

IN THE SUPREME COURT OF ALABAMA
January 11, 2013

ORDER

WHEREAS the Alabama State Bar Association submitted to this Court a set of proposed revisions to the Rules Governing Admission to the Alabama State Bar; and

WHEREAS the Court has now considered those revisions and has approved them,

IT IS ORDERED that the Rules Governing Admission to the Alabama State Bar be amended to read in accordance with the appendix attached to this order;

IT IS FURTHER ORDERED that the revisions to the Rules Governing Admission to the Alabama State Bar be effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow the title of those Rules:

"Note from the reporter of decisions: The order amending the Rules Governing Admission to the Alabama State Bar is published in that volume of Alabama Reporter that contains Alabama cases from _____ So. 3d."

Malone, C.J., and Woodall, Stuart, Bolin, Parker, Murdock, Shaw, Main, and Wise, JJ., concur.

APPENDIX TO ORDER
RULES GOVERNING ADMISSION TO THE
ALABAMA STATE BAR

Rule I. Registration of Intent to Apply for Admission to the Alabama State Bar.

A. Registration of Law Students and Others Seeking Admission to the Alabama State Bar. Every person seeking to apply for admission to the Alabama State Bar shall, within 60 days following the commencement of the study of law in an accredited law school or in one of the unaccredited law schools located in the State of Alabama, register with the Secretary ("the Secretary") of the Board of Commissioners of the Alabama State Bar ("the Board" or "the Board of Commissioners") by completing and filing the registration form supplied by the Board and such other papers as may from time to time be reasonably required by the Board. No fee shall be required if the registration form is filed within the first 60 days following the commencement of the study of law. If, however, the registration form is filed after 60 days, such form shall be accompanied by an appropriate fee of:

(1) \$50.00 if filed after 60 days but on or before the 180th day;

(2) \$100.00 if filed after 180 days but on or before the 390th day;

(3) \$250.00 if filed after 390 days.

The deadline date for filing the registration form shall be determined using the official date for the commencement of study announced by the registrant's law school. The registrant shall be responsible for submitting, as a part of the registration form, certified verification of that date upon the form supplied by the Board.

B. Committee on Character and Fitness. The Committee on Character and Fitness ("the Committee") (see Rule V) shall promptly conduct an initial review of the registration form for matters bearing on the registrant's character and fitness, including, but not limited to, alcohol or drug addiction or abuse, criminal history, and mental-health issues. Thereafter, the Committee shall conduct an investigation or otherwise

inquire into and determine the qualifications, character, and fitness of every registrant who applies for admission to practice law in the State of Alabama and may request the personal appearance of any registrant at such reasonable time and place as the Committee may prescribe.

If the Committee, during the course of an investigation of the registrant, concludes that a complete set of his or her fingerprints would be of substantial assistance in the investigation, the Committee may direct the registrant to submit a complete set of his or her fingerprints. The failure of the registrant to submit, upon request, a complete set of his or her fingerprints, to fully and accurately comply with any reasonable request to produce documents or to appear personally before the Committee, or to fully and accurately provide such other information as reasonably may be requested by the Committee shall be a sufficient ground to deny approval of the registration.

If the Committee is reasonably satisfied that the registrant possesses good moral character, has completed the prelegal education required by these Rules (see Rule IV.A and B), and is fit to practice law in the State of Alabama in all other respects, it shall approve the registration, and the Secretary shall thereupon issue to the registrant a certificate of registration and cause a record thereof to be kept in the Secretary's office. If the registrant is found deficient in any of the aforementioned qualifications, the certificate of registration shall not be issued until and unless the Committee is satisfied that the registrant has overcome the deficiency.

A majority of the Committee may at any time and place, if in meeting assembled, act for the Committee, with the power of examination herein granted the Committee, regardless of when the registration form was filed with the Secretary.

In cases where a registrant does not file the registration form within 390 days following the commencement of the study of law and the degree of investigation required makes immediate review or resolution of the registration impractical, the Committee may in its discretion defer its review and investigation of the registration to allow a reasonable opportunity to thoroughly investigate the

registrant's character and fitness.

From a ruling of the Committee declining to approve the application for registration, an appeal shall lie to the Disciplinary Board of the Alabama State Bar (which, when acting in such capacity, shall be referred to as the "Character and Fitness Appeal Board"), if notice of appeal is filed with the Secretary and a copy of the notice is also filed with the Disciplinary Clerk of the Alabama State Bar within 30 days after the applicant has been notified of the action of the Committee. Such appeal shall be heard, de novo, within 30 days after the filing of the notice of appeal or at such time as agreed upon by stipulation between the appellant and the General Counsel of the Alabama State Bar.

C. Registration Not an Application for Admission. The registration form executed by a registrant shall not be deemed an application for admission to the Alabama State Bar.

Rule II. Application for Admission to the Alabama State Bar.

A. Applications. Applications for admission to the Alabama State Bar, whether filed as a registrant under Rule I or as an applicant under this rule, are continuing in nature and must give the information sought correctly and fully as of the date that the applicant is sworn in as a member of the Alabama State Bar. To that end, every applicant or registrant shall immediately inform the Secretary of any change or discovered error in the requested information that may occur between the time that information is furnished to the Alabama State Bar and the date of the applicant's admission.

The Board may require that all the information furnished be given under oath.

As a condition for admission into the bar examination, every applicant shall state under oath when filing an application for admission that all information in every application and in all amendments thereto previously submitted is true and complete.

B. Residency Requirements.

(1) Applicants who:

(a) were residents of the State of Alabama at the time the application was submitted, and

(b) have neither applied, nor been admitted, to the bar of another state,

shall pay the amount prescribed in item (1) of the Fee Schedule (see Appendix).

(2) All other applicants shall pay the amount prescribed in item (2) of the Fee Schedule (see Appendix).

Each applicant who qualifies under this section shall be required to complete the National Conference of Bar Examiners (NCBE)-Alabama Application form, which can be found at the Bar's Web site at www.alabar.org/admissions.

(3) The cost of a transcript or any record or document reasonably required by the Board in the conduct of an investigation or inquiry into the character and fitness of an applicant or a registrant shall be paid by such applicant or registrant.

C. Filing Deadlines.

(1) All applicants shall have their completed applications filed not later than October 1 preceding the February examination and not later than February 1 preceding the July examination.

(2) An application is deemed filed if (a) it is received on or before the deadline or (b) it is postmarked on or before the deadline and received within seven days of the postmarked date.

(3) Late applications and incomplete applications shall be promptly returned to the applicant. Incomplete applications must be completed and refiled within the deadline provided in this rule.

D. Supporting Affidavits. In support of said application the applicant shall cause to be sent directly to the Secretary

affidavits by three attorneys in good standing who have for five years been admitted to practice law in Alabama or in the state of the applicant's residency by the highest court of the applicant's residence. These affidavits must be to the effect that each affiant is acquainted with the applicant and should state the extent and duration of the association, the frequency of contact, the opportunity of observing and knowing the demeanor, habits, character, associates of and conduct of the applicant, the type of such associates, and generally the background, standing and position in life of the applicant, and that the applicant has a good character and reputation where the applicant resides, and enjoys the confidence and respect of the general public. Each such affidavit shall state whether affiant's appraisal of the applicant is based upon personal knowledge or upon inquiry.

E. Re-examination. Every applicant who is qualified and desires to repeat any part of the academic portion (see Rule VI(B)) of the bar examination shall file a Reapplication for Admission to the Alabama State Bar. The reapplication shall be accompanied by the amount prescribed in item (3) of the Fee Schedule (see Appendix). The reapplication shall be filed in the office of the Secretary within the deadlines as specified under the provisions of this rule as they pertain to the examination such applicant desires to take. In those instances where the running of the deadline under this rule occurs before notification is given of the failure of any part of the examination, thus precluding compliance with the deadline by unsuccessful examinees, the deadline shall extend for a period of 10 days from the date of the notice of failure on the examination.

F. Postponement of Examination. Applicants seeking to postpone their submission to the Alabama State Bar examination shall be permitted to do so upon payment of a fee of \$50.00 to the Alabama State Bar. A written notice of postponement and the \$50.00 fee must be received by the Alabama State Bar at least seven days in advance of the commencement of the examination.

Any applicant who has not made an appropriate postponement at least seven days in advance of the commencement of the examination shall be deemed to have forfeited the entire examination fee if the applicant fails to

take the examination for which application has been made.

All applicants who have postponed their submission to examination must bring their applications to current status by the filing of appropriate amendments thereto following any postponement.

Rule III. Persons Entitled to Admission Without Examination.

A. Reciprocity. No person shall be admitted to the Alabama State Bar without examination except as follows:

(1) An applicant who meets the requirements of (a) through (k) of this rule may, without examination, be admitted to the practice of law in Alabama. The applicant shall

(a) have been admitted to practice law in another state, territory, or the District of Columbia;

(b) hold a first professional degree in law (J.D. or L.L.B.) from a law school that was on the approved list of the American Bar Association or the Association of American Law Schools at the time the degree was conferred;

(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 six years immediately preceding the date upon which the application is filed;

(d) establish that the state, territory, or the District of Columbia in which the applicant has or had his or her principal place of business for the practice of law, or in which he or she was or is domiciled and admitted before seeking admission here, would allow attorneys from Alabama a similar accommodation as set forth in this rule;

(e) establish that the applicant is currently a member in good standing in all jurisdictions where he or she is 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 as determined by the Committee on Character and Fitness under Rule V of these Rules;

(h) establish that the applicant has not, within the 10 years prior to making application, taken and failed the Alabama Bar examination;

(i) be a permanent resident of the State of Alabama at the time of application or certify his or her intention to conduct the primary practice of law in Alabama and to maintain an office for the practice of law in this State. The "primary practice of law" shall mean at least 75% of the time devoted to the practice of law will be conducted in this State;

(j) have taken and achieved a score of 75 or better on the MultiState Professional Responsibility Examination (MPRE); and

(k) have paid the appropriate fee as prescribed in item (4) of the Fee Schedule (see Appendix) attached to these Rules.

(2) For the purposes of this rule, the "active practice of law" under subsection A(1)(c) shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that affirmatively permits such activity by a lawyer not admitted to practice; however, in no event shall activities listed under A(2)(e) and (f) that were performed within Alabama in advance of Bar admission here 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, territorial, 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; or

(f) Service as corporate counsel.

(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) Teachers in a law school situated in this State and accredited by the American Bar Association or American Association of Law Schools, who have been full-time teachers at said law school for a period of not less than three consecutive calendar years prior to the date of their application and who satisfy the requirements of paragraphs A(1)(a), (b), (d)-(k) may be admitted to the practice of law in Alabama. All such applicants shall give proof of the qualifications prescribed herein, which shall be certified to by the dean of the law school at which they teach.

(5) If the applicant is found to satisfy all the requirements of this rule, the Secretary shall certify such fact to the Board of Commissioners and to the clerk of the Alabama Supreme Court.

B. Application and Fees. The Secretary is authorized and empowered to prepare the necessary forms of application and affidavits to effectuate the purpose of this rule. Those who seek admission under provisions of this rule must make application for admission to practice law, as other applicants

are required to do by these Rules and any associated regulations. (See Appendix. Fee Schedule.)

Rule IV. Persons Entitled to Admission by Examination.

A. General Requirements. Any person who is at least 19 years of age, who has complied with the requirements of Rule I, and whose character and fitness have been approved by the Committee on Character and Fitness is entitled to be examined for admission to the Alabama State Bar, at any examination held as prescribed by these Rules, upon proof that he or she has complied with the education requirements set out in this rule.

B. Education Requirements.

(1) Proof of Prelegal Education.

(a) An applicant who did not graduate from a law school that was on the approved list of the American Bar Association or the Association of American Law Schools at the time of the applicant's graduation shall give proof that he or she has met the following prelegal education requirements:

That the applicant has caused to be filed with the Secretary a certified copy of a diploma or certificate showing (i) that the applicant has received a baccalaureate degree from a university or college that, at the time of the applicant's graduation, appeared on the approved list of any standard accrediting agency or association in the various states, or which is accepted by the accrediting agency as meeting substantially the same standards required for appearing on the approved list of the agency, and (ii) that the degree was received before the applicant entered law school.

(b) An applicant who has graduated from a law school that was on the approved list of the American Bar Association or the Association of American Law Schools at the time of the applicant's graduation shall not be required to give proof that he or she

has met the prelegal education requirements set out in (a), unless such proof is required by the Committee on Character and Fitness.

(c) An applicant who has graduated from a program awarding a law degree at a university or college that, at the time of the applicant's graduation, was located outside the United States and its territories shall not be required to give proof that he or she has met the prelegal education requirements set out in (a).

(2) Proof of Legal Education.

An applicant shall make proof of legal study by filing with the Secretary a certificate or certificates from the dean or deans of one or more law schools, from which it shall appear that the applicant has completed legal study conforming to and fulfilling the following requirements:

(a) That the applicant has pursued and satisfactorily completed, as a resident student in a law school or law schools, a course of law studies that extended for at least 3 academic years of at least 30 weeks each; that the applicant has graduated from such a law school; and that at the time of the applicant's graduation the school from which the applicant graduated was approved by the American Bar Association or the Association of American Law Schools; or

(b) That the applicant has pursued and satisfactorily completed, as a resident student at Birmingham School of Law, Jones School of Law of Faulkner University before June 11, 2006, the date on which Jones School of Law was provisionally accredited by the American Bar Association, or Miles College of Law, (i) a course of law studies that extended for at least 4 academic years of at least 30 weeks each, or (ii) a course of full-time law studies that extended for at least 3 academic years of at least 30 weeks each; that the applicant has graduated from one of these law schools; and that at the time of the applicant's graduation the school

has been continuously located and has remained in continuous operation in the county in which it was operating on August 30, 1995.

For purposes of determining whether a student is engaged in "full-time law studies" so as to be able to complete those studies in 3 academic years of at least 30 weeks each the following shall apply:

(i) An academic year shall consist of not fewer than 130 class days, which days shall extend into no fewer than 8 calendar months. A class day is a day on which classes are regularly scheduled throughout the day. Time for reading periods, examinations, or other activities may not be counted for purposes of meeting this 130-class-day requirement. A day on which classes are not scheduled throughout the day is not a "class day" for purposes of determining whether a student is engaged in "full-time law studies."

(ii) The law school shall require, as a condition for graduation, the successful completion of a course of study in residence of not fewer than 56,000 minutes of instruction time, including external study, e.g., externships, extending over not fewer than 6 academic semesters. To achieve the required 56,000 minutes of instruction time the law school must require at least 80 semester hours of credit. A semester hour of credit requires not less than 700 minutes of instruction time, exclusive of time scheduled for administering examinations. The 130-class-day requirement set out in subparagraph (b)(i) above and the 56,000-minutes requirement established in this subparagraph shall be interpreted and applied as separate and independent requirements.

(iii) The law school shall require that a student pursuing full-time law studies be enrolled for at least 10 semester hours of credit, and in each semester the student must receive credit for 9 hours in order to be considered a student pursuing full-time law studies.

(iv) The law school may permit a student pursuing full-time law studies to graduate in fewer than six academic semesters by earning not more than one semester of credit hours by taking courses offered by the law school during a summer session, provided the student meets the class-hour requirements; or

(c) That the applicant has pursued and satisfactorily completed as a resident student at a law school located outside the State of Alabama, but within the United States or one of its territories, that, as of the date of the applicant's graduation, had not been approved by the American Bar Association or the Association of American Law Schools, a course of law studies that extended for at least 4 academic years of at least 30 weeks each, and is a graduate of that law school; that the applicant has been admitted to the practice of law before the court of highest jurisdiction in the state or other jurisdiction in which that law school is located; that the applicant has, after the applicant's admission to practice law before the court of highest jurisdiction in that state or other jurisdiction, been continuously engaged in the active practice of law for at least 5 years; and that the applicant is a member in good standing of the bar of that court of highest jurisdiction; provided, however, that an applicant may qualify under this subsection (c) only if the state or other jurisdiction in which is located the law school from which the applicant graduated extends comity to graduates of Birmingham School of Law and Miles College of Law and to graduates of Jones School of Law of Faulkner University before June 11, 2006, who

seek admission to the bar of that state or jurisdiction, and graduates of those schools are permitted to seek admission to the bar of that state or jurisdiction on terms and conditions no more onerous than those imposed on the applicant by this subsection (c); or

(d) That the applicant has pursued and satisfactorily completed a law-degree program of a university or college that, at the time of the applicant's graduation, was located outside the United States and its territories and was approved in that foreign jurisdiction and that the applicant has been admitted to the practice of law in the jurisdiction in which that university or college is located; and (i) that the law-degree program completed by the applicant includes a substantial component of the study of English common law; or (ii) that the applicant has satisfactorily completed at least 24 semester hours of legal studies in subjects covered by the bar examination in regular law-school classes, under the same standards and conditions as are applied to other students, at a law school that was then on the approved list of the American Bar Association or the Association of American Law Schools; or (iii) that the applicant has been admitted to the practice of law before the court of highest jurisdiction in a state or other jurisdiction within the United States, that the applicant has, after such admission, been continuously engaged in the active practice of law for at least 3 years in a state or other jurisdiction within the United States, and that the applicant is a member in good standing of the bar of that court of highest jurisdiction.

C. Limitation on Examinations. The number of times an applicant may be examined for admission to the Alabama State Bar shall be unlimited.

Rule V. Committee on Character and Fitness.

A. Establishment of Committee. For the purpose of

determining the fitness, character, and qualifications of applicants who desire to be admitted to the practice of law in the State of Alabama there is hereby created not less than one and not more than three committees composed of three lawyers each appointed by the president of the Alabama State Bar. Each committee is to be known as a "Committee on Character and Fitness."

B. Duties of Committee. The Committee on Character and Fitness is hereby charged with the power, duty, and responsibility of determining the age, the character and fitness, and the educational qualifications of each applicant for admission to the Bar of Alabama. To that end, the Committee may make such investigation as it sees fit, may require the production before it of any affidavits deemed by it to have any bearing upon these questions, and may require the applicant to appear in person before it and be by it examined. The vote of a majority of the members of a Committee on Character and Fitness, if in meeting assembled, shall constitute the action of the Committee. The Secretary is directed to secure and have printed, at the expense of the Board, appropriate application blanks and other forms for the purpose of the Committee on Character and Fitness and to furnish such blanks to applicants and to other persons upon request.

The burden is on the applicant to establish to the reasonable satisfaction of a majority of the Committee on Character and Fitness that the applicant possesses such character and qualifications as to justify the applicant's admission to the Bar and qualify the applicant to perform the duties of an attorney and counselor at law.

When, but not until, a majority of the Committee is reasonably satisfied as to the applicant's character and fitness, and that the applicant is of the proper age and possesses the educational qualifications now or hereafter prescribed as provided by law, the Committee shall endorse its approval on the application, and the application and all papers accompanying it shall remain on file in the Secretary's office.

From a ruling of the Committee on Character and Fitness declining to approve the application for registration as a law

student or declining to approve the application to take the State Bar Examination or making any finding or ruling adverse to any applicant, an appeal shall lie to the Disciplinary Board of the Alabama State Bar (which, when acting in such capacity, shall be referred to as the "Character and Fitness Appeal Board"), if notice of appeal is filed with the Secretary within 30 days after the applicant has been notified of the action of the Committee. Such appeal shall be heard, de novo, within 30 days after the filing of the notice of appeal or at such time as agreed upon by stipulation between the appellant and the General Counsel of the Alabama State Bar. An appeal from a ruling of the Character and Fitness Appeal Board to the Supreme Court of Alabama shall be perfected by filing a notice of appeal with the clerk of the Supreme Court of Alabama within 30 days after the decision of the Character and Fitness Appeal Board. The record on appeal shall be prepared in accordance with the provisions of Rule 12(f), Rules of Disciplinary Procedure of the Alabama State Bar.

The members of the Committee on Character and Fitness may separately and without assembling in meeting consider any application that is required by these Rules to be submitted to such Committee, together with the data submitted in support of such application, and may endorse upon such application their approval or disapproval thereof; unanimous action of all the members of the Committee, so taken, shall constitute valid action of the Committee, but if such action is not unanimous, the Committee, or a majority thereof, shall further consider and act upon such application in a meeting assembled.

If the applicant whose application has been so approved is entitled thereby to take the examination, the Secretary shall issue to such applicant a certificate substantially as follows:

The Committee on Character and Fitness of the Board of Commissioners of the Alabama State Bar does hereby certify, after investigation and examination made by it, that it is reasonably satisfied that _____ is entitled to take the examination for admission to the Bar administered on _____ to be held in Montgomery, at _____.

COMMITTEE ON CHARACTER AND FITNESS OF THE ALABAMA
STATE BAR

BY _____

Secretary, Board of Commissioners
of the State Bar

Such certification shall be filed by the applicant with the Board of Bar Examiners before such applicant enters upon the examination, and the Board of Bar Examiners shall not examine any applicant by whom such certificate has not been filed. Upon the filing of such certificate the member of the Board of Bar Examiners by whom it is received shall endorse thereon the date when it was filed with him or her or with the said Board. The certificate so filed and endorsed shall be retained by the Board of Bar Examiners and kept among its records for the purpose of showing the right of the said applicant to take the examination. The Secretary, upon issuing or refusing to issue the said certificate, shall preserve in his or her office a record of the fact that such certificate was or was not issued and the date of such action, and shall preserve in his or her office said application with the papers attached thereto, and other records in connection with the said application, all of which shall be kept on file until the examination is completed, report made thereon, and pending application finally disposed of. If an applicant is not admitted to the practice of law, the application and all other papers in connection therewith shall be kept on file in the Secretary's office for reference in connection with any future application for admission to the Bar, or for investigation and examination of the record by any person entitled thereto.

Rule VI(A). Board of Bar Examiners.

A. Creation of Board. In accordance with the provisions of Act No. 436 of the Legislature of Alabama of 1949, approved August 23, 1949 (§ 34-3-2, Code of Alabama 1975), there is hereby created a Board of Examiners on admission to the Alabama State Bar, which Board shall hereinafter be designated and known as the Board of Bar Examiners.

B. Composition of the Board. Unless a different number is set by the Board of Commissioners of the Alabama State Bar, the Board of Bar Examiners shall consist of 15 members who are residents of the State of Alabama and who are licensed attorneys of the Bar of this State. One examiner shall be designated by the Board of Commissioners as chairman of the Board of Bar Examiners, but he or she shall have no examining responsibilities. In lieu of examining responsibilities, the chairman shall supervise and direct the activities of the Board of Bar Examiners in accordance with such rules as are promulgated for the Board of Bar Examiners. The chairman shall be compensated as are all other examiners. The Board of Bar Examiners shall hold office at the pleasure of the Board of Commissioners of the Alabama State Bar and may be removed from office with or without cause by a majority vote of those present at any meeting of the Board of Commissioners where a quorum is present. However, no examiner may serve more than four consecutive years without the prior approval of the Board of Commissioners.

C. Selection of Examiners. The Advisory Committee to the Board of Bar Examiners, appointed by the president of the Alabama State Bar, shall serve as a nominating committee to nominate persons for membership on the Board of Bar Examiners. The nominations shall be made in consultation with the Chairman of the Board of Bar Examiners and the Secretary.

D. Vacancies. Any vacancy on the Board of Bar Examiners shall be filled by the Board of Commissioners of the Alabama State Bar. Interim appointments for no more than one exam may be made by the chairman with the approval of the executive committee of the Board of Commissioners.

E. Compensation of Members. Each member of the Board of Bar Examiners shall receive such compensation as the Board of Commissioners shall from time to time establish. In addition to any such amount, examiners shall be reimbursed for reasonable and necessary traveling and other expenses incident to the discharge of their duties. These expenses shall include, but not by way of limitation, amounts paid for books, postage, stationery, supplies, printing, and other like expenditures. The members of the Board of Bar Examiners shall submit statements for compensation and expenses on forms provided by the Secretary.

F. Organization and Authority of the Board. The Board of Bar Examiners shall be chaired by the chairman, who cannot succeed himself or herself in office. The Secretary of the Board of Commissioners shall serve as secretary ex-officio.

A quorum for any meeting shall consist of eight examiners. A vote of the majority of the Board of Bar Examiners present at any meeting shall constitute the action of the Board.

The Board of Bar Examiners shall examine applicants for admission to the Bar of Alabama as may be certified to the Board under these Rules and shall perform such other duties as may be required of them by the Board of Commissioners of the Alabama State Bar.

G. Time and Place of Meetings. The Board of Bar Examiners shall hold meetings for the purpose of examining applicants for admission to the Bar at least twice each year as provided in Rule VI(B)G. All members of the Board are not required to be in attendance throughout the examination; provided, however, that the chairman shall arrange for the attendance of as many examiners as are necessary for the efficient administration of the examination. The Board of Bar Examiners shall hold other meetings as necessary to fulfill its function. The Board shall meet at the call of the chairman or a majority of the Board of Bar Examiners.

Rule VI(B). Bar Examination.

A. Bar Examination Subjects.

(1) Academic Bar Examination. The Academic Bar Examination shall consist of the Uniform Bar Examination ("the UBE") and the Alabama Essay Examination ("the AEE"). The UBE is prepared by the National Conference of Bar Examiners and includes the Multistate Essay Examination ("the MEE"), the Multistate Performance Test ("the MPT"), and the Multistate Bar Examination ("the MBE"). The AEE is prepared by the Board of Bar Examiners.

(a) The MEE. The MEE is a three-hour essay test. The purpose of the MEE is to test the examinee's

ability (1) to identify legal issues raised by a hypothetical factual situation; (2) to separate material that is relevant from that that is not; (3) to present a reasoned analysis of the relevant issues in a clear, concise, and well organized composition; and (4) to demonstrate an understanding of the fundamental legal principles relevant to the probable resolution of the issues raised by the factual situation. The MEE may test the following subjects: Business Associations (Agency and Partnership; Corporations and Limited Liability Companies), Conflict of Laws, Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Family Law, Federal Civil Procedure, Real Property, Torts, Trusts and Estates (Decedents' Estates; Trusts and Future Interests), and Uniform Commercial Code (Negotiable Instruments (Commercial Paper); Secured Transactions). Some questions may include issues in more than one area of law.

(b) The MBE. The MBE is a one-day multiple-choice test. The purpose of the MBE is to assess the extent to which an examinee can apply fundamental legal principles and legal reasoning in analyzing fact patterns. The MBE will test the following subjects: Contracts, Torts, Real Property, Evidence, Criminal Law, and Constitutional Law.

(c) The MPT. The MPT is two 90-minute tests covering the following skills: problem solving, legal analysis and reasoning, factual analysis, communication, organization and management of a legal task, and recognizing and resolving ethical dilemmas.

(d) The AEE. The AEE shall not exceed three hours in length. This portion of the examination will cover subjects not tested by the UBE.

(2) Legal Ethics Examination. The Multistate Professional Responsibility Examination ("the MPRE," see Rule VI(B)(F)) prepared by the National Conference of Bar Examiners shall be used as the examination on Legal Ethics and Professional Responsibility.

An applicant must pass both the Academic Bar Examination and the Legal Ethics Examination to be certified as a successful candidate.

B. Preparing, Conducting, and Grading Examinations.

(1) Preparing Examinations. The Board of Bar Examiners shall be responsible for preparing the AEE, under guidelines established by the Board with the approval of the Board of Commissioners. The MBE, the MEE, and the MPT will be prepared by the National Conference of Bar Examiners, which shall determine the contents of those examinations and test.

(2) Conducting Examinations. The Board of Bar Examiners shall have the right, power, and authority to adopt rules consistent with the laws of the State of Alabama or the orders of the Supreme Court or the Board of Commissioners governing the control, methods, and details of conducting examinations.

The Secretary, at the time an applicant is certified to the Board of Bar Examiners under these Rules, shall issue to the applicant a card containing a personal-identification number, the purpose and use of which shall be carefully explained to the applicant. The Secretary shall preserve a duplicate of that number in the Secretary's office. When taking the examination, the applicant may not sign his or her name to or upon any paper or document, or identify his or her examination answers other than by that number, and is forbidden to disclose that number to any member of the Board of Bar Examiners or to any other person. If any applicant violates this requirement in any particular, the Board of Bar Examiners shall not consider the applicant's examination papers, and, if it be discovered that disclosure of the number was made, the applicant shall be subject to disciplinary action for deceit and misrepresentation. This requirement shall again be called to the attention of the applicant by the Board of Bar Examiners before the applicant is permitted to begin the examination.

The express purpose of the immediately preceding paragraph is to provide a method by which the Board of Bar Examiners, in passing upon the sufficiency of answers to questions propounded by it, shall be unacquainted with the identity of the person whose answers it is passing upon.

(3) Grading Examinations. Essay-examination questions and performance-test questions will test the applicant's ability to reason logically, to analyze legal problems accurately, to demonstrate a knowledge of the fundamental principles of law, to be able to apply these principles, and to perform basic legal tasks. The grade of the paper shall be measured by the reasoning power shown as well as by the correctness or incorrectness of the answers. Answers to MEE questions shall be analyzed and graded using the model answers provided by the National Conference of Bar Examiners and according to general principles of law. Answers to AEE questions shall be analyzed and graded using the model answers prepared by the Board of Bar Examiners and according to Alabama or federal law, as appropriate. Essay-examination questions and performance-test questions will be scored by the Board of Bar Examiners. The Board of Bar Examiners shall regrade all the answers of any applicant whose initial combined score, computed as set forth in Rule VI(B)C(1), is 253, 254, or 255.

Using the personal-identification numbers assigned to identify the respective applicants, the Board of Bar Examiners shall certify final grades to the Secretary no later than April 15 following a February examination and September 15 following a July examination.

The Secretary shall make a permanent record in the Secretary's office of the grades attained by each examinee in each subject and shall inform each examinee whether he or she has passed or failed the examination.

An examinee who fails the academic portion of the bar examination will be furnished the following information at the time the examinee is notified of the failure: his or her total Academic Bar Examination score; his or her AEE scaled score and the raw score on each AEE question; and, if the examinee took the UBE in Alabama, his or her MBE scaled score, total scaled score on written examinations (MEE and MPT), total UBE scaled score, and the raw score on each question on the MEE and the MPT.

Within 60 days after the announcement of the results, a failing examinee shall be entitled to examine his or her own papers in the State Bar headquarters for the purpose of ascertaining that grades were transcribed correctly, and, upon

payment of \$5.00 per section of any essay examination or performance test, the examinee shall be entitled to receive a copy of his or her answer or answers, a copy of the AEE questions, and a copy of the AEE model answer or answers. The UBE questions and model answers are protected by copyright owned by the National Conference of Bar Examiners, and examinees should contact the National Conference of Bar Examiners to obtain copies of those.

C. Results of Examinations.

(1) Basic Rule. Raw scores on the MEE and the MPT portions of the UBE shall be weighted so that the MEE is worth 30% and the MPT is worth 20%. The total weighted raw score on the MEE and the MPT combined shall be scaled to the MBE. The applicant's scaled score on the MEE and the MPT portions of the UBE shall be expressed on the MBE range of scores (0-200) and shall be combined and weighted equally with the applicant's scaled MBE score to determine the examinee's total UBE scaled score.

The raw scores on the AEE shall be scaled to the MBE, and the scaled score shall be multiplied by two to express the AEE score on the same scale as the UBE score (0-400). The UBE score shall be weighted 80% and the AEE score shall be weighted 20% to determine an examinee's combined score on the Academic Bar Examination. An applicant who achieves a combined score of 256.000 or above passes the Academic Bar Examination.

(2) Transfer of MBE Score. An applicant who has taken and passed a bar examination in another jurisdiction, who has been admitted to practice in that jurisdiction, and who made an MBE scaled score of 140 or above will be excused from taking the MBE. The transferred MBE score will be valid for a period of 20 months after taking the MBE on which the transferred score was received. The applicant's transferred MBE score will be combined with the applicant's scaled scores on the MEE and the MPT portions of the UBE and on the AEE according to the basic rule. Applicants who transfer an MBE score to seek admission in Alabama will not earn a transferable UBE score that can be used to seek admission in other jurisdictions.

The applicant shall have the option to take all sections of the Academic Bar Examination; if the applicant chooses this

option, the scores of all sections will be combined under the basic rule.

(3) Carryover of MBE Scores. An applicant who has taken and failed the bar examination but who made an MBE scaled score of 140 or above will be excused from taking the MBE. The MBE scaled score will be carried over to any future examination for which the examinee is eligible, provided that the examination is administered within 20 months after the earlier bar examination in which the applicant scored 140 or above on the MBE was administered, and the MBE scaled score will be combined with the applicant's scaled scores on the MEE and the MPT portions of the UBE and on the AEE according to the basic rule. Applicants who carry over an MBE score from an earlier bar examination to seek admission in Alabama will not earn a transferable UBE score that can be used to seek admission in other jurisdictions.

The applicant shall have the option to take all sections of the Academic Bar Examination; if the applicant chooses this option, the scores will be combined under the basic rule.

(4) Carryover of Written Test Score. An applicant who has taken and failed the bar examination but who made a scaled score on the MEE and the MPT portions of the UBE or on the AEE that is equivalent to or greater than an MBE scaled score of 140, as determined in accordance with the basic rule, will be excused from taking those sections of the bar examination that contribute to the scaled written score. The scaled written score will be carried over for any future bar examination for which the examinee is eligible, provided that the examination is administered within 20 months after the earlier bar examination in which the carryover score was received, and the scaled written score or scores will be combined with the applicant's MBE score according to the basic rule. Applicants who carry over a scaled score on the MEE and the MPT to seek admission in Alabama will not earn a transferable UBE score that can be used to seek admission in other jurisdictions.

The applicant shall have the option to take all sections of the Academic Bar Examination; if the applicant chooses this option, the scores of all sections will be combined under the basic rule.

(5) Time of Election to Transfer or Carry Over Scores. Elections regarding the transfer from another jurisdiction of an MBE score or the carryover of an MBE score or the carryover of a scaled MEE, MPT, or AEE score from a previous examination taken in Alabama must be made at the time an application to sit for an examination is filed.

(6) Transfer of UBE Score. An applicant who has taken and successfully completed the entire UBE in a single administration in another jurisdiction may transfer the total UBE scaled score and be excused from taking the UBE in Alabama. The transferred UBE score will be valid for a period of 20 months after taking the UBE in which the transferred score was received. The transferred UBE score will be combined with the applicant's scaled written score on the AEE according to the basic rule.

D. Access to Information Regarding the AEE. The Board of Bar Examiners shall prepare and distribute to all students in Alabama law schools (individually or through the schools) and to the deans of all Alabama law schools an information booklet on the AEE. This booklet shall include a description of the examination, including a statement of its purpose and the areas of law to be covered; the instructions that will accompany the examination when it is administered; and the subject matter or topic outline required by Rule VI(B)A(1)(a). The information booklet shall include sample questions and corresponding model answers from prior examinations. The Board of Bar Examiners shall routinely distribute the booklet to all applicants and shall make the booklet available upon request. A reasonable fee, to be determined by the Board of Bar Examiners with the concurrence of the Board of Commissioners, may be charged to parties outside the routine distribution who request copies of the booklet.

E. Access to Information Regarding Other Examinations. The Board of Bar Examiners shall make available to applicants sample and informational materials that will acquaint applicants with the general content and format of the MBE, the MEE, and the MPT. This requirement may be met by routinely distributing to all applicants the information booklets on these examinations published by the National Conference of Bar Examiners, and by advising applicants of the availability, through the National Conference of Bar Examiners, of sample

questions and analyses. A reasonable fee, to be determined by the Board of Bar Examiners with the concurrence of the Board of Commissioners, may be charged to parties outside the routine distribution who request copies of the materials.

F. The MPRE. Before admission to the Bar, each applicant must have successfully passed the MPRE. To successfully complete the MPRE, the applicant must achieve a scaled score of at least 75, as that score is determined by the testing authority. Successful completion of the MPRE by an applicant at any time within the 12-month period before the taking of the Academic Bar Examination will be accepted, and such successful completion may be carried over for a period of 20 months from the time the first Academic Bar Examination is taken, if the applicant does not pass the Academic Bar Examination. If an applicant has passed the Academic Bar Examination but has not successfully completed the MPRE, he or she shall have a period of 20 months from the date of the Academic Bar Examination in which to successfully complete the MPRE. Applicants who transfer a UBE score from another jurisdiction must successfully complete the MPRE no earlier than 12 months before the UBE was taken in the transferring jurisdiction and no later than 20 months from the time the first AEE is taken.

Completed application materials for testing, as well as all other correspondence, inquiries, and requests concerning application materials and the administration and processing of the National Conference of Bar Examiners' MPRE should be directed to:

National Conference of Bar Examiners
MPRE Application Department
P.O. Box 4001
Iowa City, Iowa 52243
(319) 337-1304

G. Time of Bar Examination. The examination will be given on Monday, Tuesday, and Wednesday of that week in February and in July on which the MBE examination is administered. The AEE will be on Monday, the MPT and the MEE on Tuesday, and the MBE on Wednesday.

Rule VII. Admission of Foreign Attorneys Pro Hac Vice.

A. Appearance of Foreign Attorneys Pro Hac Vice Permitted; Exceptions. An attorney or counselor-at-law who is not licensed in good standing to practice law in Alabama, but who is currently a member in good standing of the bar of another state, the District of Columbia, or other United States jurisdiction (hereinafter called a foreign attorney) and who is of good moral character and who is familiar with the ethics, principles, practices, customs, and usages of the legal profession in the State of Alabama, may appear as counsel pro hac vice in a particular case before any court or administrative agency in the State of Alabama upon compliance with this rule (for purposes of this rule, an administrative agency is any board, bureau, commission, department, hearing officer, or other administrative office or unit of the State). However, except as provided in Rule VII.I., no foreign attorney is eligible to appear as counsel pursuant to this rule if that attorney (a) is a resident of the State of Alabama, or (b) is regularly employed in the State of Alabama, or (c) is regularly engaged in substantial business, professional, or other activities in the State of Alabama.

For the purposes of this rule, "pro bono counsel" is a foreign attorney who will not charge a fee and who is involved in a capital case or a postconviction proceeding for an indigent criminal defendant, hereinafter referred to as a "pro bono case."

B. Foreign Attorney Appearing Pro Hac Vice Subject to Local Jurisdiction. A foreign attorney appearing as counsel pro hac vice before any court or administrative agency of the State of Alabama shall be subject to the jurisdiction of the courts of this State in any matter arising out of the attorney's conduct in such proceedings. The attorney shall be familiar with and shall comply with the standards of professional conduct required of members of the Alabama State Bar and shall be subject to the disciplinary jurisdiction of the courts of this State, of the disciplinary tribunals of the Alabama State Bar, and of the Board of Commissioners of the Alabama State Bar with respect to any acts occurring during the course of the attorney's appearance. By applying for pro hac vice admission, a foreign attorney authorizes the Alabama State Bar to report all information whatsoever regarding any

discipline imposed in this State against the attorney, whether by the Bar or any court, to all jurisdictions in which the attorney holds a license to practice law. The court or agency may examine the foreign attorney to satisfy the court or agency that the foreign attorney is aware of and will observe the ethical standards required of attorneys in this State. If the court or agency is not satisfied that the foreign attorney is reputable and will observe the ethical standards required of attorneys in this State, the court or agency may in its discretion revoke the authority of the attorney to appear.

C. Association of Local Counsel. No foreign attorney may appear pro hac vice before any court or administrative agency of this State unless the attorney has associated in that cause an attorney who is a member in good standing of the Alabama State Bar (hereinafter called "local counsel"). The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel shall personally appear and participate in all pretrial conferences, hearings, trials, and other proceedings conducted in open court, unless specifically excused from such appearance by the court or administrative agency. Local counsel associating with a foreign attorney in a particular case shall thereby accept joint and several responsibility with the foreign attorney to the client, to opposing parties and counsel, and to the court or administrative agency in all matters arising from that particular cause. Pro bono counsel need not associate local counsel, but the judge may require pro bono counsel to provide a referral letter from a local attorney.

D. Verified Application. In order to appear as counsel before a court or administrative agency in this State, a foreign attorney shall file with the court or agency where the cause is pending a verified application for admission to practice, together with proof of service by mail, in accordance with the Alabama Rules of Civil Procedure, of a copy of the application and of the notice of hearing upon the Alabama State Bar at its Montgomery, Alabama, office. In the event application is made before any defendant in an action has appeared, a copy of the application and notice must also be served upon such defendant. The copy of the application and the notice of hearing served upon the Alabama State Bar shall be accompanied by a nonrefundable \$300 filing fee. The notice of hearing shall be given at least 21 days before the time

designated for the hearing, unless the court or agency has prescribed a shorter period.

Upon receipt of any application for admission, the Alabama State Bar shall file with the court or agency and serve upon all counsel of record, or upon any parties not represented by counsel, and upon the applicant, before the scheduled hearing date, a statement indicating whether the applicant or other attorney members of the firm with which he or she is associated have previously made any application for admission, the date of such application, and whether it was granted. No application shall be granted before this statement of the Alabama State Bar has been filed with the court or agency. Once this statement is received, the court or administrative agency shall issue an order granting or denying the application. A copy of each order granting or denying an application shall be mailed by the local counsel to the Alabama State Bar at its Montgomery, Alabama, office.

Pro bono applications need not be accompanied by a filing fee and must be filed no later than the first occasion on which pro bono counsel files any pleading or paper with the court or otherwise personally appears. No hearing on a pro bono application is required. No statement from the Bar is required for pro bono applicants, but a copy of the verified application still must be filed with the Bar.

E. Form of Application. The application required by this rule for a foreign attorney other than pro bono counsel shall be on a form approved by the Alabama State Bar and shall state: (1) the applicant's residence; (2) the court or courts to which the applicant has been admitted to practice and the date or dates of admission; (3) that the applicant is a member in good standing of such court or courts (with such exceptions as may be the case); (4) that the applicant is not currently suspended or disbarred from practice in any court (stating exceptions); (5) the title of the court and cause in which the applicant or any member of the firm of attorneys with which the applicant is associated has filed an application for admission as counsel under this rule in this State in the preceding three years, the date of each application, and whether it was granted; (6) the name, address, and telephone number of local counsel who is attorney of record; and (7) the name of each party and the name and address of counsel of

record who appeared for that party. The applicant shall also provide such other information and statements as may be called for by the form. A separate application form has been approved for pro bono counsel.

The application forms for foreign attorneys wishing to appear pro hac vice, including the form for pro bono counsel, may be obtained from PHV Admissions, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101 (334-269-1515), or from the Alabama State Bar's Web site: www.alabar.org or by e-mailing the PHV Admissions at PHV@alabar.org.

Before any application is granted, in cases where local counsel is required, local counsel must appear as attorney of record in the particular cause or must consent in writing to the association.

The granting or denial of an application for admission as counsel pursuant to this rule is discretionary with the court or administrative agency before which the application is made. A trial or appellate court may, in a particular proceeding pending before it, deny an application for admission as pro bono counsel pursuant to this rule only where the applicant's conduct as a lawyer, including conduct in proceedings in Alabama in which the applicant has appeared pro hac vice and conduct in other jurisdictions in which the lawyer has practiced, raises reasonable doubt that the lawyer will comply with the Alabama Rules of Professional Conduct and other rules and law governing the conduct of lawyers who appear before the courts of Alabama.

Absent special circumstances, repeated appearances by any person or firm of attorneys, other than pro bono counsel, pursuant to this rule shall be cause for denial of an application. In any case, other than a pro bono case, where the foreign attorney has entered an appearance pro hac vice in 5 cases within the preceding 12 months, the court or administrative agency shall examine the foreign attorney to establish good cause for according such privilege, including facts or circumstances affecting the personal or financial welfare of the client and not the attorney. Such facts may include, but are not limited to, the following: (1) a showing that the cause involves a complex field of law in which the foreign attorney is a specialist, (2) a long-standing

attorney-client relationship, (3) lack of local counsel with expertise in the field involved, (4) the existence of legal questions involving the law of a jurisdiction in which the foreign attorney regularly practices, or (5) the need for extensive discovery proceedings in the foreign jurisdiction.

In the event the action or cause is transferred from one court or administrative agency of this State to another or in the event the action is appealed, a foreign attorney authorized to appear in the cause while it was pending before the first court or administrative agency shall be deemed admitted to the court or agency to which the cause has been transferred or appealed; provided, however, that the court or agency having jurisdiction over the transferred or appealed cause may, for good cause, revoke the authority of the foreign attorney to appear. (See Section F, "Appearance Before an Appellate Court.")

F. Appearance Before an Appellate Court. Upon filing an appearance in a matter in an appellate court of this State (i.e., the Supreme Court, the Court of Civil Appeals, or the Court of Criminal Appeals), a foreign attorney previously admitted to appear in the matter before a trial court or administrative agency shall furnish to the clerk of the appellate court proof of the previous admission, along with a certification by the foreign attorney that the admission has not been rescinded.

If the appearance before the appellate court is to be the foreign attorney's first appearance in the matter, then admission shall be by motion to the appellate court, and the motion shall be supported by a certificate of good standing from the bar of another United States jurisdiction.

Any foreign attorney moving for admission to appear before an appellate court of this State, other than pro bono counsel, shall be required to associate local counsel, whose name, address, and telephone number shall be included in the foreign attorney's motion for admission. Although local counsel is not required to be an active participant in the matter, the foreign attorney is required, in the motion for admission pro hac vice, or in the initial filing in the appellate court (in the event the foreign attorney has been previously admitted in the matter by a trial court or an

administrative agency), to designate which attorney shall be lead counsel for purposes of service in the manner prescribed in the Alabama Rules of Appellate Procedure. On proper motion, and for good cause shown, the appellate court may waive the required association of local counsel. In pro bono cases, the required association of local counsel shall be waived.

A foreign attorney admitted to practice in a matter before the Court of Criminal Appeals or the Court of Civil Appeals is deemed admitted in any subsequent proceedings in that same matter before the Supreme Court.

At any time, for good cause shown, and on the application of any party, the previous order admitting the foreign attorney to practice in a matter may be reviewed and/or rescinded, without hearing, by the appellate court before which the matter is then pending.

G. Quarterly Report. The executive director of the Alabama State Bar shall prepare a quarterly report listing all applications filed during that quarter and during the preceding 12 months and listing the names of the applicants and indicating as to each application whether the application was granted or denied. The report shall be transmitted to the clerk of each circuit and district court, each circuit and district judge, the clerk of the Supreme Court, and such other persons as the Board of Commissioners directs.

H. Suspension or Disbarment Terminates Permission to Appear Pro Hac Vice. Permission for a foreign attorney to appear pro hac vice under the provisions of this rule shall terminate upon that attorney's suspension or disbarment in any jurisdiction in which the foreign attorney has been admitted. The foreign attorney shall have the duty to promptly report to the court or administrative agency of this State before which the attorney is appearing any disciplinary action that has been taken against the attorney in any other jurisdiction.

In the event local counsel in a particular case is suspended or disbarred from the practice of law in the State of Alabama, the foreign attorney shall, before proceeding further in the pending cause, associate new counsel who is in good standing to practice law in the State of Alabama and shall file a verified notice thereof with the court or

administrative agency of this State before which the foreign attorney is appearing.

I. Exceptions. Nothing in this rule shall be construed to prohibit any foreign attorney from appearing before any court or administrative agency of this State on his or her individual behalf in any civil or criminal matter. Foreign attorneys representing the United States Government shall be permitted to appear and to represent it in any matter in which it is interested, without the association of local counsel.

J. Enforcement. No clerk or filing officer of any administrative agency of this State shall accept for filing any pleadings or other documents from a foreign attorney who has not complied with the requirements of this rule. Any pleadings or other documents filed in violation hereof shall be stricken from the record upon the motion of any party or by the court or administrative agency sua sponte; provided, however, that in a pro bono case pleadings or other documents shall be accepted for filing from pro bono counsel who has submitted an application in accordance with the requirements of this rule.

The courts and administrative agencies of this State shall have the duty to enforce the provisions of this rule by denying violators the right to appear. If a foreign attorney engages in professional misconduct during the course of an appearance, the judge or the hearing officer of the administrative agency before which the attorney is appearing may revoke permission to appear pro hac vice and may cite the attorney for contempt. In addition, the judge or hearing officer shall refer the matter to the Disciplinary Commission of the Alabama State Bar for appropriate action.

Violation of this rule is deemed to be unlawful practice of law. The Alabama State Bar or its designated commissioners shall have the right to take appropriate action to enforce these Rules under the provisions of Ala. Code 1975, § 34-3-43. The provisions of this rule shall be cumulative to all other statutes and rules related to or dealing with the unauthorized practice of law within the State of Alabama.

Rule VIII. Admission of Foreign Attorneys as Authorized House Counsel.

A. Purpose. This rule is intended to facilitate the relocation of persons employed by or to be employed by any "business organization," as that term is defined in this rule, who will undertake, in whole or in part, to provide legal services for such business organizations in Alabama. Notwithstanding the provisions of Rules I through VII, supra, this rule authorizes attorneys licensed to practice in jurisdictions other than Alabama to be permitted to undertake activities in Alabama while employed exclusively by a business organization without the requirement of taking and passing the Alabama Bar examination.

B. Definitions.

(1) Authorized House Counsel. "Authorized house counsel" shall be any person who:

(a) is not a member of the Alabama State Bar but is licensed to practice law in any state other than Alabama, a United States territory, or the District of Columbia and who is a member in good standing of the entity governing the practice of law in that state, United States territory, or the District of Columbia;

(b) is not subject to a disciplinary proceeding or outstanding order of reprimand, censure, or disbarment, permanent or temporary, for professional misconduct by the bar or courts of any jurisdiction at the time he or she applies for registration under this rule;

(c) has not been permanently denied admission to practice before the bar of any jurisdiction based upon character or fitness at the time he or she applies for registration under this rule;

(d) agrees to abide by the Alabama Rules of Professional Conduct and the Alabama Rules of Disciplinary Procedure, without limitation, and to submit, for disciplinary purposes, to the

jurisdiction of the Disciplinary Board and the Disciplinary Commission of the Alabama State Bar and the Supreme Court of Alabama;

(e) is, on the date the person applies for registration under this rule, exclusively employed by a business organization located in the State of Alabama or relocating to the State of Alabama in furtherance of such employment within six months of such application under this rule and receives or shall receive compensation for activities performed for that business organization; and

(f) has registered pursuant to Rule VIII.D., infra.

(2) Business Organization. For the purpose of this rule, a "business organization" is a corporation, partnership, association, or other legal entity (taken together with its respective parents, subsidiaries, and affiliates) authorized to transact business in the State of Alabama that is not itself engaged in the practice of law or the rendering of legal services outside such organization, whether for a fee or otherwise, and does not charge or collect a fee, other than from entities constituting the business organization, for the representation or advice of authorized house counsel. For purposes of this rule, a "business organization" does not include a governmental entity, governmental subdivision, political subdivision, school board, or any other entity that has the authority to levy a tax.

C. Activities.

(1) Authorized Activities. Authorized house counsel, as an employee of a business organization, may provide legal services in the State of Alabama to the business organization for which registration pursuant to this rule is effective; provided, however, such services shall be limited to:

(a) giving legal advice to the directors, officers, employees, and agents of the business organization with respect to the business and affairs of the business organization;

(b) negotiating and documenting matters for the business organization; and

(c) representing the business organization in its dealings with any administrative agency or commission having jurisdiction over the business organization; provided, however, authorized house counsel shall not be permitted to make appearances as counsel in any court, administrative tribunal, agency, or commission situated in the State of Alabama unless the rules governing such court or body otherwise authorize, or unless authorized house counsel is specially admitted by such court or body in a case pursuant to Rule VII.

(2) Disclosure. In undertaking legal services permitted by subdivisions C(1)(b) or (c) of this rule, authorized house counsel shall disclose to the party with whom authorized house counsel is negotiating or to the administrative agency or commission, as the case may be, his or her capacity by written or printed communication. Such disclosure shall include the name of the business organization, the title or function of authorized house counsel, and a statement that authorized house counsel is not licensed to practice law in the State of Alabama; such disclosure shall be transmitted in a manner reasonably contemplated to create an awareness of authorized house counsel's status with respect to the relevant activity. In making the disclosure required by this subdivision, authorized house counsel shall not represent that they are members of the Alabama State Bar licensed to practice law in this State.

(3) Limitation on Representation. In no event shall the activities permitted under this rule include the individual or personal representation of any shareholder, owner, partner, officer, employee, servant, director, or agent of the business organization in any matter or transaction, or the giving of legal advice, unless otherwise permitted or authorized by law, code, or rule, or as may be permitted by Rule VIII.C(1).

(4) Opinions to Third Parties. Authorized house counsel shall not express or render a legal judgment or opinion to be relied upon by any person or party other than in the course of representing the business organization by which authorized

house counsel is employed.

D. Registration.

(1) Filing with the Alabama State Bar. An individual seeking to be certified as authorized house counsel under this rule shall file the following documents with the Alabama State Bar:

(a) a certificate from the entity governing the practice of law in each state, United States territory, or the District of Columbia in which the registrant is licensed to practice law certifying that the registrant:

(i) is a member in good standing of the entity, and

(ii) has a clear disciplinary record, as required by Rule VIII.B(1).

(b) a sworn statement by the registrant that the registrant:

(i) has read and is familiar with the Alabama Rules of Professional Conduct and the Alabama Rules of Disciplinary Procedure, as adopted by the Supreme Court of Alabama, and will abide by the provisions of those rules;

(ii) submits to the jurisdiction of the Alabama State Bar and the Supreme Court of Alabama for disciplinary purposes, and authorizes the Alabama State Bar to notify, or to receive notification from, the entity governing the practice of law in each state, United States territory, or the District of Columbia in which the registrant is licensed to practice law of any disciplinary action taken against the registrant;

(iii) is not subject to a disciplinary

proceeding or outstanding order of reprimand, censure, or disbarment, permanent or temporary, for professional misconduct by the bar or courts of any jurisdiction;

(c) a certificate from a business organization certifying that it is qualified as a business organization as that term is defined in Rule VIII.B(2), that it is aware that the registrant is not licensed to practice law in the State of Alabama, and that it is not relying upon the Alabama State Bar in any manner in employing authorized house counsel;

(d) an appropriate registration application to the Alabama State Bar as promulgated by the Board of Commissioners; and

(e) a filing fee prescribed and set by the Board of Commissioners in an amount not to exceed the amount applicable for admission into the bar examination for an attorney licensed in a state other than Alabama.

(2) Review by the Alabama State Bar. Upon receipt of the items set forth in Rule VIII.D(1), the Alabama State Bar shall review the items for compliance with this rule. Any application not meeting the requirements of this rule shall be returned to the applicant. Grounds for return include, but are not limited to, a certificate lacking all the information required by Rule VIII.D(1), a certification from an entity that does not qualify as a business organization as defined by this rule, and failure to remit a correct filing fee.

(3) Certification by Alabama Supreme Court. After reviewing an application for registration as authorized house counsel and determining that he or she has complied with the provisions of Rule VIII.D(1), the Alabama State Bar shall file with the clerk of the Supreme Court of Alabama (a) the name and address of the registrant and (b) a request that the registrant be certified as authorized house counsel for the business organization. For a registrant employed in Alabama at the time the Bar's request is approved, permission for

authorized house counsel to perform services under this rule shall become effective upon approval of the request for certification by the clerk of the Supreme Court of Alabama. If the registrant is not yet in Alabama, the date authorized house counsel is permitted to perform services under this rule shall be the effective date of the registrant's employment in Alabama, but not later than six months from the filing of the items required to be filed by Rule VIII.D(1).

(4) Annual Renewal. The registration required by this rule shall be annual, in a manner consistent with the registration applicable to an attorney licensed to practice in the State of Alabama, including payment of the annual fee equal in amount to the occupational license fee; provided, however, such renewal shall include a statement that the registrant remains in good standing in all states, United States territories, or the District of Columbia in which authorized house counsel is licensed and that he or she is not subject to any disciplinary proceedings in any jurisdiction.

E. Termination or Withdrawal of Registration.

(1) Cessation of Authorization to Perform Services. Authorization of authorized house counsel to perform services permitted under this rule shall cease upon the earliest of the following events:

(a) termination of employment with the business organization for which registration was filed; provided, however, if authorized house counsel shall begin employment with another business organization within 30 days of the termination, authorization to perform services under this rule for the other business organization shall continue upon authorized house counsel's filing with the Alabama State Bar the certificate described in Rule VIII.D(1)(c) as it pertains to the business organization by which authorized house counsel is then employed.

(b) withdrawal of certification by the business organization;

(c) withdrawal of registration by authorized house counsel;

(d) the relocation of authorized house counsel outside Alabama for a period greater than 160 days;

(e) authorized house counsel's disbarment or suspension from the practice of law by a court or other authorized disciplinary agency of another state, United States territory, the District of Columbia, or by a federal court; or

(f) failure of authorized house counsel to comply with any applicable provision of this rule.

Notice of the occurrence of one of the events set forth in Rule VIII.E(1) (a)-(f), or of a new certificate as provided by Rule VIII.E(1) (a), must be filed with the Alabama State Bar by authorized house counsel within 30 days after such action. Authorized house counsel who has been disbarred or suspended from the practice of law by a court or other authorized disciplinary agency of another state, United States territory, the District of Columbia, or by a federal court shall, within 30 days after the effective date of his or her disbarment or suspension, file with the Alabama State Bar a copy of the order or judgment effecting the disbarment or suspension. Failure to provide such notice by authorized house counsel shall be a basis for discipline pursuant to the Alabama Rules of Disciplinary Procedure.

(2) Notice of Withdrawal of Authorization. Upon receipt of the notice required by Rule VIII.E(1), the Alabama State Bar shall mail a notice of revocation of authority to perform services to authorized house counsel and the business organization employing authorized house counsel.

(3) Reapplication. Nothing herein shall prevent an individual previously registered as authorized house counsel from re-registering as authorized house counsel as set forth in Rule VIII.D.

F. Discipline--Termination of Authorization. In addition to any appropriate discipline imposed by the Alabama State Bar, the Disciplinary Commission of the Alabama State Bar may, at any time, temporarily or permanently terminate the registration of authorized house counsel.

Appendix. Fee Schedule.

- (1) \$475.00, see Rule II.B(1) (in-state residents, non-attorneys).
- (2) \$750.00, see Rule II.B(2) (out-of-state citizens of the United States and attorneys licensed in other states); \$1075.00 (foreign-education or foreign-practicing-attorney applicants).
- (3) \$475.00, see Rule II.E (reapplications).
- (4) \$1,300.00, see Rule III (out-of-state attorneys qualifying for reciprocity).