlogs due to Covid-19 and high attorney vacancies. The new rule may have unintended consequences to accessing justice.

The new rule requirement of signing of the roll before admission will delay access to justice by prolonging the time a successful bar applicant can begin practicing. Based on the language of the new rule, once a successful applicant is informed they have passed the bar they must wait to be admitted to sign the roll and a swearing in ceremony, unless other arrangements are made with the Clerk. It is unclear what arrangements would be acceptable as an alternative to the ceremony.

There does not appear to be any practical reason to delay admission once the applicant has successfully passed the bar exam. Additionally, it delays them an opportunity to begin practicing and earning a living, as well as representing clients in the overburdened criminal legal system.

Specifically, this delay hurts the criminal legal system and adds to the backlog because the successful applicant is precluded from making appearances and representing clients. Moreover, the signing of the role and ceremony will likely add additional costs for the successful applicant who does not reside in Albuquerque or Santa Fe, who may be starting their career or are seeking employment in criminal law.

We believe a more efficient practice would be to admit successful applicants working in the criminal legal system immediately and give them time to sign the roll from the date of admission. It is noted the Supreme Court Clerk reached out to Chief Bennet J. Baur and stated newly admitted attorneys from LOPD and AODA had the opportunity to be sworn in at an

earlier date and sign the roll prior to the official swearing in. We are in favor of these arrangements as well.

Please let me know if you have further questions. I may be reached at [elizabeth.holmes@lopdm.us](mailto:elizabeth.holmes@lopdm.us) or 505-835-2903.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Elizabeth Holms', written in a cursive style.

Elizabeth Holms

Training and Recruitment Director

New Mexico Law Offices of the Public Defender



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

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## [rules.supremecourt-grp] Rule Proposal Comment Form, 04/24/2023, 4:12 pm

1 message

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**web-admin@nmcourts.gov** <nmcourtswebforms@nmcourts.gov>

Mon, Apr 24, 2023 at 4:12 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your  
Name: Adrienne Turner

Phone  
Number: 505-470-1933

Email: [adrienne.turner@lopdm.us](mailto:adrienne.turner@lopdm.us)

Proposal  
Number: 1 PROPOSED REVISIONS TO THE RULES GOVERNING ADMISSION TO THE BAR PROPOSAL 2023-022, Rule 15-207

Comment: The criminal legal system is overburdened with case backlogs due to Covid-19 and high attorney vacancies. The new rule 15-207 regarding the roll of attorneys may have unintended consequences to accessing justice.

The new rule requirement of signing of the roll before admission will delay access to justice by prolonging the time a successful bar applicant can begin practicing. Based on the language of the new rule, once a successful applicant is informed they have passed the bar they must wait to be admitted to sign the roll and a swearing in ceremony, unless other arrangements are made with the Clerk. It is unclear what arrangements would be acceptable as an alternative to the ceremony. Otherwise, there does not appear to be any practical reason to delay admission once the applicant has successfully passed the bar exam and delay them an opportunity to begin practicing and earning a living, and representing clients in the overburdened criminal legal system.

Specifically, this delay hurts the criminal legal system because the successful applicant is precluded from making appearances and representing clients which also adds to the backlog. Moreover, the signing of the roll and ceremony will likely add additional costs for the successful applicant who does not reside in Albuquerque or Santa Fe, who may be starting their career or are seeking employment in criminal law.

LOPD seeks to train new attorneys and have them ready to represent clients in court once they successfully pass the bar. LOPD hires recent law school graduates to start one week after the bar exam. This is used to train the law school graduates, and pay them while they await the bar exam results. Without these successful applicants able to make appearances their training is delayed and less clients are served that in turn leads to less cases being resolved.

We believe a more efficient practice would be to admit successful applicants working in the criminal legal system immediately and give them time to sign the roll from the date of admission. The rule does require the oath to be administered but does not require it to be given by a Supreme Court Justice. This may fall under the purview of "arrangements" may be made by the clerk to have the oath administered by judge in the successful applicant's local community.

It is noted the Supreme Court Clerk reached out to Chief Bennet J. Baur and stated newly admitted attorneys from LOPD and AODA had the opportunity to be sworn in at an earlier date and sign the roll prior to the official swearing in. LOPD is in favor of these arrangements as well.



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

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## [rules.supremecourt-grp] Rule Proposal Comment Form, 04/24/2023, 4:22 pm

1 message

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**web-admin@nmcourts.gov** <nmcourtswebforms@nmcourts.gov>

Mon, Apr 24, 2023 at 4:22 PM

Reply-To: nmcourtswebforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Adrienne Turner

Phone  
Number: 505-470-1933

Email: [adrienne.turner@lopdm.us](mailto:adrienne.turner@lopdm.us)

Proposal  
Number: 1 PROPOSED REVISIONS TO THE RULES GOVERNING ADMISSION TO THE BAR PROPOSAL 2023-022, Rule 15-304

Comment: The current proposed Rule 15-304 has an internal conflict. The new proposed language in subsection (H) applies to private practice attorneys exclusively representing LOPD clients. However, in subsection (C), the qualifications require that the attorney be employed by LOPD. Those two things cannot exist at the same time.

In order to allow contract attorneys to practice under a limited license, I recommend changes to 15-304 as follows:

15-304

(C) Qualifications. An applicant for license under this rule shall provide proof that the applicant:

- (1) meets the qualifications set forth in Rule 15-202 NMRA;
- (2) is actively licensed to practice law in at least one other state without condition, restriction or limitation;
- (3) is in good standing in all states in which applicant has ever been licensed to practice law;
- (4) has passed the examination of professional responsibility and legal ethics described in 15-503 NMRA; and
- (5) is employed by a government entity, or by law firm or organization that has been awarded a contract to represent public defender clients, by providing a certificate from the applicant's supervisor confirming the applicant has been so employed, and committing to notify the board and the Supreme Court when the applicant is no longer so employed

...

(H) Limitations. A person practicing law under a license issued under this rule may only practice law as: (1) an employee of a governmental entity, or (2) as a private practice attorney employed by a law firm or organization that has been awarded a contract to represent public defender clients



New Mexico  
Courts

Amy Feagans <supajf@nmcourts.gov>

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## [rules.supremecourt-grp] Rule Proposal Comment Form, 04/25/2023, 10:21 pm

1 message

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**web-admin@nmcourts.gov** <nmcourtswbforms@nmcourts.gov>

Mon, Apr 24, 2023 at 10:21 PM

Reply-To: nmcourtswbforms@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Your Name: Jazmin Irazoqui-Ruiz

Phone Number: 2029568367

Email: [jirazoqui-ruiz@nmilc.org](mailto:jirazoqui-ruiz@nmilc.org)

Proposal Number: PROPOSAL 2023-022

Comment: comment attached

Upload: [04242023-Proposed-Revisions-to-the-Rules-Governing-Admission-to-the-Bar-Proposal-2023-022-.pdf](#)



**04242023-Proposed-Revisions-to-the-Rules-Governing-Admission-to-the-Bar-Proposal-2023-022-.pdf**

270K



April 24, 2023

Elizabeth A. Garcia  
New Mexico Supreme Court  
P O Box 848  
Santa Fe, New Mexico, 87504-0848

**RE: Proposed Revisions to the Rules Governing Admission to the Bar,  
Proposal 2023-022**

Ms. Elizabeth A. Garcia:

On behalf of the New Mexico Immigrant Law Center (NMILC), I am writing to express concern regarding the proposed Rule 15-202 (B), which relates to “citizenship or immigration status” of applicants to the State Bar. In August 2022, the NM Supreme Court acted on years of the legal community’s input and advocacy to amend the qualifications under then Rule 15-103 by removing immigration status as a barrier to bar admission. Specifically, the Court removed Rule 15-103(B)(7), which required a bar applicant to possess the following qualifications: “[be] a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States.” Following the amendment, the rule now reads as follows:

**15-103. Qualifications.**

A. **Requirements mandatory.** License to practice law shall be granted only to applicants who fulfill all of the requirements of these rules. License to practice law shall not be denied based solely on the applicant’s citizenship or immigration status.

B. **Qualifications.** A person seeking admission to practice law in New Mexico shall file a formal application as prescribed by these rules and as required by the New Mexico Board of Bar Examiners. Submission of the application shall constitute submission by the applicant to the jurisdiction of the New Mexico Board of Bar Examiners until a final determination on admission of the applicant may be completed. An applicant shall have the burden of establishing to the satisfaction of the Board of Bar Examiners that the applicant possesses all of the following qualifications:

- (1) is at least eighteen (18) years of age;
- (2) is a graduate with a juris doctor or bachelor of laws and letters degree (at the time of the bar examination for which application is made or at the time of application for admission by transferred Uniform Bar Examination (UBE) score) of a law school formally accredited by the American Bar Association or is a graduate of any law school who has been engaged in the practice of law in another state or states for at least four (4) of the six (6) years immediately preceding the person's application for admission to practice in New Mexico;
- (3) is a person of good moral character, physically and mentally fit to practice law;
- (4) is, if ever admitted to practice in any other state or states, in good standing in this state or states;
- (5) is professionally qualified for admission to the bar of New Mexico; and
- (6) is in compliance with all child support and spousal support obligations imposed under a "judgment and order for support" as defined in the Parental Responsibility Act, Sections 40-5A-1 through [40-5A-13](#) NMSA 1978, or imposed under a child support or spousal support order entered by any other court of competent jurisdiction. If an applicant is not in compliance with a child support or spousal support obligation, the applicant will not be recommended for admission to the bar until the applicant provides the Board of Bar Examiners with evidence that the applicant is in compliance with the judgment or order. If the applicant has appeared on the Human Services Department's certified list of obligors, the applicant shall submit a certified statement from the Human Services Department that the applicant is in compliance with the judgment and order for support. In all other cases, the applicant shall provide evidence acceptable to the Board of Bar Examiners of compliance with all applicable child and spousal support orders.

Under current Rule 15-103 NMRA, immigration status is not mentioned and, therefore, is not a required qualification for admission to the NM State Bar. However, Proposal 2023-022, the Proposed Revisions to the Rules Governing Admission to the Bar, directly reverses the purpose of the Court's 2022 amendment by inserting language related to immigration status. The proposed rule reads:

**B. Citizenship or immigration status.** An applicant shall inform the board whether the applicant is a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States, although admission shall not be denied solely on that status.

The proposed rule not only includes language recently stricken by the Court, but it also raises several concerns for prospective bar applicants who could easily be deterred from applying because they do not possess one of the three immigration statuses outlined in the rule. It should be noted that there are many more immigration statuses not contemplated by the proposed rule, such as U Visa Deferred Action, VAWA, Asylee, to name a few, and many others that cannot be

contemplated in a rule because of the ever-evolving area of immigration law. Given the recent amendment in 2022, the NMILC does not believe that it is the Court's intent to deter prospective bar applicants who do not possess one of the three immigration statuses outlined in the proposed rule because of the Court's recent amendment regarding immigration.

Moreover, allowing access to professional licensure regardless of an individual's immigration status is permitted by federal law<sup>1</sup> as well as New Mexico law.<sup>2</sup> But even if that were not the case, the NM Board of Bar Examiners previously recognized that federal law does not prohibit an applicant's admission to the New Mexico Bar because of the individual's immigration status or lack thereof. Further, it is well established that the power to prescribe qualifications for licensure rests exclusively with this Court based upon the separation of powers provided for in New Mexico's Constitution and statutes. This Court has the ultimate authority to regulate the qualifications for admission to the Bar. See *In Re Sedillo*, 1959-NMSC-095, 66 N.M. 267. The Court's authority is grounded in Art. VI, Section 3 of the New Mexico Constitution that provides "superintending control over all inferior courts." N.M. Const. Art. VI, § 3. This Court's constitutional authority encompasses the "inherent power to regulate all pleading, practice, and procedure affecting the judicial branch of government" and includes the "authority and duty to prescribe the qualifications for admission to the bar." *In re Treinen*, 2006-NMSC-013, ¶ 6, 139 N.M. 318. For the aforementioned reasons, the Court can grant bar admission to qualified bar applicants without requiring immigration status as a qualification, which would be consistent with the 2022 amendment to Rule 15-103.

Along with other colleagues in the legal community, the NMILC encourages the Court to consider an amendment that would not deter future bar applicants by omitting the language in proposed section B and replacing it with: "A license to practice law shall not be denied based solely on the applicant's citizenship or immigration status."

Thank you for your time and consideration. Please feel free to contact the NMILC for additional information.

Sincerely,



Jazmin Irazoqui-Ruiz

Senior Economic Justice and Policy Attorney/ Equal Justice Works Disaster Resilience Fellow

[jirazoqui-ruiz@nmilc.org](mailto:jirazoqui-ruiz@nmilc.org)

505-247-1023

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<sup>1</sup> 8 U.S.C. §1621 (d) provides that "[a] State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility."

<sup>2</sup> In 2020, the New Mexico State Legislature passed Senate Bill 137, now codified as NMSA 61-1-35, declared that "It is the policy of this state that a person is eligible for occupational or professional licensure or certification for which that person is qualified, regardless of the person's citizenship or immigration status."