

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 1992

In the Matter of the Adoption of Rules)
and Procedures Governing Admission to)
the Practice of Law in Wyoming)

IN THE SUPREME COURT
STATE OF WYOMING
FILED

OCT - 5 1992

Jerrill D. Carter
JERRILL D. CARTER, CLERK

**ORDER ADOPTING RULES AND PROCEDURES GOVERNING ADMISSION
TO THE PRACTICE OF LAW IN WYOMING**

The Wyoming Board of Law Examiners having presented to the court a copy of its proposed Rules and Procedures Governing Admission to the Practice of Law in Wyoming, which have been approved with some modifications, and as modified and approved are filed with this order; and based upon the submission and recommendation of the Wyoming Board of Law Examiners and the Wyoming State Bar and the approval of the court; it is therefore

ORDERED by this court that the Rules and Procedures Governing Admission to the Practice of Law in Wyoming, attached hereto, be, and they are hereby, adopted; that said rules and procedures be published in the advance sheets of the Pacific Reporter and in the Wyoming Reporter; that said rules and procedures shall become effective 60 days after publication in the advance sheets of the Pacific Reporter and shall be spread at length upon the journal of this court.

DATED this 5TH day of October, 1992.

BY THE COURT:

Richard J. Macy
Richard J. Macy
Chief Justice

**Rules and Procedures Governing Admission to the
Practice of Law in Wyoming**

SECTION I

GENERAL PROVISIONS

Rule 101. Board of Law Examiners.

(a) The Board of Law Examiners shall consist of five resident members of the Wyoming State Bar who are learned, experienced and of generally recognized ability and integrity and who have further completed five years in the active practice of law. Members shall be appointed by the court for terms of three years each. No more than one member shall be appointed from the same judicial district. (W.S. §33-5-101) Appointments to fill vacancies occurring other than by expiration of a term shall be for the unexpired term. Each member of the Board shall take and subscribe an oath to faithfully, carefully and impartially perform all of the duties imposed as a member of the Board of Law Examiners, which oath shall be entered upon the minutes retained by the Wyoming State Bar on behalf of the court.

The Board shall designate a chairperson and a vice-chairperson from its membership, who, acting together, shall constitute an executive committee. Any action which may be taken by the Board, when the Board is not in session, and time is of the essence, may be taken by the executive committee, which shall promptly notify the members of the Board of such action. The action of the executive committee shall be subject to confirmation at the next regular meeting of the Board. The Board shall designate an Executive Secretary, who shall be the Executive Director of the Wyoming State Bar.

(b) The State Board of Law Examiners shall hold at least two regular meetings each year for the examination and review of all applicants, at times and places designated by the chair. Other meetings of the Board shall be called as necessary by the chair at such place or places as may be convenient. These other meetings may be conducted by telephone conference call. At all meetings, a majority of the board constitutes a quorum. (W.S. §33-5-102) Members of the Board are excused from court appearances in all courts of the State of Wyoming while in attendance at any meeting of the Board duly called by its chair provided reasonable and timely notice of such a meeting is conveyed to the court and to opposing counsel.

It shall further be the duty of the State Board of Law Examiners to certify and recommend all applicants for admission to the Wyoming Supreme Court. All petitions for examination and admission on motion shall be received by the court and forwarded to the Board, which shall verify information on each applicant's petition, investigate each applicant's qualifications and conduct further proceedings described in Section IV as it deems necessary to determine character and fitness.

Upon completing such examination and/or investigation described herein, the Board shall report its recommendations and findings to the Wyoming Supreme Court in a timely manner.

(c) Each member of the Board shall receive as compensation ten dollars (\$10) for each day necessarily employed in attending the meetings of the Board, and shall also receive per diem and mileage allowance as allowed to state employees for attending the meetings and performing the duties incumbent upon them as members of the Board. (W.S. §33-5-103) Expenses incurred by Board members shall be directly and individually submitted upon an itemized voucher to the Executive Secretary of the Board for proper verification and certification. Upon obtaining such a voucher and securing the appropriate certification, the Executive Secretary shall promptly submit the voucher and certification to the Wyoming Supreme Court for payment from revenues earmarked for the State Board of Law Examiners.

Rule 102. Office of the Wyoming State Bar.

The office of the Wyoming State Bar shall serve as office of the Board of Law Examiners. It shall perform all administrative duties for the Board, including the receipt and printing of examination questions, the investigation of applicants and their qualifications, and the preparation of minutes, proceedings, certifications and recommendations required of the Board by state law and the Wyoming Supreme Court. The State Bar shall also draft and submit all budgets, vouchers and fiscal reports required by the State of Wyoming. The Bar shall also perform such other duties as may be requested by the Board or the Wyoming Supreme Court.

Rule 103. Records.

(a) The Wyoming State Bar shall maintain copies of records that are generated in the course of accepting and processing applications for admission on motion, records generated in accepting and processing applications to stand for bar examinations and the results of taking the bar examination. The following original records shall be maintained at the Wyoming Supreme court subsequent to the report and recommendation of the Board:

(1) With respect to applications to stand for the bar examination:

(i) Original petitions by applicants with all supporting data and certification required by the Board; and

(ii) Original report and recommendation by the Board.

(2) With respect to each bar examination:

(i) The examination report of the Board, including the names and corresponding scores of all those who took the examination; and

(ii) Such statistical summaries and annual reports as may be specifically authorized by the Wyoming Supreme Court.

(3) With respect to applicants for admission on motion:

(i) The original applicant petition with all supporting data and certification required by the Board; and

(ii) Original report and recommendation by the Board.

(b) Information and documents obtained by the Board pursuant to its investigation and relevant to the requirements of the Board shall be retained by the Bar and shall be confidential, subject to the following exceptions:

(1) Information may be disclosed to the applicant, the applicant's counsel, to a hearing officer appointed to conduct a character and fitness interview and to any counsel retained to represent the public interest and/or the Board;

(2) Information may be disclosed to the Wyoming Supreme Court;

(3) Information provided by or obtained with respect to an applicant's fitness to practice law may be disclosed to the bar admissions authority of any United States jurisdiction where the applicant applies for admission to the practice of law;

(4) The name, address, date of birth and social security number of each applicant may be furnished to the National Conference of Bar Examiners for dissemination to the bar admissions authority of any United States jurisdiction upon

request;

(5) Information may also be released to the Counsel of the Wyoming State Bar, any board or committee of the Wyoming State Bar and any board or committee of another state bar as the Board deems advisable;

(6) Information and records may be disclosed as provided by order of the Wyoming Supreme Court.

All other information provided by or obtained with respect to an applicant for admission on motion or to stand for a bar examination, including examination results, except as specifically provided for herein, shall be considered confidential and privileged.

Rule 104. Waivers.

The Board of Law Examiners may, for good cause shown by clear and convincing evidence, waive any rule contained herein; provided, however, the Board shall not waive filing fees, including late fees nor shall the Board of Law Examiners waive the prohibition on regrading of essay answers after the general release of grades. The decision of the Board of Law Examiners not to waive any rule herein subject to waiver may be appealed to the Wyoming Supreme Court.

Rule 105. Communications with Board Members.

All communications to or with the Board of Law Examiners or any member thereof relating to pending applications for admission on motion or applications to take the bar examination or regarding the results thereof or eligibility for admission to the bar examination, and all communications with either the Board or any member thereof relating to waiver of any part of these Rules, whether by an applicant or by any person or agent acting for or on the behalf of an applicant, shall be transmitted through the office of the Wyoming State Bar unless otherwise directed in writing by the chairperson of the Board.

Rule 106. Filings.

All filings required to be made by routine application shall be filed with the Clerk of the Wyoming Supreme Court. Additional information requested by the Board in its investigation of applicants shall be filed through the office of the Wyoming State Bar.

Rule 107. Judicial Immunity.

For any conduct or occurrence in the course of or arising out of performance of any official duties in connection with these rules, the Board of Law Examiners, its members, employees and all personnel through whom the Board functions shall enjoy such judicial immunities as the Wyoming Supreme Court would enjoy if performing the same functions.

SECTION II

ADMISSION BY EXAMINATION

Rule 201. Applications for Examinations.

(a) The Wyoming Bar Examination shall be administered in conjunction with the national Multistate Bar Examination (MBE), which is given on the last Wednesday of February and July of each year. The essay portion of the examination is given the day before the date scheduled for the MBE. An application to take the February administration of the Wyoming State Bar examination must be filed with the Clerk of the Wyoming Supreme Court no later than the 15th day of December. An application to take the July administration of the Wyoming Bar Examination must be filed with the Clerk of the Wyoming Supreme Court not later than the 15th day of May.

(b) Applications to take the bar examination shall be filed with the Clerk's office on a form prescribed by the Board of Law Examiners and shall be accompanied by a fee of \$200 established by the State Board of Law Examiners and the Wyoming Supreme Court. Further, evidence that the applicant meets the educational requirements set forth in these rules must be submitted contemporaneously with the application, together with all supporting data and certification required of an applicant. The Board may require the payment of an additional fee for investigation, including but not limited to, the cost of any record or documents required by the Board in the conduct of an investigation or inquiry concerning the applicant, the cost of a character report from the National Conference of Bar Examiners and the cost of the services of an investigator.

(c) An applicant who is unsuccessful on an examination may file an application to take the next bar examination without paying an additional fee or obtaining additional certification of character and fitness from members of the State Bar. Further, applicants who wish to take the next examination need not resubmit evidence of meeting the educational requirements set forth in these rules. Thereafter, the applicant shall be required to resubmit an application and filing fee.

Rule 202. Educational Requirements.

(a) The Board shall, before admitting an applicant to an examination, be satisfied that the applicant possesses the qualifications as to the periods of study prescribed by law; and the following information shall be submitted by an applicant:

(1) The time of study in an American Bar Association accredited law school, or under the supervision thereof, by the certificate of the president, dean or secretary of the faculty under whose instruction the person has studied, under the seal of the school, if such there be; and

(2) The time of study in the office of a member of the Wyoming State Bar or a judge of this state by a certificate of such members of the Wyoming State Bar or judge, showing the actual period of such study, together with a listing and description of the substantive topics of law studied. Evidence of tests taken, as well as written material, may be requested. Prior approval of a course of study is highly recommended by the Board.

(b) Attendance and successful completion of classes and studies at an American Bar Association accredited law school during a school year of not less than eight months in a year shall be deemed a year's attendance in a law school; and in computing the period of study in an office, a vacation actually taken, not to exceed three months in each year, shall be allowed as part of each year. (S.C. Rule 5.)

(c) An applicant shall not be permitted to take the examination unless evidence is first received directly from the schools involved showing that the applicant meets the educational requirements of these Rules. It is the responsibility of the applicant alone to insure that the evidence is received prior to the examination. The form of evidence shall be an official transcript from each law school attended; however, in lieu of an official transcript of legal studies, an applicant who is eligible to take the examination prior to graduation shall cause the applicant's law school to submit a certification to the effect that the applicant is a regularly enrolled student and that the examination for which the application has been made is the examination immediately prior to the applicant's scheduled graduation. An applicant petitioning under Section 202(a)(1) shall cause the applicant's law school to certify to the Wyoming Supreme Court the fact of the applicant's graduation before the Board may certify the applicant as eligible for admission to the practice of law.

Rule 203. Character and Fitness.

Every applicant for admission to the Wyoming State Bar shall file with the applications the certificates of two members of the Wyoming State Bar. Such certificates shall set forth the maker's acquaintance with the applicant, the facts and circumstances of such acquaintance and contain a positive and unqualified statement that the applicant is of good moral character, that the applicant has an adequate knowledge of the standards and ideals of the profession and is a worthy, fit and proper person to perform and accept the obligations and responsibilities of a member of the Wyoming State Bar. The Board shall, in each case, give consideration to such certificates, and shall make independent inquiry and investigation as to applicant's moral character and fitness to be a member of the Wyoming State Bar. The Board may conduct further proceedings with applicants according to the procedures set forth in Section IV and shall thereafter report to the court the results of its findings, together with its recommendation. (W.S.C. Rule 5.)

Rule 204. Eligibility of Applicants for Examination.

Applications to take the bar examination which show on their face that the applicant has provided the required submissions of the applicant's fitness to practice law and that the applicant has satisfied the legal education requirements of these rules shall be deemed initially eligible by the Board of Law Examiners or, if so designated by the Board, by the Executive Secretary to the Board. Applications to take the bar examination which show on their face that the applicant has failed to provide the submissions required by these rules showing the applicant is fit to practice law and/or that the applicant does not satisfy the legal education requirements of these Rules shall be deemed ineligible by the Board of Law Examiners or, if so designated by the Board, by the Executive Secretary to the Board. The fact that an applicant is permitted to take the bar examination does not preclude the Board from refusing to certify the applicant for admission to the bar in the event that the Board determines that the applicant does not have the requisite character and fitness to be a member of the bar after the character and fitness investigation has been concluded.

Rule 205. Refunds.

Refunds of the bar examination application fee will not be made in the event an applicant is found to be ineligible to take an examination. Refunds will not be paid for withdrawal of an application, but may only be allowed by the court upon motion and for good cause shown.

Rule 206. Examinations.

- (a) The Board of Law Examiners shall conduct two examinations

each year (W.S.C. Rule 5), each of which shall be held in Laramie, Wyoming or such other location as the Board may designate at least 90 days in advance of the examination. Each shall be conducted on any two successive days and will be scheduled so as to coincide with the administration of the Multistate Bar Examination prepared by the National Conference of Bar Examiners.

(b) The examination shall be administered in two parts, one of which shall consist of essay questions prepared or approved by the Board of Law Examiners. Subjects from which questions may be drawn will be announced to applicants upon approval of their application. After the examination has been held, the questions prepared by the Board of Law Examiners may, at its discretion, be made public by the Board in such a manner and to such an extent as it deems proper.

(c) The second part of the examination shall be the Multistate Bar Examination prepared and graded under the direction of the National Conference of Bar Examiners. Questions on the Multistate Bar Examination shall not be made public in any manner unless authorized by the National Conference of Bar Examiners.

(d) Further, the Board of Law Examiners shall require each applicant to pass the separately administered Multistate Professional Responsibility Examination (MPRE) with a scale score of 75 or greater prior to certifying the applicant as eligible for admission to the practice of law. The passing score on the MPRE must have been obtained in this or another jurisdiction within three years from the date upon which an applicant first takes the Wyoming Bar Examination to be eligible for admission. (Information Sheet, Wyoming Bar Examination)

Rule 207. Oath of Applicant.

Each applicant shall, by taking the examination be deemed to have sworn the following with respect to each question:

"I being first duly sworn on my oath according to law, depose and state: that I had no information or knowledge in advance as to what questions would be submitted to me in my examination held before the Board of Law Examiners of the State of Wyoming and that I received no information or advice during said examination from any person or persons, whatever, or by reference to any book or memorandum of any kind. (Oath of Applicant)

Applicants, at the discretion of the Board may be required to sign and have notarized this oath in writing.

Rule 208. Anonymity of Examinees.

Until after the grading process has been completed by the Board, the examination of each applicant shall be done in such a manner that the applicant's examination paper is not identifiable by name to the members of the Board of Law Examiners or its Executive Secretary.

Rule 209. Typing Essay Portions of the Examination.

Any applicant desiring to type the essay portions of the examination may do so if the applicant has so indicated on the applicant's application. An applicant may also notify the Board, through its Executive Secretary, that the applicant wishes to type the examination at least five days prior to the first day of the examination. An applicant must supply own typewriter and may not use a typewriter capable of electronic memory storage or other computerized functions.

Rule 210. Monitors.

The Board of Law Examiners shall appoint a sufficient number of monitors to insure the examination is conducted in an orderly and expeditious manner and to insure no applicant gives or receives aid in taking the examination.

Rule 211. Misconduct by Applicants During Examination.

If, during an examination, the Board or its designee has brought to its attention conduct by an applicant which may violate the oath of applicant or any rule governing the examination, the Board or its designee shall cause an immediate investigation to be made. If the Board or its designee determines that an applicant has violated the oath of applicant or rules governing the examination, it shall immediately disqualify the applicant from the examination. Thereafter, the Board may consider whether the applicant's character and fitness is such that the applicant is capable of assuming the responsibilities of the practice of law. Any fraudulent act or presentation in connection with the application or examination shall be sufficient cause for the revocation of the order admitting the applicant to practice. (W.S. §33-5-107.)

Rule 212. Applicants with Disabilities.

(a) An applicant who is otherwise eligible to take the Wyoming bar examination may request modification of the manner in which the examination is administered if, by virtue of a temporary

or permanent physical disability, the applicant is unable to take the examination under normal testing conditions. Any costs incurred by the Board in reviewing applications for special testing accommodations or in providing such accommodations shall be charged to the applicant.

(b) A request by an applicant with disability for special testing accommodations must be submitted to the Clerk with the application to take the bar examination. The applicant must designate on such form the nature of the disability that necessitates special testing accommodations requested.

(c) The special testing accommodations request must be accompanied by a sworn statement from an appropriate medical authority describing:

- (1) The nature and the extent of the impairment;
- (2) The test or tests performed to diagnose the disability or impairment;
- (3) The effect of the disability on the applicant's ability to take the test under normal testing conditions; and
- (4) The special testing conditions prescribed by the medical authority, or deemed to be necessary by the medical authority.

(d) The Board shall review each special testing accommodations request it receives, and determine at its discretion, whether or not the request should be granted. If the Board grants a request, it shall determine what special accommodations should be made.

(e) At the discretion of the Board, any applicant seeking special testing accommodations on the basis of a disability may be required to provide additional documentation in support of the application. Such documentation may include, without limitation, information concerning special testing accommodations provided during the applicant's legal education and certification from the school where such special testing accommodations were provided. Where deemed necessary by the Board for validation, the applicant may be required to undergo a physical examination to be conducted by a medical authority chosen by the Board at the applicant's expense.

(f) The applicant shall be sent written notice of the disposition of the request for special testing accommodations at least seven days before the examination. Where such request has been granted, the written notice shall include a description of the special testing accommodations that will be made.

(g) An applicant may submit an emergency request for special testing accommodations after the time fixed for filing an application to take the bar examination, if the following conditions are met:

(1) The applicant's application to take the bar examination was timely filed and complete in all other respects;

(2) At the time of filing an application to take the bar examination, the applicant was unaware of a disability that would necessitate special testing accommodations;

(3) The applicant subsequently learned that, by virtue of the disability, the applicant would be unable to take the examination under normal testing conditions;

(4) The applicant promptly submits an emergency request setting forth the nature of the handicap and the special testing accommodations requested;

(5) No emergency request will be considered unless received by the Executive Secretary not later than the Friday preceding the scheduled bar examination.

(h) The emergency request must be accompanied by a sworn statement from an appropriate medical authority describing:

(1) The nature and the extent of the impairment;

(2) The date the impairment first manifested itself;

(3) The test or tests performed to diagnose the disability or impairment;

(4) The effect of the disability on the applicant's ability to take the test under normal testing conditions; and

(5) The special testing conditions prescribed by the medical authority, or deemed to be necessary by the medical authority.

(i) Emergency requests submitted under this subsection shall be reviewed on a case-by-case basis by the Board. If the Board determines that the disability warrants special accommodations and was not known to, or reasonably discoverable by, the applicant at the time the applicant filed an application to take the bar examination, the Board shall take reasonable steps to provide appropriate testing accommodations.

(j) The decision of the Board with respect to emergency requests for special testing accommodations shall be immediately communicated to the applicant. The decision of the Board shall be final.

Rule 213. Grading of the Examination and Notification of Results.

(a) The essay part of the examination shall be graded by or under the direction of the Board, which shall pass upon the merits of the answers submitted.

(b) An applicant shall have passed the Wyoming Bar Examination if the applicant achieves an average score of 70 or higher on the essay part of the examination provided, and has received a grade of 70 or higher on at least six out of ten essay questions, however, an applicant who does not achieve a scale score of at least 130 on the Multistate Bar Examination (MBE) shall not be deemed to have passed the examination. If an applicant achieves an average score of 73 or higher on the essay examination and has received a passing grade on at least six out of ten essay questions and has not achieved a scale score of at least 130 on the MBE, the applicant will not be required to retake the essay part of the examination. An applicant who has failed to pass six out of ten essay questions with a grade of 70 or higher or who has failed to get a grade of 70 or higher on the essay examination, or both, but who receives a scale score of 133 or above on the MBE shall be exempt from the further taking of the MBE for a three-year period.

(c) Prior to identifying the applicants who have passed or failed the examination, the Board shall regrade essay examinations of applicants which have an average score of at least 68 but less than 70. Any regrading of examinations after identification of the applicants and the release of grades is prohibited.

(d) The Board shall notify the Wyoming Supreme Court of the results of the examination upon completion of the grading of the essay part of the exam and receipt of the Multistate Bar Examination results from the National Conference of Bar Examiners. The Wyoming Supreme Court shall notify each bar applicant whether the applicant passed the examination as promptly as feasible. Applicant grades shall not be disclosed to any person other than the applicant except that upon written request of an applicant, the Board may disclose the applicant's scale and raw MBE scores to the bar examining authority of any United States jurisdiction or compile passage rate reports as directed or approved by the Wyoming Supreme Court.

Rule 214. Review of Examination Answers.

An applicant may inspect the applicant's answers along with a copy of the essay examination and the model answer following the exam at the office of the Wyoming State Bar with the exception of questions and answers on those portions of any examination prepared by or under the supervision of the National Conference of Bar Examiners.

Rule 215. Certification of Eligibility for Admission to the Bar.

Upon an applicant's passing the bar examination and provided that the applicant certification of fitness to practice law is current and the applicant has met all of the educational and testing requirements of these rules, the Board shall certify its recommendation to the Wyoming Supreme Court that the applicant is eligible for admission to the practice of law. Certification may be in such form as the Board prescribes, including a letter, bearing the signature of the Chairperson or someone delegated by the Chairperson, provided that person is a member of the Board or the Executive Secretary to the Board.

Rule 216. Duty of the Wyoming Supreme Court After Receiving Certification of the Board.

The Wyoming Supreme Court, upon receiving the Board's certification that an applicant is eligible for admission to the Bar, shall enter an order in substantially the following form:

"In the Matter of Admission of _____ to the Wyoming State Bar

"It appearing that heretofore on the _____ day of _____, 19__, the State Board of Law Examiners filed its report recommending that the above-named applicants, having met the requirements prescribed by law, are persons of good moral character, and of legal age; and

It further appearing to the court that said report should be approved and that the applicants possess the qualifications required by law, are persons of good moral character, and of legal age; it is

ORDERED that said applicants be and hereby are, admitted to practice as attorneys and counselors at law in all of the courts of this state upon taking the oath prescribed by the court and with the filing of said oath with the Clerk of the Wyoming Supreme Court.

DATED this _____ day of _____, 19__.

Chief Justice, Wyoming Supreme Court

Rule 217. Attorney's Oath Form: Entry on Minutes.

Following the order of the Wyoming Supreme Court admitting the applicant to the Bar with authority to practice as an attorney and counselor at law in said court and all courts of the State of Wyoming, the candidate shall make the following oath:

"I _____, do solemnly swear that I will support, obey and defend the Constitution of the United States and the

Constitution and laws of the State of Wyoming, and that I will faithfully and honestly and to the best of my ability discharge the duties of an Attorney and Counselor at Law." (Oath of Attorney)

The oath may be taken in open court or in chambers or, if the applicant resides outside the state, before any officer authorized to administer oaths. The completed oath shall be entered on the minutes of the court as provided above.

Rule 218. Duty of the Clerk of the Wyoming Supreme Court.

Whenever there is delivered to the Clerk of the Wyoming Supreme Court an order for admission and the proper papers described herein, the Clerk shall proceed as directed. The entries upon the minutes of the Wyoming Supreme Court may be made in term or in vacation.

SECTION III

ADMISSION ON MOTION

Rule 301. General Provision.

The Board of Law Examiners may recommend to the Wyoming Supreme Court admission without examination of those attorneys who satisfy the criteria described in Rule 302, below.

Rule 302. Eligibility.

A person who:

(a) Has been awarded the first professional degree in law (JD or LLB) by a law school approved by the American Bar Association; and who

(b) Is not now nor ever has been admitted to the practice of law in Wyoming but who has been admitted to practice as an attorney in the highest court in any state or territory of the United States or District of Columbia by passing a written examination as required by such other state or territory; and who

(c) Has engaged in the active, authorized practice of law in one or more states, territories or District of Columbia for five of the seven years immediately preceding the date of the application and is currently an active member in one of the jurisdictions to which the person is admitted; and who

(d) Has not been denied on motion to practice law in Wyoming or been allowed to withdraw an application due to questions raised

by the Board on character and fitness within the last two years; and who

(e) Has never taken and failed the Wyoming Bar Examination; and who

(f) Has shown that the person has met all such other requirements as may be appropriately prescribed by the Board of Law Examiners to demonstrate qualification, character and fitness to practice law;

may be admitted at the discretion of the court, provided the person has submitted the proper motion and application required by the Board to certify the qualifications of eligibility listed above together with all supporting data and necessary fees.

Rule 303. Definitions of the Active Practice of Law.

For purposes of this section, the "active practice of law" shall mean:

(a) Engaged in representing one or more clients on a fee basis in the private practice of law;

(b) Serving as an attorney in governmental employment, provided graduation from ABA or AALS accredited law school is a required qualification of such employment;

(c) Serving as counsel for a non-governmental corporation, entity or person and performing legal services of a nature requiring a license to practice law in the jurisdiction(s) in which performed;

(d) Teaching a law course or courses at one or more accredited law schools in the United States, its territories or the District of Columbia;

(e) Serving as a judge in a court of the United States, its territories or the District of Columbia; or

(f) Employed by a legal services corporation program or a not-for-profit law firm, performing legal services of a nature requiring a license to practice law in the jurisdiction(s) in which performed, provided, further, that any applicant not eligible for admission pursuant to this section may qualify for general applicant status. (W.S.C. Rule 5.)

Rule 304. Applications, Fees and Filing Deadlines.

(a) An application for admission on motion shall consist of

three parts: (1) a questionnaire and affidavit for applicants seeking admission on motion prescribed or approved by the Board of Law Examiners, (2) a character investigation performed by or for the National Conference of Bar Examiners, and (3) a petition for admission on motion to the Wyoming Supreme Court based on practice elsewhere.

(b) The questionnaire and affidavit prescribed or approved by the Board shall be submitted with all supporting data required by the Board to determine eligibility under Rule 302, above. Supporting data to the application shall include the following:

(1) A certified copy of the applicant's license of admission or records of admission under the seal of the court;

(2) A certificate by a judge of a court of record of such other state or territory setting forth the maker's acquaintance with the applicant, and the facts and circumstances of such acquaintance and containing a positive and unqualified statement that the applicant is a worthy, fit and proper person to perform and accept the obligations and responsibilities of a member of the Wyoming State Bar and stating that the applicant is of good standing in the courts of such other state or territory; (W.S.C. Rule 5)

(3) Two certificates of good moral character setting forth maker's acquaintance with the applicant and stating the applicant is of good moral character, has an adequate knowledge of the standards and ideals of the legal profession and is a worthy, fit and proper person to perform and accept the responsibilities of a member of the Wyoming State Bar; (W.S.C. Rule 5) and

(4) Two authorization and release forms.

(c) The Board shall, in each case, give consideration to such certificates of moral character it has required along with the character report by the National Conference of Bar Examiners and shall make independent inquiry and investigation as to applicant's moral character and fitness to be a member of the Wyoming State Bar. The Board may, at its discretion, hold further proceedings with the applicant as described in Section IV and shall thereafter report to the court the results of its findings, together with its recommendation. The court may on its own motion make such further inquiry and investigation as it deems proper.

(d) Applications for admission on motion shall be accompanied by a fee established by the Board of Law Examiners and the Wyoming Supreme Court and, in addition, the fee required to obtain a Character Report from the National Conference of Bar Examiners. Additional investigation fees may be required by the Board, including but not limited to, the expenses necessary for the Board

to obtain records and documents and the fee necessary to pay the services of an investigator, if deemed of assistance to the Board.

Rule 305. Review of Applicants for Admission on Motion.

(a) The Board of Law Examiners shall meet to recommend applicants for admission on motion twice yearly, in February and July, in conjunction with the administration of the Wyoming State Bar Examination. The questionnaire and affidavit prescribed by the Board must be received together with all supporting data and necessary fees, and the character report by the National Conference of Bar Examiners must be completed by the 15th day of May, to be admitted in July or by the 15th day of December, to be admitted in February.

(b) An applicant for admission on motion may be admitted to the practice of law in Wyoming at the discretion of the court once the Board has received the necessary fees, reviewed the application and motion, together with all supporting data and has forwarded its recommendation to the court, which will act on the recommendation in a timely manner. Any fraudulent act or presentation in connection with the application shall be sufficient cause for the revocation of a subsequent order admitting the applicant to practice. (W.S. §33-5-107)

SECTION IV

INVESTIGATIONS TO DETERMINE CHARACTER AND FITNESS

OF BAR APPLICANTS

Rule 401. Character and Fitness.

(a) Every applicant to take the bar examination or for admission on motion must produce satisfactory evidence to the Board of good moral character and an adequate knowledge of the standards and ideals of the profession and that such person is otherwise fit to practice law within the State of Wyoming. The applicant shall have the burden of proving that the applicant is possessed of good moral character and is fit to practice law. The primary purposes of character and fitness screening before admission to the Wyoming State Bar are to assure the protection of the public and safeguard the justice system. The Board shall not recommend an applicant be admitted to practice law if the Board believes that such applicant would, if admitted to practice law in Wyoming, be unable or unwilling to act in accordance with the standards set forth in the Wyoming Rules of Professional Conduct, and to act fairly, honestly, reasonably and with unquestionable integrity in all matters in which he or she acts as an attorney at law.

(b) Every applicant must also be mentally and physically able to engage in the active and continuous practice of law.

(c) The revelation or discovery of any of the following may be treated by the Board as cause for further inquiry before the Board decides whether the applicant possesses the character and fitness to practice law:

- (1) Unlawful conduct;
- (2) Academic misconduct;
- (3) Making or procuring any false or misleading statement or omission of relevant information, including any false or misleading statement or omission on the application for admission to the Wyoming State Bar, or any amendment, or in any testimony or sworn statement submitted to the Board;
- (4) Misconduct in employment;
- (5) Acts involving dishonesty, fraud, deceit or misrepresentation;
- (6) Abuse of legal process;
- (7) Neglect of financial responsibilities;
- (8) Neglect of professional obligations;
- (9) Violation of an order of the court;
- (10) Evidence of mental or emotional instability;
- (11) Evidence of drug or alcohol dependency;
- (12) Denial of admission to the bar in another jurisdiction on character and fitness grounds;
- (13) Disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction;
- (14) Any other conduct which reflects adversely upon the character or fitness of the applicant.

Rule 402. Investigation of Applicants.

(a) Prior to recommendation to the court that an applicant be admitted to practice law in Wyoming, the Board shall make such investigation as it deems necessary into the applicant's character, reputation and background. Each applicant shall provide written authority to the Board to conduct such investigation, and each

applicant shall authorize all persons with information about the applicant to furnish the Board with such information and documents as it may request. The authority granted by an applicant shall expire upon the applicant's admission to the practice of law in Wyoming, denial of the application, or upon the applicant's written withdrawal of the application.

(b) The Board or its delegate may contact all persons who may offer information which the Board believes will be relevant to the determination of the applicant's fitness to practice law. The Board is specifically authorized to contact the district court judge(s) of each judicial district in Wyoming where an applicant has resided, attended school, or been employed during the five years next preceding the filing of the application and request information or recommendations concerning the applicant as the judge(s) may desire to furnish. Further, the Board may provide for the appointment of local committees on character and fitness to investigate the background of any applicant who has worked, resided or attended school in the judicial district. The reports of local committees shall include the facts found during their investigations but shall not include any recommendations.

(c) To supplement the character report of the National Conference of Bar Examiners for applicants for admission on motion, the Board or its delegate may contact persons listed as references on an applicant's character report; the judge providing requisite certification of character and fitness; an attorney's previous employer(s) for the five years next preceding the filing of the application; or such other persons as may offer relevant information regarding the applicant's ability and fitness to assume the duties and responsibilities of a member of the Wyoming State Bar.

(d) In making the determination on character and fitness of each applicant, the following factors should be considered in assigning weight and significance to prior conduct of the applicant:

- (1) The applicant's age at the time of the conduct;
- (2) The recency of the conduct;
- (3) The reliability of the information;
- (4) The seriousness of the conduct;
- (5) The factors underlying the conduct;
- (6) The cumulative effect of the conduct or information;
- (7) The evidence of rehabilitation;

(8) The applicant's positive social contributions since the conduct;

(9) The applicant's candor in the admissions process;

(10) The materiality of any omissions or misrepresentations.

No person shall be recommended for admission to the Wyoming State Bar who has not reached the age of 19 years.

Rule 403. Informal Conferences, Permissive Withdrawal of Applications, Reapplication.

(a) In its sole discretion, the Board or some other agent or representative under contract with the Board, may act in the first instance as to any applicant without requiring the applicant to appear before the Board. The Board or its agent or representative may also require the applicant, together with the applicant's counsel if the applicant so desires, to appear before the Board in informal conference, be sworn and be questioned. If upon such action or appearance the Board shall not be prepared to certify the applicant, it shall promptly notify the applicant that it cannot certify that the applicant is of approved good moral character and general fitness to practice law. Such notice shall be sent to the applicant by certified mail, with return receipt requested, to the applicant's last address on file with the Board and to the Clerk of the Wyoming Supreme Court.

(b) If the Board decides to recommend an applicant be denied admission based on character and fitness, it may, in lieu of filing its recommendation with the court, permit the applicant to withdraw the application with the understanding that the Board will accept a new application after two years accompanied by the appropriate initial filing fee, from the applicant for consideration.

Rule 404. Request for Hearing.

(a) The applicant shall have the right to file with the Board a written request for reconsideration and hearing within 30 days after receipt of the notice described in Rule 403. Such request shall be verified by the applicant that all statements contained therein are true, on the applicant's own knowledge, or on the basis of information furnished to the applicant. Failure to file a timely request for reconsideration shall constitute a waiver of any right to reconsideration, and the applicant shall be deemed to have abandoned the application.

(b) The request for reconsideration filed by the applicant shall state all grounds upon which the applicant intends to rely

and shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board or its agents or representatives.

(c) Upon receipt by the Board of the request for reconsideration and hearing, a hearing shall be granted by the Board under the following procedure:

(1) The Board shall notify the applicant of the date, time and place of such hearing;

(2) The Board shall notify the applicant of the general subject of the inquiry; and

(3) The Board shall notify the applicant of the applicant's right to be represented by counsel at the hearing, to examine and cross-examine witnesses, to adduce evidence bearing on the aforesaid adverse matters and general fitness to practice law, and for such purposes to make reasonable use of the Board's subpoena powers.

(d) The hearings before the Board shall be private unless the applicant requests they be public. The hearings shall be conducted in a formal manner, with the applicant having the rights set forth in this section. In any proceedings, the burden of proof shall be on the applicant to establish the applicant is possessed of good moral character and general fitness to practice law. The Board shall have the authority, at its discretion, to retain an attorney to represent the public interest. That attorney shall be entitled to access all information which has been acquired by the Board and/or the Clerk of the Wyoming Supreme Court regarding the applicant.

(e) The Board shall not be bound by the formal rules of evidence. It may, in its discretion, take evidence in other than testimonial form, having the right to rely upon records and other materials furnished to the Board in response to its request for assistance in its inquiries. The Board may, in its further discretion, determine whether evidence to be taken in testimonial form shall be taken in person at the hearing or upon deposition, but all testimonial evidence shall in either event be taken under oath. A complete stenographic record of the hearing shall be kept, and a transcript may be ordered by the applicant at the applicant's own expense.

(f) If after such hearing, the Board by majority vote does not certify the applicant, it shall prepare a written decision supported by findings of fact and conclusions of law. A copy of the decision shall be sent to the applicant or the applicant's attorney of record by certified mail, with return receipt requested, to that person's last address on file with the Board and the Clerk of the Wyoming Supreme Court.

(g) The findings of fact, conclusions of law and final decision of the Board shall be conclusive as to the matters alleged in applicant's request for reconsideration and hearing unless a verified Petition for Review shall be filed by the applicant with the Wyoming Supreme Court within 30 days following service upon the applicant of the findings, conclusions and decision in the manner provided by these rules. A copy of the Petition for Review shall also be filed with the Board. Within 30 days of receipt of said Petition, the Board shall transmit the entire record to the Clerk of the Wyoming Supreme Court and respond to the Petition fully advising the court as to the Board's reasons for its decision, and admitting or contesting any assertions made by the applicant in said Petition. The Board shall have the authority, at its discretion, to retain an attorney to represent it in the appellate proceedings.

Rule 405. General Powers.

(a) Subpoena Power. -- The chair or vice-chair of the Board shall have power to issue subpoenas for the attendance of witnesses or for the production of documentary evidence before the Board or before anyone authorized to act on behalf of the Board. The party desiring issuance of such subpoena shall apply therefore with the Board. In case of a refusal of a witness to attend the hearing, to produce documentary or other evidence or to testify, the Board shall certify the failure to the Wyoming Supreme Court, and the witness shall be dealt with as for a contempt. Witnesses shall be entitled to receive the fees and mileage provided for by law for witnesses in civil cases.

(b) Administration of Oaths. -- Any member of the Board or its designee shall have power to administer oaths in relation to any matter within the functions of the Board.

(c) Taking of Testimony. -- Any member of the Board and any other person who has the power to administer oaths, shall have power, upon order of the Board, to take testimony in reference to any matter within the function of the Board.

(d) Agreements for Services. -- The Board is empowered to enter into such agreements for services in furtherance of the purposes of these rules of procedure and to facilitate their administration as may be necessary or advisable.

(e) The informal conference and/or hearing provided in Section IV may be held before a single attorney member of the Board appointed by the chair, before a quorum of the Board as a whole or before a member of the Wyoming State Bar appointed as hearing officer by the Wyoming Supreme Court at the Board's request. If the services of a hearing officer are utilized, the hearing officer shall make written findings of fact and recommendations to the

Board, which, however, shall not be binding upon the Board.

(f) The Board, or the hearing officer, if applicable, shall rule on requests for discovery and shall allow such reasonable discovery as may be necessary for the determination of the issues by the Board.

Rule 406. Reapplication After Denial.

The Board shall not accept a new application from an applicant who has received a recommendation of denial based on the applicant's fitness to practice law until two years have elapsed from the date a tentative order of denial becomes final, a final decision is issued after a hearing and not appealed, or a final decision is affirmed by the Wyoming Supreme Court, whichever date is applicable.

Rule 407. Rehabilitation.

Any applicant who asserts rehabilitation from prior conduct which bears adversely upon such person's character and fitness for admission to the bar shall be required to produce clear and convincing evidence of such rehabilitation, including, but not limited to, the following elements:

(1) Strict compliance with the specific conditions of any disciplinary, judicial, administrative or other order, where applicable;

(2) Unimpeachable character and moral standing in the community;

(3) Good reputation for professional ability, where applicable;

(4) Lack of malice and ill feeling toward those who by duty were compelled to bring about the disciplinary, judicial, administrative or other proceeding;

(5) Personal assurances, supported by corroborating evidence, of a desire and intention to conduct one's self in an exemplary fashion in the future;

(6) Restitution of funds or property, where applicable;

(7) Positive action showing rehabilitation by such things as a person's occupation, religion, community or civic service. Merely showing that an individual is now living as and doing those things he or she should have done throughout life, although necessary to prove rehabilitation, does not

prove that the individual has undertaken a useful and constructive place in society. The requirement of positive action is appropriate for applicants for admission to the Wyoming State Bar because service to one's community is an implied obligation of members of the Bar.