

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: : NO. 897
: :
ORDER AMENDING RULES 102,202, : SUPREME COURT RULES DOCKET
203, 204, 205, 206, 304, 311, AND 341 : :
AND ADOPTING RULE 207 OF THE : :
PENNSYLVANIA BAR ADMISSION : :
RULES :

ORDER

PER CURIAM

AND NOW, this 4th day of January, 2022, the proposal having been published for public comment in the Pennsylvania Bulletin at 51 Pa.B. 1648 (March 27, 2021), and pursuant to Article V, Section 10 of the Constitution of Pennsylvania, **IT IS ORDERED** that:

- A. Rules 102, 202, 203, 204, 205, 206, 304, 311 and 341 of the Pennsylvania Bar Admission Rules are amended in the attached form;
- B. Rule 207 of the Pennsylvania Bar Admission Rules is adopted in the attached form;
- C. The Pennsylvania Board of Law Examiners (“Board”) will administer the Uniform Bar Examination (“UBE”) beginning in July 2022;
- D. The Board will begin accepting applications for UBE transfers beginning in August 2022;
- E. The minimum scaled score required to constitute satisfactory completion of the UBE for purposes of Pennsylvania bar admission shall be 272, and the minimum scaled score required to constitute satisfactory completion of the Multistate Professional Responsibility Examination (MPRE) for purposes of Pennsylvania bar admission shall be 75. The Board shall post that information on the Board’s public web site prior to commencing registration for administration of the UBE; and
- F. The prior orders of this Court dated January 31, 1997 (Order No. 169, Supreme Court Rules Docket No. 1), May 22, 2000 (Order No. 246, Supreme Court Rules

Docket No. 1), December 6, 2001 (Order No. 285, Supreme Court Rules Docket No. 1), and March 12, 2004 (Order No. 328, Supreme Court Rules Docket No. 1), regarding standards for passing the Pennsylvania bar examination and the MPRE, are rescinded to the extent they are inconsistent with this Order.

This **ORDER** shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective on January 12, 2022.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and in brackets.

Chief Justice Baer files a dissenting statement.

Justice Dougherty notes his dissent.

Justice Brobson did not participate in the consideration or decision of this matter.

Rule 102. Definitions

(a) **General Rule.** Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

* * *

“Filing.” When used in reference to an application for admission, including a supplemental application, the application is filed only when it is both submitted and the filing fee is received by the Board.

* * *

“Reciprocal state.” [A state having a reciprocal agreement or arrangement with this Commonwealth concerning admission to the bar.]A state that has a reciprocal agreement or arrangement with this Commonwealth to allow admission on motion without examination based upon a specific number of years of practice.

* * *

Rule 202. Admission to the Bar

An applicant who complies with the requirements of Rule 203 (relating to **[admission of graduates of accredited institutions]admission by bar examination**), Rule 204 (relating to **[admission of domestic attorneys]admission by reciprocity**),**[or]** Rule 205 (relating to **[admission of foreign attorneys]admission by bar examination for graduates with foreign law degrees**) **or Rule 206 (relating to admission by transfer of bar examination score)** and the applicable rules of the Board shall be admitted to the bar of this Commonwealth in the manner prescribed by these rules.

* * * * *

Rule 203. Admission by Bar Examination[of Graduates of Accredited and Unaccredited Institutions]

(a) Bar Examination. The general requirements for permission to sit for the bar examination are:

(1) Receipt of an undergraduate degree from an accredited college or university or the receipt of an education which, in the opinion of the Board, is the equivalent of an undergraduate college or university education.

(2) (i) Except as provided in subparagraph 2(ii) of this Rule, completion of the study of law at and receipt without exception of an earned Bachelor of Laws or Juris Doctor degree from a law school that was an accredited law school at the time the applicant matriculated or graduated. See Rule 205 (relating to admission **by bar examination for[of] graduates [of]with foreign law degrees[institutions]**) for standards applicable to graduates of foreign law schools; or

* * *

(b) Admission to the Bar. The general requirements for admission to the bar of this Commonwealth are:

(1) satisfactory completion of the bar examination administered by or under the authority of the Board; **[and]**

(2) absence of prior conduct by the applicant which in the opinion of the Board indicates character and general qualifications (other than scholastic) incompatible with the standards expected to be observed by members of the bar of this Commonwealth[.]; **and**

(3) satisfactory completion of the Multistate Professional Responsibility Examination at the score determined by the Court which score shall be publicly posted;

* * *

Rule 204. Admission [of Domestic Attorneys]by Reciprocity

As an alternative to satisfying the requirements of Rule 203, an attorney, licensed to practice law in another state, may be admitted to the bar of this Commonwealth if the applicant meets the following requirements:

(1) Has completed the study of law at and received without exception an earned Bachelor of Laws or Juris Doctor degree from a law school that was an accredited law school at the time the applicant matriculated or graduated.

(2) Is a member of the bar of a reciprocal state on active status at the time of filing of the application for admission to the bar of this Commonwealth.

(3) Presentation of a certificate of good standing from the highest court or agency having jurisdiction over admission to the bar and the practice of law in every state or jurisdiction in which the applicant has been admitted to practice law, stating that the applicant is in good professional standing at the bar of such court or such state. An applicant who is disbarred or suspended for disciplinary reasons from the practice of law in another jurisdiction at the time of filing an application for admission to the bar shall not be eligible for admission to the bar of this Commonwealth.

(4) Presentation of proof satisfactory to the Board that the applicant has for a period of five years of the last seven years immediately preceding the date of filing of the application for admission to the bar of this Commonwealth devoted a major portion of time and energy to the practice of law in one or more states.

(5) Presentation of proof satisfactory to the Board that the applicant has either taken and passed the bar examination in a reciprocal state or has devoted a major portion of time and energy to the practice of law in a reciprocal state for five years of the last seven years immediately preceding the date on which an application was filed under this Rule.

[(6) An applicant who has taken and failed the Pennsylvania bar examination will not be admitted under this Rule. This provision does not apply to individuals who have passed the bar examination upon a subsequent attempt.]

[(7)6] Satisfaction of the requirements of Paragraphs (a)(1), [and](b)(2) and (b)(3) of Rule 203.

[(8) Has passed the Multistate Professional Responsibility Exam with the score required by the Court to be achieved by successful applicants under Rule 203.]

* * *

Rule 205. Admission by Bar Examination [of Foreign Attorneys and] for Graduates with Foreign Law Degrees [Institutions]

(a) General Rule. The Board, under such standards, rules and procedures as it may prescribe, may extend the provisions of Rule 203 (relating to the admission [**of graduates of accredited and unaccredited institutions**] by bar examination) to any applicant who has completed the study of law in a law school which at the time of such completion was not located within the geographical area encompassed by the accreditation activities of the American Bar Association and:

Rule 206. [Disqualification of an Applicant] Admission by Bar Examination Score Transfer

[(a) Automatic Disqualification. An applicant who is found to have:

(1) obtained, used, or attempted to obtain or use answers or written or oral information or materials relating to the subjects tested on the bar examination from another applicant or any other person or source while taking the bar examination;

(2) brought in to the bar examination any personal notes relating to the subjects tested on the bar examination and used or attempted to use such notes while taking the bar examination;

(3) secreted any answers, information, materials, or personal notes relating to the subjects tested on the bar examination with the intent to review or use such information while taking the bar examination;

(4) received advance knowledge or information about the questions or the answers to the questions that are included on the bar examination being taken;

(5) written any notes or unauthorized information relating to the subjects tested on the bar examination on any examination materials prior to the beginning of the examination session; or

(6) given or attempted to give answers or information relating to the bar examination being taken to another applicant

shall be disqualified from the bar examination and will not receive a score for the bar examination, or if a score had already been determined such score will be invalidated. Such applicant shall not be eligible to file an application to sit for another bar examination for a period of three years from the date of the disqualification. If such applicant successfully completes a subsequent bar examination, the conduct underlying the disqualification will be considered by the Board in determining whether the applicant has the requisite character to be a member of the bar.

(b) Discretionary Disqualification. An applicant who is found to have violated or attempted to violate any other rule or restriction established by the Board related to taking the bar examination, including but not limited to bringing any item or material prohibited by the Board into the examination room, failure to follow instructions concerning the beginning or end of the examination, communicating with another applicant or external source during the examination, violating any oral or written instructions given in connection with the administration of the bar examination, compromising or disrupting the process for administration of the bar examination, failure to cooperate in the investigation of any conduct in connection with the administration of

the bar examination, or otherwise failing to make a good faith effort to take the bar examination may be disqualified from the examination. An applicant who is disqualified under this section will not receive a score for the bar examination, or if a score had already been determined such score will be invalidated. If an applicant is not disqualified under this section for a violation of any rule or restriction, or if such applicant is disqualified and successfully completes a subsequent bar examination, the conduct underlying the violation of the rules and restrictions will be considered by the Board in determining whether the applicant has the requisite character to be a member of the bar.

(c) The initial determination as to the disqualification of an applicant shall be made by the Executive Director. An applicant receiving notice of the disqualification shall have the right to request in writing, within 10 days of the disqualification, a hearing before the Board, which hearing shall be governed by the general procedures set forth in Rule 213.]

Applicants may apply for admission to the bar of the courts of this Commonwealth using a Uniform Bar Examination (UBE) score earned in another jurisdiction provided that the applicant meets the requirements below.

(a) Score Requirements.

(1) The UBE score must meet or exceed that established by the Court as the minimum passing score for applicants sitting for the bar exam at the time the applicant files an application for admission under this rule; and

(2) No more than 30 months have passed from the first day of the UBE that resulted in the score the applicant seeks to transfer.

(b) Applicant Requirements.

(1) Provide supplemental documentation as the Board directs in support of the application for admission by UBE transfer within six months from the date of filing the application; and

(2) Satisfy the requirements of Paragraphs (a), (b)(2) and (b)(3) of Rule 203.

(c) Administrative withdrawal. The Board will deem the application administratively withdrawn if the applicant fails to meet (b)(1) of this rule. In the event the Board deems an application administratively withdrawn, the applicant will be required to reapply and successfully meet all of the requirements for admission to the bar in order for the Board to issue a certificate recommending the applicant's admission to the bar.

(d) Subsequent hearing after Board denial. If the executive director issues an initial denial per Pa. B.A.R. 213(a) and the Board, after a hearing pursuant to Pa.B.A.R. 213, also declines to issue a certificate recommending admission, the applicant may be permitted to submit a supplemental application to seek a subsequent hearing before the Board if 36 months have not passed from the first day of the examination from which the applicant is seeking to transfer the score.

Official Note: In accordance with the requirement in Pa.B.A.R. 203(a)(2)(i), graduates of

foreign law schools must also meet the requirements of Pa.B.A.R. 205 – Admission by Bar Examination for Graduates of Foreign Law Schools – to transfer a score under this rule.

Rule 207. Disqualification of an Applicant

(a) Automatic Disqualification. An applicant who is found to have:

(1) obtained, used, or attempted to obtain or use answers or written or oral information or materials relating to the subjects tested on the bar examination from another applicant or any other person or source while taking the bar examination;

(2) brought in to the bar examination any personal notes relating to the subjects tested on the bar examination and used or attempted to use such notes while taking the bar examination;

(3) secreted any answers, information, materials, or personal notes relating to the subjects tested on the bar examination with the intent to review or use such information while taking the bar examination;

(4) received advance knowledge or information about the questions or the answers to the questions that are included on the bar examination being taken;

(5) written any notes or unauthorized information relating to the subjects tested on the bar examination on any examination materials prior to the beginning of the examination session; or

(6) given or attempted to give answers or information relating to the bar examination being taken to another applicant

shall be disqualified from the bar examination and will not receive a score for the bar examination, or if a score had already been determined such score will be invalidated. Such applicant shall not be eligible to file an application to sit for another bar examination for a period of three years from the date of the disqualification. If such applicant successfully completes a subsequent bar examination, the conduct underlying the disqualification will be considered by the Board in determining whether the applicant has the requisite character to be a member of the bar.

(b) Discretionary Disqualification. An applicant who is found to have violated or attempted to violate any other rule or restriction established by the Board related to taking the bar examination, including but not limited to bringing any item or material prohibited by the Board into the examination room, failure to follow instructions concerning the beginning or end of the examination, communicating with another applicant or external source during the examination, violating any oral or written instructions given in connection with the administration of the bar examination, compromising or disrupting the process for administration of the bar examination, failure to cooperate in the investigation of any conduct in connection with the administration of the bar examination, or otherwise failing to make a good faith effort to take the bar examination may be disqualified from the examination. An applicant who is disqualified

under this section will not receive a score for the bar examination, or if a score had already been determined such score will be invalidated. If an applicant is not disqualified under this section for a violation of any rule or restriction, or if such applicant is disqualified and successfully completes a subsequent bar examination, the conduct underlying the violation of the rules and restrictions will be considered by the Board in determining whether the applicant has the requisite character to be a member of the bar.

(c) The initial determination as to the disqualification of an applicant shall be made by the Executive Director. An applicant receiving notice of the disqualification shall have the right to request in writing, within 10 days of the disqualification, a hearing before the Board, which hearing shall be governed by the general procedures set forth in Rule 213.

Rule 304. Limited Admission of Spouses of Active-Duty Service Members of the United States Uniformed Services

An applicant may apply for limited admission to the practice of law in Pennsylvania as a spouse of an active-duty service member of the United States Uniformed Services if all requirements of this rule are satisfied.

(a) **Qualifications.**

An applicant who seeks admission pursuant to this rule:

(1) must be present in Pennsylvania as the spouse of an active-duty member of the United States Uniformed Services who is (A) assigned to duty in Pennsylvania or (B) assigned to duty outside the United States but whose last assignment within the United States was in Pennsylvania;

(2) must satisfy the requirements of Rule 203(a)(1) and (2)(i) (related to completion of undergraduate studies and legal studies at a law school accredited by the American Bar Association) and Rule 203(b)(2) (related to character and fitness);

[(3) must not have taken and failed the Pennsylvania bar examination;]

[(4)3] must be currently admitted as an attorney at law in the highest court of another state, commonwealth, territory or the District of Columbia;

[(5)4] must not currently be the subject of a pending disciplinary matter in any jurisdiction in which the applicant is admitted to the practice of law or be currently suspended or disbarred in any such jurisdiction;

[(6)5] must not have been disciplined for professional misconduct by any jurisdiction within the 10 years immediately preceding filing of the Pennsylvania application or been disbarred at any time by any jurisdiction; and

[(7)6] (A) must be employed and supervised by a Pennsylvania-licensed attorney who is in good standing and who is currently engaged in the practice of law in Pennsylvania; or

(B) be employed by the federal government, the Commonwealth of Pennsylvania or a local government within Pennsylvania and supervised in that employment by a Pennsylvania-licensed attorney who is currently engaged in the practice of law in Pennsylvania.

(b) **Procedure.**

(1) An applicant who seeks admission pursuant to this rule must submit to the Board of Law Examiners an affidavit confirming that the applicant satisfies the requirements of Rule 304(a); that the applicant agrees to supplement his or her application with any information that

might arise during the limited admission to practice that bears on any of the requirements of Rule 304(a); that the applicant agrees to notify the Prothonotary of the Pennsylvania Supreme Court of any information that might arise during the limited admission to practice that bears on any of the requirements of Rule 304(a); that the applicant has read, is familiar with and agrees to abide by the Pennsylvania Rules of Professional Conduct and the Pennsylvania Rules of Disciplinary Enforcement; that the applicant will comply with any obligations imposed by the Pennsylvania Continuing Legal Education Board; and that the applicant submits to the jurisdiction of the Pennsylvania Supreme Court with respect to any and all disciplinary matters.

(2) An applicant must submit to the Board of Law Examiners an affidavit of the Pennsylvania attorney who will, pursuant to Rule 304(a)(~~7~~6), supervise the applicant if the application is granted. The supervising lawyer must confirm in the affidavit that he or she will (A) supervise the applicant in the performance of the applicant's legal work and (B) notify the Board in the event the applicant leaves the employ of the supervising attorney's law firm or government entity or is otherwise no longer being supervised by that attorney.

(3) The applicant must submit to the Board of Law Examiners the following:

(A) certificates or official transcripts evidencing compliance with the provisions of Rule 304(a)(2) related to legal education;

(B) a certificate of good standing from the highest court or the admissions authority of a state, commonwealth, territory or the District of Columbia in which the applicant is currently licensed to practice law;

(C) a copy of the United States military orders of the applicant's spouse establishing that the spouse is present in Pennsylvania because of military orders; and

(D) any fee required by the Board of Law Examiners.

(4) If an applicant satisfactorily completes the steps required by this rule and the Board determines that the applicant is qualified under this rule, the Board shall provide to the applicant a certificate recommending admission of a spouse of an active-duty service member.

(5) At any time within six months of the issuance of a certificate recommending admission of a spouse of an active-duty service member, an applicant may file a motion with the Prothonotary of the Supreme Court of Pennsylvania, on a form prescribed by the Board for issuance of such a license. The applicant shall submit the form with the certificate recommending admission of a spouse of an active-duty service member along with any fee the Prothonotary may assess.

(6) Upon receipt of a properly supported motion, the Prothonotary shall enter the name of the applicant upon the docket of persons specially admitted to the bar of the Supreme Court of Pennsylvania subject to the restrictions of this rule.

(c) Limitations

(1) An applicant who is granted limited admission under this rule and who continues to satisfy the requirements of Rule 304(a) is entitled to all the same rights, privileges and benefits and is subject to the same duties, obligations and responsibilities as active members of the bar of the Supreme Court of Pennsylvania subject to the following limitations.

(2) The limited admission provided by this rule shall terminate automatically upon the occurrence of any of the following:

(A) any of the provisions of Rule 304(a) are no longer satisfied or

(B) the attorney admitted under this rule is admitted to the bar of the Supreme Court of Pennsylvania under any other rule.

(3) In the event Rule 304(c)(2)(A) or (B) applies as a result of the death of the spouse of the attorney admitted under this rule, the termination of the limited admission provided by this rule will be subject to a six-month grace period.

Official Note:

For purposes of this rule, the “United States Uniformed Services” are defined to include the following: the United States Army; the United States Marine Corps; the United States Navy; the United States Air Force; the United States Coast Guard; the United States Public Health Service Commissioned Corps; the National Oceanic and Atmospheric Administration Commissioned Corps and any other entity designated as part of the United States Uniformed Services by the United States Department of Defense or the United States Department of Homeland Security. *See* 10 U.S.C. § 101(a)(4) and (5).

The phrase “active duty” shall have the meaning given it in 10 U.S.C. § 101(d)(1).

For purposes of Rule 304(a)(~~7~~), “practice of law” shall have the meaning set out in Rule 204.

The supervision required by Rule 304(a)(~~7~~) must be sufficient to insure that the supervising attorney has knowledge of the specific conduct, ratifies the conduct, knows of the conduct at a time when its consequences may be avoided or mitigated and will assume responsibility for the supervised attorney’s work should the supervised attorney’s limited license terminate.

Rule 311. Attorney Participants in Defender or Legal Services Programs

* * * * *

(d) **Requirements.** The requirements for issuance of a limited license under this rule are:

* * * * *

[5. An applicant who has taken and failed the Pennsylvania bar examination will not be admitted under this Rule. This provision does not apply to individuals who have passed the bar examination upon a subsequent attempt.]

* * * * *

Rule 341. Licensing of Foreign Legal Consultants.

(a) Required qualifications. An applicant may be licensed to practice in this Commonwealth as a foreign legal consultant, without examination, if the applicant:

* * * * *

(3) possesses the good moral character and general fitness requisite for a member of the bar of this Commonwealth;

(4) is at least 26 years of age;

(5) intends to practice as a foreign legal consultant in this Commonwealth and to maintain an office in this Commonwealth for that purpose; and

(6) has passed the Multistate Professional Responsibility Exam [**with the score**] **as** required [**by the Court to be achieved by**] **for** successful applicants under Rule 203.

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IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: :NO. 897
:
ORDER AMENDING RULES 102, 202, :SUPREME COURT RULES DOCKET
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ADOPTING RULE 207 OF THE :
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:

DISSENTING STATEMENT

CHIEF JUSTICE BAER

FILED: JANUARY 4, 2022

I dissent from the Court’s adoption of a minimum scaled score of 272 for passage of the Uniform Bar Examination (UBE) in Pennsylvania (“cut score”). In my view, setting a cut score of 272 disadvantages Pennsylvania’s law students and law schools generally by making Pennsylvania an outlier. Only five of the 39 UBE states have cut scores above 270: Pennsylvania (272), Idaho (272), Arizona (273), Colorado (276), and Alaska (280). Closer to home, most of the states in our geographic region utilize cut scores of either 266 or 270. New York, New Jersey, Maryland, District of Columbia, and Connecticut, all in our geographic region, employ 266 as their cut score. Ohio, West Virginia, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine use a cut score of 270.

Pennsylvania’s higher cut score of 272 may place Pennsylvania’s law schools at a competitive disadvantage in their quest to maintain and increase enrollment, as well as to fulfill their commitment to graduate law students who can pass the bar and pursue their profession. A college graduate could choose to attend law school in a state with a lower cut score, so that upon graduation, certainly in need of employment and perhaps

burdened by debt, the student is not facing the bar exam with the highest cut score in the eastern United States.

Accordingly, I would lower Pennsylvania's cut score for passage of the UBE to either 266 or 270, thus bringing Pennsylvania into conformity with our neighboring states.