

IN THE SUPREME COURT OF FLORIDA

**FLORIDA BOARD OF BAR EXAMINERS)
RE AMENDMENTS TO RULES OF THE)
SUPREME COURT RELATING TO)
ADMISSIONS TO THE BAR)**
_____)

Case No. SC15-___

Petition

The Florida Board of Bar Examiners petitions the Court for approval of certain amendments to the Rules of the Supreme Court Relating to Admissions to the Bar.

Jurisdiction

The Court has jurisdiction of this matter pursuant to Article V, Section 15 of the Florida Constitution and Rule 1-12 of the Rules of the Supreme Court Relating to Admissions to the Bar.

Rule Development History

The Board has been engaged in an ongoing review of the Rules of the Supreme Court Relating to Admissions to the Bar. The proposed rule amendments have been approved by the board, and no individual board member will be filing a written dissent or objection to any of the proposals.

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Summary and Discussion of Proposed Rule Amendments

The board recommends that rule 1-27 be renumbered to become rule 1-26. By Order dated May 28, 2015, this Court deleted the present rule 1-26 which provided for a Liaison Committee. *See In re: Amendment to Rule 1-26 of the Rules of the Supreme Court Relating to Admissions to the Bar*, Case No. SC15-802, May 28, 2015. Changing rule 1-27 to rule 1-26 will keep the rules in proper sequence without skipping a number.¹

The board recommends a change to rule 2-30.2. The proposed change clarifies that pleadings filed under this rule are confidential.

The board recommends a change to rule 3-10.1. The proposed change clarifies that applicants and registrants must demonstrate by their actions that they meet the Essential Eligibility Requirements for the practice of law. In addition, the proposed change adds the requirement that applicants and registrants must demonstrate that they will be able to avoid acts that exhibit a disregard for the rights, safety, or welfare of others.

¹ The May 28, 2015, Order makes the elimination of rule 1-26 effective on June 29, 2015. The Order also allows for public comment up to July 27, 2015, including a request for oral argument; and for the board to respond to any comments by August 17, 2015.

The board recommends a housekeeping change to rule 3-14.2. The recommended change addresses a scrivener's error, in that the entire rule applies to registrants, but subsection (b) refers to "applicant."

The board recommends a change to rule 3-22.5. The proposed change clarifies that pleadings filed under this rule are confidential.

The board recommends a change to rule 3-23.1. The proposed change eliminates the need to conduct a formal hearing when an applicant fails to file an Answer to the Specifications. This proposed change has the practical advantage of eliminating the costs associated with conducting a formal hearing and allowing the volunteer time of board members to be used addressing other matters at board meetings.

The board recommends a change to rule 3-23.2. This proposed change is procedural to make this rule consistent with the proposed new language of rule 3-23.1, if that rule is changed.

The board recommends a change to rule 3-23.6. This proposed change clarifies that pleadings filed under this rule are confidential except when the applicant is a disbarred or resigned attorney.

The board recommends changes to rule 3-30. As presently worded, the rule requires an applicant or registrant to file a petition for board reconsideration within

60 days from the date of the board's Findings of Fact, Conclusions of Law, and Recommendation. The recommended change would set the deadline at 60 days from receipt of, as opposed to the date of, the Findings of Fact, Conclusions of Law, and Recommendation, which is consistent with rule 3-40.1 which governs filing a petition in the Supreme Court of Florida for review of the board's recommendation. Additionally, the board recommends a change to add language that will provide applicants with a better understanding of how a petition for reconsideration will be handled by the board, outlining that the Office of General Counsel may file a response to the petition to address whether it meets the threshold requirements of the rule. If the board finds that the petition does not meet the threshold requirement, the board will take no further action on the petition. If the board determines the threshold requirement has been met, the Office of General Counsel will be granted 30 days to file a response to the evidence and the applicant will have 30 days to file a reply. The proposed rule amendment clarifies the responsibilities of each party under the rule regarding the filing of pleadings and the deadlines associated with each.

The board recommends a change to rule 3-40.1. As presently worded, the rule provides an applicant a deadline to file a petition in the Supreme Court of Florida to review the board's recommendation within 60 days of receipt of the board's Findings of Fact, Conclusions of Law, and Recommendation. The rule

does not specify a deadline for filing the petition in the Court if the applicant first petitions the board for reconsideration. The recommended change clarifies that an applicant has 60 days from receipt of the board's decision on the petition for reconsideration to file a petition for review in the Court. This proposed change also clarifies that pleadings filed under this rule are confidential except when the applicant is a disbarred or resigned attorney.

The board recommends a change to rule 3-40.2. This proposed change clarifies that pleadings filed under this rule are confidential except when the applicant is a disbarred or resigned attorney.

The board recommends a change to rule 4-14, which lists the dates of administration of General Bar Examination, including the Multistate Professional Responsibility Examination (MPRE), which has been traditionally administered in March, August, and November of each year. The National Conference of Bar Examiners is responsible for the administration of the MPRE, and has recently administered the MPRE in a month other than those currently listed in the rules. The recommended change reflects that the MPRE may be administered in a month other than March, August, or November.

The board recommends a change to rule 4-22, which identifies the subjects which may be tested on Part A of the General Bar Examination. As presently worded, the rule identifies the portions of the Rules of Judicial Administration

which may be tested by listing the rule numbers. When the Rules of Judicial Administration were amended and the numbering changed, this rule had to be changed. The first recommended change to rule 4-22 identifies the areas of possible testing from the Rules of Judicial Administration by subject matter, rather than rule number. If this change is made, changing the numbering of the Rules of Judicial Administration in the future would not necessitate another change to the rules relating to admissions to the bar.

In addition, the proposed change to rule 4-22 adds “minimization of the filing of sensitive information” to the areas under the Rules of Judicial Administration which may be tested. In 2011, this Court amended the Rules of Judicial Administration “to minimize the amount of unnecessary personal information included in documents filed with the courts.” *In Re: Implementation of Committee on Privacy and Court Records Recommendations*, 78 So. 3d 1045 (Fla. 2011) The board recommends this be included in the subjects tested on the bar examination.

The board recommends a change to rule 4-42.4. The proposed change requires that requests for test accommodations be received by the board by a certain deadline, rather than postmarked by a deadline. Using a postmark deadline has led to delayed delivery of the requests in the past. This affects how quickly the

board can provide notification of its decision on the request. The proposed change will ensure the board can timely process all requests for accommodations.

The board recommends a change to rule 4-43.2. The proposed change changes the deadline related to a late-filed application for the bar examination from when the application is postmarked to when the application is received by the board. This will eliminate any ambiguity regarding an applicant's admission to the bar examination.

The board recommends a change to rule 4-51.1, to add wallets and time keeping devices similar to clocks to the list of unauthorized materials or equipment in the examination rooms, and to eliminate beepers from the list of unauthorized material. This change is consistent with the board's present practice.

The board recommends a change to rule 4-51.2. The proposed change clarifies that applicants must not receive answers or information from any source while taking the examination.

The board recommends a change to rule 4-51.3, to clarify that applicants must not continue to type, or otherwise utilize a writing utensil in any manner after the announcement to stop the examination has been made. This updates the rule to address situations where applicants are using laptop computers for the examination, and further clarifies that any use of a writing utensil, such as erasing or darkening marks on the answer sheet, is prohibited.

The board recommends a change to rule 4-62.1. When there is some question as to whether an applicant was eligible to sit for an examination, the board requests that the Court impound the applicant's bar examination results until the issue is resolved. The proposed change codifies this practice.

The board recommends a change to rule 4-62.2. The proposed change will align this rule with the proposed change in rule 4-62.1 above.

The following Appendices are attached and submitted with this petition: Appendix A (Proposed Rule Amendment in Legislative Format); Appendix B (Text of Proposed Rule Amendments with Reasons for Change); and Appendix C (Condensed Version of Proposed Rule Amendments with Reasons for Change for Publication in the The Florida Bar News).

Effective Dates of Proposed Rule Amendments

Should the Court adopt the proposed rule amendments, then the board requests that they be made effective immediately.

Dated this 2nd day of July, 2015.

FLORIDA BOARD OF BAR EXAMINERS
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Executive Director

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Certificate of Service

I certify that a true and correct copy of the foregoing Petition has been served by U.S. Mail this 2nd day of July, 2015, to the following:

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Certificate of Type Size and Style

I certify that the size and style of type used in this Petition are 14 Times New Roman.

/s/ Robert G. Blythe
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