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Appellate Courts

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: COVID-19 PANDEMIC

No. ADM2020-00428

ORDER CANCELING FALL IN-PERSON BAR EXAMINATION, DIRECTING AN OCTOBER ONLINE EXAMINATION, AND MODIFYING TENNESSEE SUPREME COURT RULE 7

On July 2, 2020, this Court entered an order canceling the July 2020 Bar Examination after determining that "the potential benefits of administering the examination do not justify the risk of assembling large groups of people in limited space for up to nine hours per day over a period of two days, even if all precautions recommended by the Centers for Disease Control and Prevention are implemented." Consistent with this Court's COVID-19 Pandemic Orders entered March 13, 2020, March 25, 2020, April 2, 2020, May 11, 2020, and May 26, 2020, and in furtherance of the Judicial Branch's obligation to mitigate the risks associated with COVID-19, the Court has further determined as follows.

(1) Based on the current trajectory of the pandemic, we cannot conclude with reasonable certainty that it will be possible to safely administer the in-person Fall Examination on September 30 and October 1, 2020, even with safety precautions. Therefore, the requirement in Tennessee Supreme Court Rule 7, Section 4.03, for the Tennessee Board of Law Examiners (the "Board") to administer an in-person examination at least once a year in each of the three grand divisions is waived and the in-person Fall Examination is canceled.

(2) In place of the in-person Bar Examination,[1] applicants will be given the opportunity to take an online examination for licensure to practice law in Tennessee. To that end, Section 4.03 of Rule 7 is modified to provide that, in lieu of the July 2020 Uniform Bar Examination, the Board is directed to administer an online, remotely-proctored alternative admissions assessment ("Admissions Assessment") on October 5-6, 2020, comprised of questions prepared by the National Conference of Bar Examiners ("NCBE"),

[1] Technically, the term "bar examination" refers to a Uniform Bar Examination or a state-developed bar examination that includes use of any NCBE materials. The term "bar examination" is not used in connection with the online Admissions Assessment. However, passing the online Admissions Assessment will allow licensure to practice law in Tennessee.

as specified in the NCBE's public announcement on June 1, 2020.[2] The Board shall adopt a Code of Conduct to which all applicants for the online Admissions Assessment must agree and adhere. For applicants who do not have adequate internet service or a private room in which to take a secure online test, the Board will provide in-person testing facilities and will establish a seating reservation process. The Board is directed to work with other states to enter into an agreement to provide limited portability of scores earned on the online Admissions Assessment, wherever possible. The Board will post on its website information regarding test content, format, score portability, refunds and transfer of applications to the February 2021 examination as soon as possible after entry of this order. Additional information regarding technology requirements, software registration, and training dates shall be provided to applicants as soon as possible.

(3) Section 11.03 of Tennessee Supreme Court Rule 7 was previously suspended temporarily only for applicants for the July 2020 Bar Examination to permit limited transfer of applications or full refund of fees for applicants who would not be seated at the July 2020 examination. Some applicants for the in-person Fall Bar Examination may not plan to practice law in Tennessee and instead applied only to earn a Uniform Bar Examination score, which the online Admissions Assessment will not provide. As a courtesy to those applicants, the Fee Schedule is amended to extend the last day to withdraw with a partial refund from July 1, 2020, to September 1, 2020. Applicants withdrawing by July 31, 2020, will receive a refund of $400 for a first time applicant or $200 for a re-examination applicant. For applicants withdrawing after July 31, 2020, the amount of the refund is not modified and remains $150.

(4) Additionally, Section 11.03 is temporarily modified to permit transfer of the July 2020 exam application[3] to a concurrent UBE score transfer application without additional fees. This will permit applicants to transfer a UBE score without incurring additional application expense or expense to travel to Tennessee for a second exam.[4]

(5) Section 11.03 was previously modified to permit July 2020 applicants to transfer their application to the February 2021 examination and that modification remains unchanged.

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[2] The NCBE is the national organization that develops, produces, and controls the licensing tests used by most United States jurisdictions for admission to the bar. It coordinates the Uniform Bar Examination (UBE), which results in score portability, and determines the dates and conditions for conducting testing using any of their materials.

[3] Only one application was deployed for the July and Fall in-person bar examinations and applicants were permitted to choose the exam administration as part of the application process.

[4]Please note that applicants who take a "bar examination" in July, September or October 2020 will not be permitted to take the online Admissions Assessment, due to limitations on the use of NCBE test materials. For more information, please see Board's Frequently Asked Questions.

(6) Section 10.04 of Tennessee Supreme Court Rule 7 was previously modified for applicants who graduated from law school between March 1, 2020, and July 24, 2020, completed the application process by the deadline for the July 2020 administration of the UBE, and who register for Section 10.04 practice under supervision, by extending the time applicants are permitted to engage in supervised practice until November 15, 2021. Due to cancellation of in-person examinations for the remainder of 2020 and because of potential scheduling issues for examinees who anticipated a seat at an in-person exam in 2020, Section 10.04(a)(4) is modified to further extend the time through which applicants may practice pending admission until July 1, 2022; provided, however, that permission to practice under supervision will still terminate automatically under Section 10.04(a)(3) or (4). An applicant who fails the examination twice may not re-register for supervised practice.

(7) Section 10.07 of Tennessee Supreme Court Rule 7 was previously modified for applicants who have an active license in good standing in another jurisdiction, completed the application process by the deadline for the July 2020 bar examination, and who register for practice pending admission under Section 10.07, by extending the time applicants are permitted to engage in practice pending admission until November 15, 2021. Due to cancellation of in-person examinations for the remainder of 2020 and because of potential scheduling issues for examinees who anticipated a seat at an in-person exam in 2020, Section 10.07(a) is amended to extend the time applicants are permitted to engage in practice pending admission through July 1, 2022; provided, however, that the permission to practice pending admission will terminate automatically if an applicant withdraws from the first-offered examination, including the online Admissions Assessment, unless the applicant petitions the Board for extension of the permission to practice pending admission. The Board may re-authorize registration for permission to practice pending admission if, in the opinion of the Board, the applicant's withdrawal from the first-offered examination is due to extenuating circumstances.

We recognize the hardships that COVID-19 has placed upon recent law school graduates, applicants to the Tennessee bar, and administrators. We have considered the interests of the applicants, the interests of the public, and the administration of justice as they relate to the licensing and admission of attorneys. The modifications to Rule 7 as set forth in this order are applicable to July 2020 bar examination applicants only and are intended to address and mitigate some of the adverse effects and challenges COVID-19 has created. All other provisions of Rule 7 and Board Policies remain unchanged. The Board of Law Examiners remains open and shall continue to provide services, while balancing the health and safety of Board members staff, exam proctors, and the public.

It is so ORDERED.

PER CURIAM