

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO RULES OF THE
SUPREME COURT RELATING TO
ADMISSIONS TO THE BAR**

CASE NO. SC08-____

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 1-13 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 since the filing of its last rules petition with the court in June 2006. 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.

Summary and Discussion of Proposed Rule Amendments

The adoption by the court of the proposed rule amendments will clarify the language of the current rules. Several of the proposed rule amendments, if adopted, will make substantive changes to improve the bar admissions process and to address decisions by the court. The following paragraphs summarize and discuss the rule amendments as proposed by the board.

RULE 1. GENERAL

The board recommends that the information concerning the extension of deadlines occurring on a weekend or a holiday be relocated from rule 4-44 to clarify that this provision applies to all deadlines to be found in the rules.

RULE 2. APPLICATION REQUIREMENTS

The board recommends that rule 2-13.1 be amended to codify the decisions of the court that require disbarred and resigned attorneys to be readmitted in their home states to be eligible to seek admission to The Florida Bar. The proposed amendment would also overturn the court's decision in *Florida Board of Bar Examiners re Simring*, 802 So. 2d 1111 (Fla. 2000). Specifically, the amendment requires that applicants must be eligible for readmission in "each jurisdictional authority from which the person had been disbarred or had resigned."

The board proposes an amendment to rule 2-13.2 concerning out-of-state suspended attorneys seeking admission to The Florida Bar. Consistent with the proposed amendment to rule 2-13.1, this proposed amendment would require suspended attorneys in foreign jurisdictions to be reinstated in their home states to be eligible to seek admission to The Florida Bar.

The board recommends that the satisfaction of restitution required by rule 2-13.25 be expanded to include restitution imposed in an underlying criminal case or owed for the payment of any claims made by a Bar-sponsored clients' security fund. The proposed amendment would also delete the provision that currently allows the court that imposed the disciplinary costs or restitution to grant relief to the person seeking admission or readmission to The Florida Bar. The board submits that legally imposed obligations for costs and restitution should not be waived.

Due to the seriousness of the underlying misconduct, the board has a longstanding practice of requiring convicted felons to appear before the board for an investigative or formal hearing, or both. The board recommends the creation of rule 2-13.35 that would codify and clarify the treatment of convicted felons seeking admission to The Florida Bar.

The board recommends that rules 2-13.5 and 2-14 be amended to clarify that a denial can occur by the issuance of findings following a formal hearing or by a negotiated consent judgment authorized by rule 3-23.9. Rule 2-14 would be further amended to update the reference to the obsolete fingerprint card by replacing it with general language to reflect advances in technology, such as the electronic submission of fingerprints as currently required by the board.

The board recommends that rule 2-29 be amended to update the reference to a fingerprint card.

RULE 3. BACKGROUND INVESTIGATION

The board proposes amendments to rules 3-14.1 and 3-14.2 that further refine the academic transcripts required by the board from bar applicants.

The board recommends the housekeeping change by which rule 3-22.5 is amended to restore language that was inadvertently deleted when this rule was amended in 2007.

The board recommends that rule 3-23.6(d) be amended to clarify the rule. The proposed amendment would also authorize the board to recommend permanent denial for “extremely grievous misconduct.” Such authorization is consistent with recent decisions of the court that have permanently barred applicants from seeking admission to The Florida Bar.

RULE 4. BAR EXAMINATION

The board recommends that rule 4-22 be amended to conform to the reorganization of the Florida Rules of Judicial Administration.

The board recommends that rule 4-41 be amended to update the reference to a fingerprint card. The proposed rule amendment also deletes language concerning the submission of a photograph and relocates and updates such provision to rules 4-46 and 4-47.

The board recommends that rule 4-43.2 be amended to delete the obsolete reference to a card for fingerprints.

The board recommends that existing rule 4-44 be deleted and relocated to newly created rule 1-12.1.

The board recommends the housekeeping change of renumbering rules 4-45, 4-46, 4-47, and 4-48 due to the deletion of existing rule 4-44. The board further recommends that renumbered rules 4-45, 4-46, and 4-47 be amended to clarify and simplify their language. Renumbered rules 4-46 and 4-47 would be further amended to confirm the board’s existing authority to request a current photograph from a bar applicant should the original photograph be unavailable or outdated due to age.

The board recommends the housekeeping change by which rule 4-48 is deleted and relocated to rule 4-47.

Effective Date of Proposed Rule Amendments

The board requests that the amendments adopted by the Court be effective on release of the Court’s order.

Appendixes

Appendix A to this petition is the proposed rule amendments in legislative format. Appendix B to this petition is the text of the proposed rule amendments with the reasons for the changes. Appendix C is the condensed version of the proposed rules amendments for publication in The Florida Bar News. Appendix D

is the certification of compliance with Part I(d) of the Guidelines for Rules Submission.

Dated this 10th day of December, 2008.

FLORIDA BOARD OF BAR EXAMINERS
REGINALD D. HICKS, CHAIR

Michele A. Gavagni
Executive Director

By: _____
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Certificate of Service

I hereby certify that true and correct copies of the foregoing Petition and Appendix A (Proposed Rule Amendments in Legislative Format) have been served by U.S. Mail this 10th day of December, 2008 to the following: John F. Harkness, Jr., The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2300; Dean Leticia Diaz, Barry University School of Law, 6441 East Colonial Drive, Orlando, FL 32807-3650; Dean, LeRoy Pernell, Florida A & M University College of Law, 201 Beggs Avenue, Orlando, FL 32801; Dean C. Peter Goplerud, III, Florida Coastal Law School, 8787 Baypine Road, Jacksonville, FL 32256; Dean Leonard P. Strickman, Florida International University, College of Law, University Park, GL 495, Rafael Diaz-Balart Hall (RDB), Suite 1055, Miami, FL 33199; Dean Donald J. Weidner, Florida State University College of Law, 425 West Jefferson Street, Tallahassee, FL 32306-1601; Dean Athornia Steele, Nova Southeastern University, Shepard Broad Law Center, 3305 College Avenue, Ft. Lauderdale, FL 33314; Dean Alfredo Garcia, St. Thomas University School of Law, 16400 N.W. 32nd Avenue, Miami, FL 33054; Dean Darby Dickerson, Stetson University College of Law, 1401 61st Street, South, St. Petersburg, FL 33707; Dean Robert

Jerry, University of Florida, Fredric G. Levin Law Center, Post Office Box 117620, Gainesville, FL 32611; Acting Dean Paul R. Verkuil, University of Miami School of Law, 1311 Miller Drive, Room F203, Coral Gables, FL 33146.

Thomas Arthur Pobjecky

Certificate of Type Size and Style

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

Thomas Arthur Pobjecky