IN THE SUPREME COURT OF TEXAS

Misc. Docket No 20-9060

THIRTEENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

ORDERED that:

1. The Court, in consultation with the Board of Law Examiners ("Board") and the deans of Texas law schools, has determined that the Board should administer the Texas bar examination as scheduled on July 28-30, 2020, subject to change based on state and local orders and the guidance of public health authorities. The Board is consulting with public health authorities regarding best practices for administering the examination safely and will continue to do so.

2. In light of uncertainty regarding the duration of the COVID-19 pandemic and the extent to which public health may require the continuation of measures (such as social distancing and limitations on maximum group size) to impede the spread of the virus, the Court has determined that the Board should also offer an administration of the Texas bar examination on September 9-11, 2020.

3. The Court recognizes that disruptions to personal and professional lives caused by the pandemic may result in some applicants not having sufficient time or resources to prepare and sit for the July bar examination, and that some applicants may no longer wish to take the July bar examination due to personal health considerations. Any applicant who timely registers for the July bar examination but who wishes to take the September bar examination, take a future bar examination in Texas, or withdraw registration will be permitted to change or withdraw his or her registration under procedures established by the Board. The applicant's fees are valid for the September administration, a future administration in Texas, or an application for admission based on a transferred Uniform Bar Examination ("UBE") score, and the fees will be transferred.

4. In the event guidance from public health authorities dictates that the Board cannot safely test in July all applicants who timely register for and wish to take the July bar examination, the Board will prioritize applicants based on registration date. If an applicant is not permitted to take the July bar examination, the Board will automatically register the applicant for the September administration and transfer his or her fees, unless the applicant requests (on or before a date set by the Board) to change or withdraw registration and transfer the fees to a future administration in Texas or to an application for admission based on a transferred UBE score. The Board may establish more specific procedures.

5. The Board will also establish procedures for new applicants, who do not timely register for the July bar examination, to register for the September bar examination.

6. The Board reports that it will likely release scores from the September bar examination within three weeks after it would normally release scores from the July bar examination.

7. The Court is mindful that any delay in licensure will have consequences for the livelihoods and careers of recent law school graduates. Accordingly, after consultation with the State Bar of Texas, the Board, and Texas law school deans, the Court repeals the *Rules and Regulations Governing the Participation of Qualified Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas*, promulgated in conjunction with the State Bar of Texas in 1978, and adopts updated *Rules Governing the Supervised Practice of Law by Qualified Law Students and Qualified Unlicensed Law School Graduates in Texas* ("Rules").

8. The Rules are adopted pursuant to Section 81.102(b) of the Texas Government Code.

9. The Rules are effective May 18, 2020, but they may be changed in response to public comment and as rapidly changing circumstances warrant. Written comments should be sent to rulescomments@txcourts.gov by May 18, 2020.

10. The Rules apply to qualified law students and qualified unlicensed law school graduates who have already obtained a supervised practice card under the repealed *Rules and Regulations Governing the Participation of Qualified Law Students and Qualified Unlicensed Law School Graduates in the Trial of Cases in Texas*. Such students and graduates need not reapply for a supervised practice card but must supplement their files by August 1, 2020, on a form prescribed by the Board, with an updated certification under Rule III(A)(1). Graduates must also supplement their files to show that they meet the new eligibility requirement in Rule II(C)(3). The

State Bar of Texas must not charge any fees for such students and graduates to supplement their files.

11. On a temporary basis, Rule IV(B)(1) is relaxed for 2019 law graduates, as well as for graduates in prior years who have been serving as judicial law clerks, to the extent it prohibits those graduates from obtaining or maintaining a supervised practice card because they are approaching or have passed the 14-month anniversary of their graduation. Those graduates are permitted, on a temporary basis, to engage in the activities permitted under the Rules—provided that they meet all other requirements and obtain a supervised practice card—until the earlier of July 1, 2021, or the occurrence of another terminating event in Rule IV(B).

12. The Clerk of the Supreme Court is directed to:

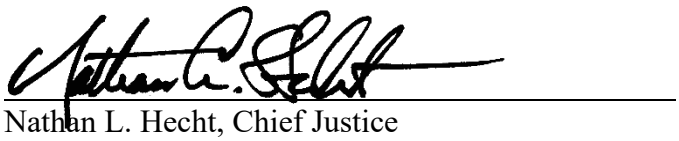
a. post a copy of this Order on www.txcourts.gov;

b. file a copy of this Order with the Secretary of State; and

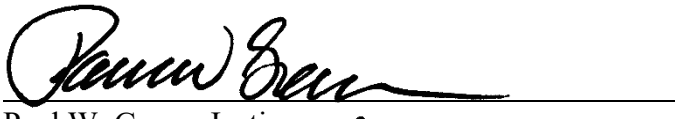
c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

13. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order. The Texas law school deans are requested to take all reasonable steps to notify their affected students of this Order.

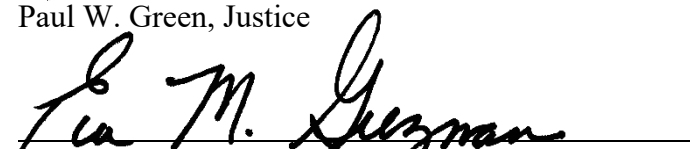
Dated: April 29, 2020



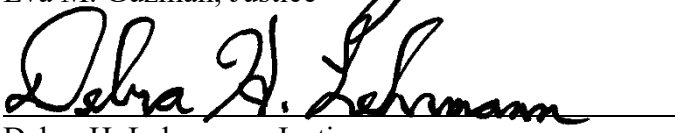
Nathan L. Hecht, Chief Justice



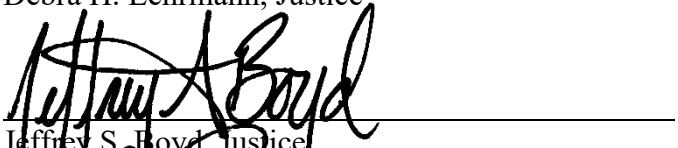
Paul W. Green, Justice



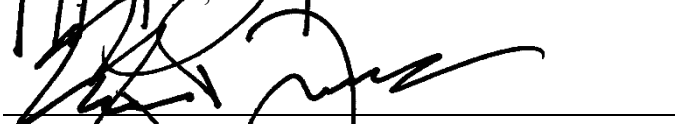
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice

James D. Blacklock, Justice

J. Brett Busby, Justice

Jane N. Bland, Justice

Rules Governing the Supervised Practice of Law by Qualified Law Students and Qualified Unlicensed Law School Graduates in Texas

Rule I. Purpose

These rules are promulgated pursuant to Section 81.102(b) of the Texas Government Code for the purpose of governing the participation of qualified law students and qualified unlicensed law school graduates in the limited practice of law in Texas. These rules are promulgated to provide competent legal services for all persons and to furnish practical training to qualified law students and to qualified unlicensed law school graduates.

Rule II. Eligibility; Qualified Law Student and Qualified Unlicensed Law School Graduate Defined

A. To be eligible to obtain a supervised practice card and perform the activities in Rule VI, a person must be:

(1) a qualified law student; or

(2) a qualified unlicensed law school graduate.

B. A qualified law student is a student who:

(1) is enrolled at a law school accredited or provisionally accredited by the American Bar Association, except that the law student need not be enrolled during a summer term or when school is not in session, in one of the following programs:

(a) a juris doctorate program; or

(b) an LL.M. program that satisfies the requirements of Rule 13 of the *Rules Governing Admission to the Bar of Texas*; and

(2) is certified by the dean of his or her law school or by the dean's designee to:

(a) have satisfactorily completed:

(i) at least two-thirds of the required law school curriculum for graduation as computed on an hourly basis; or

(ii) at least one-half of the required law school curriculum for graduation computed on an hourly basis if the student is enrolled in a clinical legal education program; and

(b) not be on academic probation; and

(c) possess the present good moral character and fitness required to practice law.

C. A qualified unlicensed law school graduate is a graduate:

(1) of one of the following programs at a law school accredited or provisionally accredited by the American Bar Association:

(a) a juris doctorate program; or

(b) an LL.M. program that satisfies the requirements of Rule 13 of the *Rules Governing Admission to the Bar of Texas*; and

(2) who has:

(a) not yet taken a bar examination;

(b) taken only one bar examination and is awaiting results of the examination; or

(c) taken only one bar examination and not achieved a passing score;

(3) who has applied for admission to the Texas Bar, whether based on a Texas Bar Examination score or a transferred Uniform Bar Examination score, and paid all relevant fees under the *Rules Governing Admission to the Bar of Texas;* and

(4) who is certified by the dean of his or her law school or by the dean's designee to:

(a) have met the graduation requirement in Rule II(C)(1); and

(b) possess the present good moral character and fitness required to practice law.

Rule III. Application; Issuance of Supervised Practice Card; Duty to Update Contact Information

A. A qualified law student or a qualified unlicensed law school graduate must submit to the State Bar of Texas an application for supervised practice on forms prescribed by the State Bar of Texas and a fee in an amount set by the State Bar of Texas. The application must include:

(1) a certification in writing by the qualified law student or the qualified unlicensed law school graduate that he or she:

(a) has read and is familiar with these rules, the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure, and the Texas Lawyer's Creed; and

(b) agrees to be subject to and abide by these rules, the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure, and the Texas Lawyer's Creed;

(2) a certification by a dean of the applicant's law school attesting to the requirements in Rules II(B)(2) or II(C)(4); and

(3) a certification from the supervising attorney attesting that the supervising attorney meets all requirements in Rule VII and will directly supervise the applicant.

B. If the State Bar of Texas determines that a qualified law student or a qualified unlicensed law school graduate has satisfied the requirements of Rules II and III(A), the State Bar of Texas must issue a supervised practice card to the qualified law student or the qualified unlicensed law school graduate.

C. A qualified law student or a qualified unlicensed law school graduate must notify the State Bar of Texas Membership Department of any change in contact information on a form prescribed by the State Bar of Texas within 30 days of such change.

Rule IV. Termination of Supervised Practice Card; Notice; Reinstatement

A. A supervised practice card issued to a qualified law student terminates and the qualified law student must cease any activities permitted under Rule VI upon the earlier of:

(1) 18 months from issuance;

(2) graduation;

(3) termination of the dean's certificate under Rule V;

(4) termination of the supervising attorney's supervision; or

(5) the imposition of a disciplinary sanction.

B. A supervised practice card issued to a qualified unlicensed law school graduate terminates and the qualified unlicensed law school graduate must cease any activities permitted under Rule VI upon the earlier of:

(1) 14 months from graduation;

(2) 30 days after the release of results from a bar examination on which the graduate achieves a passing score;

(3) 30 days after the release of results from a bar examination on which the graduate fails for a second time to achieve a passing score;

(4) termination of the dean's certificate under Rule V;

(5) termination of the supervising attorney's supervision; or

(6) the imposition of a disciplinary sanction.

C. A qualified law student or qualified unlicensed law school graduate must immediately notify the State Bar of Texas Membership Department and the supervising attorney of the terminating events in Rules IV(A)(2)-(5) and (B)(2)-(6), respectively. A qualified law student or a qualified unlicensed law graduate also must immediately notify the Board of Law Examiners of the imposition of a disciplinary sanction.

D. A qualified law student whose supervised practice card terminates under Rule IV(A)(2) may reinstate the card as a qualified unlicensed law school graduate without submitting a new application and fee if, within 30 days of graduation, the qualified unlicensed law school graduate submits certifications under Rules III(A)(2) and (3) and any other forms required by the State Bar of Texas.

E. A qualified law student or qualified unlicensed law school graduate whose supervised practice card terminates under Rule IV(A)(4) or (B)(5), respectively, may reinstate the card without submitting a new application and fee if, within 30 days of termination of the supervising attorney's

supervision, the qualified law student or qualified unlicensed law school graduate submits a certification under Rule III(A)(3) from a new supervising attorney and any other forms required by the State Bar of Texas.

Rule V. Dean's Certification

The certifying dean must maintain a record of the certification of each participating qualified law student and qualified unlicensed law school graduate. The dean must terminate certification when conditions of Rules II(B)(2) or II(C)(4) are not maintained. In addition, the dean may terminate certification at any time without prior notice or hearing and without any showing of cause. The dean must notify the qualified law student or the qualified unlicensed law school graduate and the State Bar of Texas Membership Department in writing of any such termination of certification.

Rule VI. Permitted Activities

A. Subject to all applicable rules and statutes, a qualified law student or a qualified unlicensed law school graduate who has a currently effective supervised practice card may:

(1) subject to the approval of the presiding judge, administrative officer, arbitrator, or other hearing officer, appear in any trial, hearing, arbitration, or other proceeding on behalf of a client provided that the qualified law student or qualified unlicensed law school graduate:

(a) has obtained the client's consent;

(b) notifies or has previously notified the court, administrative officer, arbitrator, or other hearing officer of the client's consent; and

(c) is accompanied, whether in person or by remote means, by the supervising attorney; and

(2) appear on behalf of a client in depositions provided that the qualified law student or qualified unlicensed law school graduate:

(a) has obtained the client's consent; and

(b) is accompanied, whether in person or by remote means, by the supervising attorney; and

(3) negotiate or prepare a legal instrument, such as a contract or will, on behalf of a client provided that:

(a) the qualified law student or qualified unlicensed law school graduate has obtained the client's consent; and

(b) the negotiation or legal instrument is subject to final approval by the supervising attorney; and

(4) file papers on behalf of a client with a court, administrative officer, arbitrator, or other hearing officer provided that the supervising attorney also signs the papers; and

(5) provide legal advice to a client provided that the qualified law student or qualified unlicensed law school graduate has obtained the approval of the supervising attorney regarding the legal advice.

B. Nothing herein will be construed as regulating or attempting to regulate the use of law clerks by attorneys in any and all matters generally considered to be the office practice of law.

Rule VII. Supervising Attorney

A. Except as otherwise provided in Rule VII(B), an attorney who is supervising a qualified law student or qualified unlicensed law school graduate must:

(1) be an active member of the State Bar of Texas in good standing who has practiced law in Texas for at least three years;

(2) assume professional responsibility for the direct supervision of and for any activity performed by the qualified law student or qualified unlicensed law school graduate under these rules;

(3) maintain professional malpractice and errors and omissions insurance covering the supervised qualified law student or qualified unlicensed law school graduate, unless the attorney is supervising the student or the graduate in the attorney's official capacity as a public prosecutor or assistant public prosecutor or is an attorney otherwise protected by governmental immunity;

(4) supervise not more than four qualified law students and qualified unlicensed law school graduates simultaneously; and

(5) immediately notify the State Bar of Texas Membership Department if the lawyer no longer meets the requirements of these rules or if the lawyer's supervision is ending for any reason.

B. An attorney supervising a qualified law student in connection with a clinical legal education program or a qualified unlicensed law school graduate in connection with matters commenced while the graduate was enrolled in a clinical legal education program must:

(1) be:

(a) an active member of the State Bar of Texas in good standing who has practiced in Texas at least three years; or

(b) an active member of the bar of another state, who is in good standing, who teaches in a Texas law school, and who has taught in a Texas law school for at least three years;

(2) assume professional responsibility for the direct supervision of and for any activity performed by the qualified law student or qualified unlicensed law school graduate under these rules;

(3) maintain professional malpractice and errors and omissions insurance covering the supervised qualified law student or qualified unlicensed law school graduate, unless the attorney is supervising the student or the graduate in the attorney's official capacity as a public prosecutor or is an attorney otherwise protected by governmental immunity;

(4) be approved in writing by the dean of the law school sponsoring the clinical program as a clinical supervisor; and

(5) immediately notify the State Bar of Texas Membership Department if the lawyer no longer meets the requirements of these rules or if the lawyer's supervision is ending for any reason.

C. The supervising attorney must terminate supervision and immediately notify the qualified law student or qualified unlicensed law school graduate when the supervising attorney has received a public disciplinary sanction or been referred to the grievance diversion program, or the supervising attorney has ceased to meet the requirements of Rule VII.

D. The supervising attorney must immediately notify the State Bar of Texas Chief Disciplinary Counsel if the attorney has knowledge that the qualified law student or qualified unlicensed law school graduate has committed a violation of applicable rules of professional conduct that raises a substantial question as to the student's or graduate's honesty, trustworthiness, or fitness to practice law in other respects. The supervising attorney must also immediately notify the Board of Law Examiners if the attorney has knowledge the qualified law student or qualified unlicensed law school graduate does not possess the present good moral character and fitness required to practice law.

Rule VIII. Discipline

A. A qualified law student or a qualified unlicensed law school graduate practicing under these rules:

(1) is subject to:

(a) the Texas Disciplinary Rules of Professional Conduct, including the rules requiring truthful and non-misleading advertising or other public statements concerning his or her limited authority to practice;

(b) the Texas Rules of Disciplinary Procedures; and

(c) any other Texas laws or rules governing the conduct or discipline of attorneys; and

(2) may be sanctioned or disciplined by a court or the State Bar of Texas in the same manner as an active member of the State Bar of Texas.

B. In the event a qualified law student or a qualified unlicensed law school graduate practicing under these rules has received a public disciplinary sanction or been referred to the grievance diversion program, the Chief Disciplinary Counsel must immediately report the same to the dean of the student's or graduate's law school, the supervising attorney, and the Board of Law Examiners.

Rule IX. Compensation

A qualified law student or a qualified unlicensed law school graduate must not directly charge a client for his services or claim or receive a percentage fee, contingency fee, or origination fee; however, nothing in these rules is intended to prevent the qualified law student or qualified unlicensed law school graduate from being paid for his services by his supervising attorney, or to prevent a supervising attorney from charging a fee for the services rendered under his supervision.

Rule X. Miscellaneous

A. Nothing contained in these rules affects the right of any person who is not admitted to practice law to do anything that he might lawfully do prior to the adoption of these rules.

B. The rules of law and evidence relating to privileged communications between attorney and client shall govern communications made or received by qualified law students or by qualified unlicensed law school graduates certified under the provisions of these rules.