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ARIZONA SUPREME COURT

In the matter of:)	Case No.: Supreme Court No. R-11-0028
PETITION TO AMEND RULES 34, 35,)	
37 and 38, RULES OF THE ARIZONA)	Comment of the Arizona Supreme Court
SUPREME COURT.)	Committee on Examinations regarding the
)	Petition to Amend Rules 34, 35, 37 and 38,
)	Rules of the Supreme Court
)	
)	

On September 20, 2011 Emily Holliday, Manager of Attorney Admissions for the Arizona Supreme Court, submitted a petition to amend Rules 34, 35, 37, and 38, Rules of the Supreme Court, and has requested expedited adoption of the amendments. The proposed amendments, among other things, would provide for Arizona to become a Uniform Bar Examination (UBE) jurisdiction, allowing for applicants to test in Arizona or transfer a UBE score from other UBE jurisdictions and prescribing that the Arizona Uniform Bar Examination be comprised entirely of multistate examination questions and tasks prepared by the National Conference of Bar Examiners (NCBE). The Arizona Supreme Court Committee on Examinations (Committee) hereby submits its comments and recommendations regarding the proposed amendments.

I. RULE 35 SHOULD BE MODIFIED TO INCLUDE A REQUIREMENT THAT APPLICANTS BE TESTED ON LOCAL LAW.

Rule 35(b) presently affords the Committee wide latitude and discretion in selecting the areas of law to be tested on the Arizona Bar Examination, including questions that would require applicants to be familiar with local law. As Rule 35(b) is proposed to be modified, the examination will consist entirely of uniform tests and tasks devised by the NCBE without any component that would evaluate the applicant's understanding of Arizona law. It is well known that many law school programs and bar preparation programs "teach to the test," and there is reason to be concerned that students will not study Arizona law if they know that subject will not be tested on the bar examination.

The Committee considers it important for the protection of Arizona consumers that applicants for admission to practice law in Arizona be knowledgeable about aspects of local law. Knowledge of the rules of Arizona law in areas such as community property, real property, civil procedure, criminal law and procedure, torts, family law and state constitutional law is essential if practitioners are to adequately advise and represent their clients in a wide variety of cases and transactions. It is in the best interest of the courts, the bar and consumers to require new lawyers to familiarize themselves with the unique aspects of Arizona law.

The Committee recommends that the proposed amended Rule 35 be further modified to include a requirement that, in addition to testing on multistate questions and tasks prepared by the NCBE, applicants be tested on aspects of Arizona law. Although there are a number of ways in which such testing could be accomplished, the Committee recommends the model adopted by the State of Missouri as one that would satisfy the objective of requiring that applicants otherwise qualified to practice law demonstrate familiarity with Arizona law. Missouri has enacted a requirement that applicants pass a simple, 30-question multiple choice test by answering 75% of the questions correctly. Applicants are provided written study materials and take the test on- line. The test can be automatically scored, and applicants may take the test as many times as necessary to achieve a passing score. Once a passing score is achieved the applicant must sign and submit a Certificate of Completion attesting that the applicant personally reviewed the study materials and passed the examination; also, an electronic record of performance provides a report directly to the Committee on Examinations. This method of incorporating local law requirements in the examination process achieves multiple objectives; it educates future practitioners, and thus better protects consumers, without imposing significant burden or expense upon applicants or the Supreme Court. *See generally* Cindy L. Martin, *Local Law Distinctions in the Era of the Uniform Bar Examination: The Missouri Experience (You Can Have Your Cake and Eat It Too)*, *The Bar Examiner* (September, 2011) at p. 7.

II. RULES 34 AND 37 SHOULD BE MODIFIED TO ESTABLISH A TIME LIMIT FOR ADMISSION BASED UPON UBE SCORES.

The proposed amended Rule 34 and Rule 37 together would effectively allow an applicant for admission by transfer of a UBE score a nine year period in which to complete the admission process. The Committee believes that an applicant's competence, readiness and suitability to practice law may become stale over time if the applicant defers embarking on the actual practice of law. As it is proposed to be amended, Rule 34(h) (1) (A) would allow applicants to apply for admission by transfer of a UBE score based upon a score achieved up to four years prior to the date of application for admission; Rule 37(a) (c) would then allow another five years from the date of application for the applicant to take the oath of admission and be admitted to practice. In contrast, those who take the Arizona UBE would be required to take the oath of admission within five years after successfully passing the UBE.

The proposed amended rules would allow an applicant to take a UBE in another state, apply for admission to the Arizona bar four years later without ever having practiced law, and then wait up to five more years before being admitted. In that period of time the applicant would not be subject to continuing legal education requirements, and the applicant's legal skills and knowledge could both wane and become outdated. Plainly the difference in treatment of transferred scores and Arizona UBE scores unfairly discriminates against those who take the Arizona UBE. The potential for delayed admission also creates very real potential for harm to consumers from lawyers who passed a test long ago, never practiced law, and have not maintained their skills or knowledge through continuing legal education or active practice.

Furthermore, allowing transfer of UBE scores for four years is not consistent with Rule 35(b)(9), which requires that applicants have taken and passed the Multistate Professional Responsibility Examination (MPRE) within two years of the successful bar examination in order to have the applicant's score accepted by the Committee. There is no reason to believe that an MPRE score becomes stale within two years but a UBE score does not become stale for four years. Although the practices vary, most other jurisdictions that allow applicants to transfer UBE scores do not allow transfer of scores more than two years old.

The Committee recommends that proposed Rule 34 be amended to provide that transferred UBE scores will be accepted with an application that is received within two years after the examination in which they are earned (Rule 34(h)(1)(A), but may be accepted with an application that is received up to five years after the examination in which they are earned if the applicant has been engaged in the active practice of law for at least 70% of the time during the period after the examination in which the score is earned. The Committee proposes a hybrid of score attainment and active practice which demonstrates a reasonable level of competence through applied professional knowledge, skills and judgment.

The Committee further recommends that proposed Rule 37(a)(3) be amended to provide that the oath of admission must be taken within two years after the date of successful Arizona UBE exam or application to transfer UBE score from another jurisdiction, rather than allowing five years after a successful examination or score transfer.

The Committee further recommends deletion of Rule 34(h)(3), which is inconsistent with existing Rule 35(c)(3), and provides a dramatic limitation on subsequent testing. Existing Rule 35(c)(3) provides sufficient structure and safeguards to subsequent testing, making Rule 34(h)(3) unnecessary.

CONCLUSION

The Committee respectfully requests that the Supreme Court consider further amendments to the proposed amendments to Rules 34, 35, and 37, Rules of the Supreme Court, to better protect the public by assuring that applicants for admission to the practice of law must demonstrate competency and understanding of Arizona law, and do not gain admission on the basis of stale UBE scores that may no longer reflect the Applicant's skills.

The Committee submits Appendix A to reflect suggested amendments proposed in this response.

RESPECTFULLY SUBMITTED this 24th day of October, 2011

Arizona Supreme Court Committee on
Examinations

By: _____

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RULES OF THE SUPREME COURT

* * *

Rule 34. Application for Admission

(a) Methods of admission to the practice of law in Arizona. Persons desiring to be admitted to the practice of law in the State of Arizona may apply for admission by one of ~~two~~ three methods: (1) admission by Arizona uniform bar examination, ~~or~~ (2) admission on motion, or (3) admission by transfer of uniform bar examination score from another jurisdiction.

(b) Applicant Requirements and Qualifications.

1. No applicant shall be recommended for admission to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied that:

A. the applicant is ~~or at the time of the examination will be~~ over the age of twenty-one years;

B.-E. [No change in text.]

2. The Committee on Character and Fitness shall endeavor to complete its inquiries, some or all of which may be delegated to the National Conference of Bar Examiners, to be in a position to recommend for or against a successful Arizona uniform bar examinee's admission to the practice of law no later than the time the results of the Arizona uniform bar examination are available for examination applicants. This time limitation is aspirational only, and may be extended for further inquiry and formulation of a recommendation when the circumstances of a case so require.

(c) Application and Character Report Materials. Any person desiring to be admitted to the practice of law in the State of Arizona must submit to the Committee on Character and Fitness an application in the form supplied by the Committee. The application for admission must be accompanied by required supporting documents and application fee.

1. The Arizona uniform bar examination applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court. For an Arizona uniform bar examination applicants only, the character report and related fee may be submitted separately from the application for admission.

2. An applicants for admission on motion or admission by transfer of uniform bar examination score shall submit character investigation ~~report~~ materials together with the application.

(d) Documents Required in Support of Application. The following must accompany every application:

1. subject to the exception made in paragraph (b)(~~2~~)(1)(D) of this rule, the applicant's law school diploma, or other evidence satisfactory to the Committee on Character and Fitness showing the applicant is a graduate with a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of graduation;

2. [No change in text.]

3. for applicants taking the Arizona uniform bar examination-~~applicants~~, an examination fee as established by the Court;

4.-6. [No change in text.]

(e) Arizona Uniform Bar Examination Application Filing Schedule; Fees

1. On the basis of an application for admission by Arizona uniform bar examination properly and timely filed, with all required supporting documents and fees, the applicant will be certified to sit for the Arizona uniform bar examination.

2. The application for admission and all of the documents required to be submitted by the Arizona uniform bar examination applicant must be timely submitted, with required fees, in accordance with the schedule and filing fees established by the Court. In the event an application, documents or fees are submitted after the initial filing deadline, late fees as established by the Court shall be assessed. No application, documents or fees will be accepted after the close of filing deadline, as established by the Court.

Any applicant failing to pass a written Arizona uniform bar examination who wishes to take the next subsequent examination must submit an application for examination, required supporting documentation, and application and examination fees as established by the Court, no later than twenty days after the date of the letter notifying the applicant of the applicant's failure to pass the written examination. If the application is submitted after twenty days, a late application fee shall be paid in accordance with the schedule and filing fees established by the Court. No application for subsequent Arizona uniform bar examination will be accepted after the filing deadline as established by the Court. Examination attempts by applicants who tested in Arizona prior to enactment date of UBE shall be known as Arizona bar examination attempts, although same limitation applies.

3. When an application to take the Arizona uniform bar examination is properly filed with required supporting documents, the applicant shall be promptly notified that the application is in order and that the applicant is certified to sit for the Arizona uniform bar examination, specifying the time and place of such examination.

(f) Admission on Motion.

1. An applicant who meets the requirements of (A) through (H) of this paragraph (f)(1) may, upon motion, be admitted to the practice of law in this jurisdiction.

The applicant shall:

A. have been admitted by bar examination to practice law in another jurisdiction allowing for admission of licensed Arizona lawyers on a basis equivalent to this rule;

B. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;

C. have been primarily engaged in the active practice of law in one or more states, territories, or the District of Columbia for five of the seven years immediately preceding the date upon which the application is filed;

D. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;

E. establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

F. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

G. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

H. submit evidence of successful completion of the course on Arizona law described in paragraph (f)(5) of this rule.

2. For the purposes of this rule, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed in advance of bar admission in some state, territory or the District of Columbia be accepted toward the durational requirement:

A. representation of one or more clients in the practice of law;

B. service as a lawyer with a local, state, or federal agency, including military service;

C. teaching law full-time at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

D. service as a judge in a federal, state, territorial, or local court of record;

E. service as a judicial law clerk;

F. service as corporate counsel; or

G. service as corporate counsel in Arizona before January 1, 2009 or while registered pursuant to Rule 38(i).

3. For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located. The “active practice of law” is further defined to require that at all times in the durational period the applicant has:

A. held a law license in “active” status;

B. spent one thousand (1,000) hours or more per year engaged in the practice of law, for each of the required five years in the durational period; and

C. derived at least fifty percent (50%) of non-investment income from the practice of law.

4. An applicant who has failed a bar examination administered in this jurisdiction within five years of the date of filing an application under this rule shall not be eligible for admission on motion.

5. Before being admitted on motion, the applicant must complete a course on Arizona law, the content and method of delivery of which shall be approved by the Supreme Court.

6. The Court shall approve jurisdictions considered “reciprocal” to Arizona, and the Committee shall publish and make available a list of reciprocal jurisdictions.

(g) Admission on Motion Application Filing; Fees. Any applicant seeking admission on motion to the practice of law in Arizona must meet the requirements of paragraph (f) of this rule Rule 38(h) and shall:

1.-2. [No change in text.]

(h) Admission by Transfer of Uniform Bar Examination Score.

1. An applicant who has taken the uniform bar examination in another jurisdiction and who meets the requirements of (A) through (G) of this paragraph (h)(1) may be admitted to the practice of law in this jurisdiction.

The applicant shall:

A. have achieved a scaled score on the uniform bar examination that is equal to or greater than the minimum acceptable score established by the Committee on Examinations and that was earned within the two years immediately preceding the date of the filing of the application for admission under this rule;

B. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction, earned within two (2) years of the successful uniform bar examination;

D. establish that the applicant is currently a member in good standing in every jurisdiction, foreign or domestic, where ever admitted to practice law; if the applicant is not presently in good standing, establish that the applicant resigned in good standing, or is capable of achieving good standing;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (h)(4) of this rule.

2. For the purpose of paragraph (h)(1)(a) of this rule, a score is considered to have been earned on the date of administration of the uniform bar examination that resulted in the score.

3. If the applicant's Uniform Bar Examination score was earned in an examination administration that was more than two years prior to the date of application under this rule, the applicant may qualify for admission under this rule if the applicant has been primarily engaged in the active practice of law as defined in Rule 34(f) for at least 70% of the time period since the score was earned; provided that no application for admission under this rule shall be accepted if score was earned more than 60 months prior to the date of application.

4. Before being admitted by transfer of uniform bar examination score, the applicant must provide proof of successful completion of a course on Arizona law, the content and method of delivery of which shall be set by the Committee on Examinations and approved by the Supreme Court.

(i) Admission by Transfer of Uniform Bar Examination Score Application Filing; Fees.
Any applicant seeking admission to the practice of law based on transfer of uniform bar examination score must meet the requirements of paragraph (h) and shall:

1. file an application for admission by transfer of uniform bar examination score, including character investigation information, in a manner established by the Court, including all required supporting documents, and

2. pay the application fee as established by the Court.

~~(g)~~**(j)** **Deficiency in Application and Supporting Documents.** [No change in text.]

~~(h)~~**(k)** **Deficiency in Character Report Materials.** [No change in text.]

~~(i)~~**(l)** **Failure to Meet Standards; Effect on Time for Reapplication.** [No change in text.]

~~(j)~~**(m)** **Completion of Professionalism Course.** [No change in text.]

Rule 35. Examination Requirements

(a) Examination Dates and Places. ~~Two~~ The Arizona uniform bar examinations will be held administered two times each year, one to begin once in February and one to begin once in July, and at such locations as the Committee on Examinations, in its discretion, deems appropriate. An applicants who have has been granted permission to take the examination will be advised of the date and place not less than at least two weeks before the examination.

(b) Examination Subjects; Grading.

1. The examination shall be the uniform bar examination prepared by the National Conference of Bar Examiners, which consists of six Multistate Essay Examination questions, two Multistate Performance Test tasks, and the Multistate Bar Examination. The Multistate Essay examination shall be weighted 30%, the Multistate Performance Test shall be weighted 20%, and the Multistate Bar Examination shall be weighted 50% in calculating uniform bar examination scores. 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 ~~Multistate Bar Examination, Multistate Essay Examination, or Multistate Performance Test~~ uniform bar examination. Questions will be not be labeled and may include more than one subject matter.

2. The Committee on Examinations may ~~utilize~~ use such grading or scoring system for the Multistate Essay Examination and Multistate Performance Test as the Multistate Bar Examination, Multistate Essay Examination and Multistate Performance Test sponsored by the National Conference of Bar Examiners and may utilize such grading or scoring system as the Committee on Examinations, in its discretion, deems appropriate. Answers to the Multistate Essay Examination shall be graded according to generally applicable principles of law. Raw scores on the Multistate Essay Examination and the Multistate Performance Test shall be scaled to the Multistate Bar Examination scores according to the method approved by the National Conference of Bar Examiners for jurisdictions that administer the uniform bar examination.

3. An applicant who takes the uniform bar examination in Arizona or seeks to transfer a uniform bar examination score from another uniform bar examination jurisdiction ~~applicant~~ will be deemed to have satisfied the requirements of the Arizona uniform bar examination if the applicant, during the examination session, achieves a scaled score equal to or greater than the minimum acceptable score established by the Committee for such administration, under conditions consistent with the practices and procedures of the Committee on Examinations and

the National Conference of Bar Examiners. The passing score for each test administration shall be posted on the Supreme Court Website. Results of the bar examination will be published and mailed or e-mailed at such dates and times as the Committee deems appropriate.

4. Examination grades of an applicant will not be disclosed to the public. The Committee is authorized to

A. release statistical results of the examination;

B. disclose to the law school from which the applicant graduated the applicant's status as pass/fail/withdrew; ~~and~~

C. certify, upon an applicant's request, an applicant's Multistate Bar Examination score to other jurisdictions in which the applicant seeks admission; and

D. disclose an applicant's scores on the uniform bar examination to the National Conference of Bar Examiners.

5. Testing accommodations will be provided for an Arizona uniform bar examination applicants demonstrating a disability to the extent such accommodations are reasonable, consistent with the nature and purpose of the examination, and necessitated by the applicant's disability. An applicants seeking an accommodation shall file a request for testing accommodation in such form as prescribed by the Committee. A fully completed request for accommodation, including supporting documentation, shall be submitted with the application for the examination in accordance with filing deadlines as set by the Court.

~~6. The Committee on Examinations will file with the Court thirty (30) days before each examination the formula upon which the Multistate Bar Examination results will be applied with the other portions of the total examination results. In addition the Committee will file with the Court thirty days before each examination the proposed formula for grading the entire examination.~~

~~6.7.~~ Before being recommended by the Committee on Character and Fitness for admission to the practice of law in Arizona, an applicant, ~~in addition to passing the bar examination administered by the Committee on Examinations,~~ must pass a Professional Responsibility Examination, which shall be the Multistate Professional Responsibility Examination prepared and administered by the National Conference of Bar Examiners. An applicant seeking to take the Multistate Professional Responsibility Examination shall file an application directly with, and pay the fees specified by, the National Conference of Bar Examiners.

~~7.8.~~ [No change in text.]

~~8.9.~~ An applicant by Arizona uniform bar ~~An~~ examination or transfer of uniform bar examination score from another jurisdiction applicant must submit proof satisfactory to the Committee on Examinations that the applicant has taken the Multistate Professional Responsibility Examination and received a minimum acceptable score within two (2) years of

the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations.

~~9.10.~~ [No change in text.]

(c) Subsequent Examinations; Role of Committee on Character and Fitness.

1. An applicant failing to pass one uniform bar examination in any jurisdiction may apply for two subsequent uniform bar examinations in Arizona if the applicant meets all requirements listed in Rule 34(b)(e). The application, in the form specified by Rule 34(c)(a), shall be accompanied by the application and examination fees as established by the Court, ~~such~~ all supporting documents specified in Rule 34(d)(b) or as the Committee on Character and Fitness may request and, if required by the Committee, such additional investigation fee as the Committee may determine is reasonably required to properly investigate the qualifications of such applicant.

2. An applicant who files an application to sit for the Arizona uniform bar examination ~~who has filed for an examination and to be admitted to the practice of law,~~ and who withdraws such application or fails to appear for or complete such examination and who desires to sit for a subsequent examination, shall make the same filings as if such applicant had written and failed the examination. Any applicant who fails ~~an~~ the Arizona uniform bar examination, withdraws from ~~an~~ the examination, fails to complete ~~an~~ the examination, or does not appear for and write ~~an~~ the examination, and who does not apply for and write the next succeeding examination, shall, if applying for any subsequent examination, file a new application with fees required for an original filing as if such applicant had never presented an application to the Committee on Character and Fitness.

3. An applicant taking and failing the uniform bar examination three times in any jurisdiction will not be permitted to take a further examination, unless all requirements listed in Rule 34(b)(e) are met, and the Committee on Examinations grants permission for the applicant to write another examination in Arizona. The applicant shall submit a written request to the Committee on Examinations stating the additional study and preparation that the applicant has made to qualify for further examination. If the Committee finds reasonable cause to believe the applicant may successfully write pass a further examination, it shall grant permission to write sit for the additional Arizona uniform bar examination.

4. An applicant aggrieved by any decision of the Committee on Examinations may file a petition for review by the Court as directed and within the time limits set forth in Rule 36(g)(1); however, the Committee on Examinations' decision regarding an applicant's grade score is final and will not be reviewed by the Court absent extraordinary circumstances.

~~(d) Petition for Review Upon Failure to Receive Satisfactory Grade.~~ ~~An applicant who receives a failing grade on the examination may proceed as follows:~~

~~1. Such applicant shall, within the twenty (20) day period specified by the Committee on Examinations after results of such examination have been mailed, file a petition with the~~

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~~Committee on Examinations entitled "Petition for Review of Examination Papers of Applicant" and pay a fee established by the Court.~~

~~2. The petition shall be verified by the applicant personally and shall specifically enumerate the questions and answers claimed to have been unfairly graded and the particulars wherein it is claimed the grade awarded by the Committee on Examinations is unjustified by the merits of the answer. No general claim of unfairness will be entertained by the Committee and any petition which does not specify the exact and complete particulars of the claimed improper and unfair grading shall be dismissed summarily.~~

~~3. The petition shall state succinctly and with specificity the alleged error or errors in grading. The petition shall not exceed fifteen (15) pages excluding exhibits, shall be typewritten in standard legal form, and styled as provided for proceedings before the Committee on Character and Fitness, as set forth in Rule 36(a), substituting the Committee on Examinations. The petition shall have attached a copy of applicant's answer(s) that applicant claims to have been unfairly graded. No other exhibits shall be attached to the petition. Any applicant filing a petition must provide an original and twelve (12) copies and shall file the petition with the Committee on Examinations. The only identifying mark to be placed on the petition is the number assigned to the applicant for taking the examination, which number shall serve as identification. Any reference to the applicant's other scores, economic status, social standing, gender, ethnicity, employment, personal relationship, letters of recommendation, or other extraneous information is strictly prohibited and may result in the petition's summary rejection by the Committee on Examinations.~~

~~4. Upon receipt of a petition for review, the Committee on Examinations shall review the petition and such of the applicant's examination papers as the Committee believes necessary to properly evaluate the fairness of the grades awarded. The Committee need not convene as a body for the purposes of such review.~~

~~5. If the Committee on Examinations finds that the examination was unfairly or improperly graded, and that, if properly and fairly graded in accordance with the standard used by the Committee in grading the examination generally, such applicant should have been awarded a satisfactory grade, the Committee shall recommend that the applicant be admitted to the practice of law in the same manner as if the applicant had been given a satisfactory grade upon the examination.~~

~~6. The Multistate Bar Examination (MBE) and the Multistate Professional Responsibility Examination (MPRE) sponsored by the National Conference of Bar Examiners, if utilized by the Committee on Examinations, shall be exempt from the review procedures heretofore prescribed. Additional testing products sponsored by the National Conference of Bar Examiners, if utilized by the Committee on Examinations, may be exempt from the review procedures, at the discretion of the Committee.~~

5. An applicant aggrieved by any decision of the Committee on Examinations may file a petition for review by the Court, as directed and within the time limits set forth in Rule 36(g)(1);

however, the Committee on Examination's decision regarding an applicant's grade score is final and will not be reviewed by the Court absent extraordinary circumstances.

* * *

Rule 37. Miscellaneous Provisions Relating to Admissions

(a) Time Limitation on Admission.

1. No Arizona uniform examination applicant shall be admitted to the practice of law in Arizona until the applicant has successfully completed the Arizona uniform bar examination, satisfied the Multistate Professional Responsibility Examination requirements, and has been recommended for admission by the Committee on Character and Fitness. Failure to take the oath of admission and be admitted to the practice of law in Arizona within five years of successful Arizona uniform bar examination will ~~nullify and~~ void all examination scores, and the applicant will be required to successfully retake all required examinations and comply with all required procedures relating to Character and Fitness determinations.

2. No applicant for admission on motion shall be admitted to the practice of law in Arizona until the applicant has successfully satisfied all requirements of Rule 34, Rule 36, and Rule 37 ~~and Rule 38(h)~~, and has been recommended for admission by the Committee on Character and Fitness. Failure to take the oath of admission and be admitted to the practice of law in Arizona within five years from the date of application will void all application and character investigation materials, and the applicant will be required to resubmit an application and comply with all required procedures relating to admission on motion.

3. No applicant for admission based on transfer of uniform bar examination score from another jurisdiction shall be admitted to the practice of law in Arizona until the applicant has successfully satisfied all requirements of Rule 34, Rule 35, Rule 36, and Rule 37, and has been recommended for admission by the Committee on Character and Fitness. Failure to take the oath of admission and be admitted to the practice of law in Arizona within five years from the date of successful uniform bar examination will void all application and character investigation materials, and the applicant will be required to resubmit an application and comply with all required procedures relating to admission to the practice of law in Arizona.

(b) Taking Oath of Admission. [No change in text.]

(c) Retention and Confidentiality of Records of Applicants for Admission. [No change in text.]

(d) Refund of Fees.

1. An applicant who submits an application for admission by Arizona uniform bar examination and who has paid the fees required by these rules and thereafter withdraws the

application or fails to appear for the examination applied for, shall be entitled to a partial refund or credit of the fees paid, as established by the Court, provided the applicant notifies the Committee in writing no later than the filing deadline for that examination as set by the Court. No part of the fees paid to the National Conference of Bar Examiners is refundable. ~~An applicant who is recommended for admission under Rule 35(d) shall be entitled to a refund of the entire examination fee in the event the applicant has submitted an application for the examination subsequent to the one in which the applicant has filed a petition for review.~~

2. ~~An a~~Applicants for admission on motion and applicants for admission based on transfer of uniform bar examination score shall not receive a refund of the ~~Admission on Motion~~ application fee for any reason, including denial of admission, withdrawal of the application, or failure to pursue admission after application, regardless of the date the applicant notifies the Committee. Credit for the fees paid by an applicant who withdraws or fails to pursue admission after application will be applied to any application ~~for admission on motion~~ made by the applicant for two (2) years from the date of the original application.

(e) **Immunity from Civil Suit.** [No change in text.]

Rule 38. Special Exceptions to Standard Examinations and Admission Process

(a) **Admission Pro Hac Vice.** [No change in text.]

(b) **Foreign Legal Consultant.** [No change in text.]

(c) **Full-time Law School Faculty Members.** [No change in text.]

(d) **Clinical Law Professors and Law Students.** [No change in text.]

(e) **Authorization to Practice Law for Attorneys Volunteering with Approved Legal Services Organizations.** [No change in text.]

(f) **Authorization to Practice Law for Attorneys Working for Approved Legal Services Organization.** [No change in text.]

(g) **Authorization to Practice Law for Attorneys Employed by Indigent Defense Offices.** [No change in text.]

~~(h) Admission on Motion.~~

~~1. An applicant who meets the requirements of (A) through (H) of this paragraph (h)(1) may, upon motion, be admitted to the practice of law in this jurisdiction.~~

The applicant shall:

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~~A. have been admitted by bar examination to practice law in another jurisdiction allowing for admission of licensed Arizona lawyers on a basis equivalent to this rule;~~

~~B. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;~~

~~C. have been primarily engaged in the active practice of law in one or more states, territories, or the District of Columbia for five of the seven years immediately preceding the date upon which the application is filed;~~

~~D. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;~~

~~E. establish that the applicant is currently a member in good standing in all jurisdictions where admitted;~~

~~F. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction; and~~

~~G. establish that the applicant possesses the character and fitness to practice law in this jurisdiction.~~

~~H. submit evidence of successful completion of the course on Arizona law described in paragraph (h)(5) of this rule.~~

~~2. For the purposes of this rule, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed in advance of bar admission in some state, territory or the District of Columbia be accepted toward the durational requirement:~~

~~A. representation of one or more clients in the practice of law;~~

~~B. service as a lawyer with a local, state, or federal agency, including military service;~~

~~C. teaching law at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;~~

~~D. service as a judge in a federal, state, territorial, or local court of record;~~

~~E. service as a judicial law clerk;~~

~~F. service as corporate counsel; or~~

~~G. service as corporate counsel in Arizona before January 1, 2009 or while registered pursuant to Rule 38(i).~~

~~3. For the purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.~~

~~4. An applicant who has failed a bar examination administered in this jurisdiction within five years of the date of filing an application under this rule shall not be eligible for admission on motion.~~

~~5. Before being admitted on motion, the applicant must complete a course on Arizona law, the content and method of delivery of which shall be approved by the supreme court.~~

(h)(i) In-house Counsel. [No change in text.]

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