Supreme Court of Kentucky

2020-60

ORDER

In Re: Amendments to the Rules of the Supreme Court

The following rule amendments shall be effective September 1, 2020:

II. Admission of Persons to Practice Law

SCR 2.008 Confidentiality

Rule 2.008 shall read:

An applicant is entitled to receive his or her test scores upon written request and without charge. The Office of Bar Admissions shall not disclose to anyone other than an applicant any information with respect to the character and fitness or the examination results of any applicant except:

(a) upon written authority of such applicant and upon payment of any fees required by the Board for copies of such reports;

(b) in response to a valid subpoena from a Court of competent jurisdiction;

(c) to the Director, Kentucky Bar Association;

(d) upon request by a disciplinary enforcement agency or a Character and Fitness Committee of any jurisdiction, relating to an investigation of the applicant; or

(e) to the National Conference of Bar Examiners for purposes of scoring examinations and to certify and transfer an applicant's examination scores to other jurisdictions upon request by the applicant.

CR 2.010 Requirements for admission to the Kentucky bar

Rule 2.010 shall read:

All applicants for admission to the bar of this state must meet certain basic requirements regardless of whether admission is sought by examination (SCR 2.022), by transferred Uniform Bar Examination score (SCR 2.090),

without examination (SCR 2.110), for a limited certificate (SCR 2.111) or as an attorney participant in a defender or legal services program (SCR 2.112). Those requirements are set forth in the following sections SCR 2.011 through SCR 2.017.

SCR 2.014 Legal education

Rule 2.014 shall read:

(1) Every applicant for admission to the Kentucky Bar must have completed degree requirements for a J.D. or equivalent professional degree from a law school approved by the American Bar Association or by the Association of American Law Schools.

(2) Prior to or at the time of the examination, each applicant shall certify that he or she has successfully completed a course of study in law school in the subject of ethics, and that if admitted to practice, the applicant will adhere to the Code of Ethics prescribed by the Supreme Court. The Character and Fitness Committee of the Kentucky Office of Bar Admissions may, in exceptional cases, waive the requirement that an applicant have successfully completed a course of study in law school in the subject of ethics.

(3) An attorney who received a legal education in the United States but is not eligible for admission by virtue of not having attended a law school approved by the American Bar Association or the Association of American Law Schools may nevertheless be considered for admission by examination provided the attorney satisfies the following requirements:

(a) The attorney holds a J.D. Degree, which is not based on study by correspondence, study online, or distance learning from a law school accredited in the jurisdiction where it exists and which requires the equivalent of a three-year course of study that is the substantial equivalent of the legal education provided by approved law schools located in Kentucky. The applicant shall bear the cost of the evaluation of his/her legal education, as determined by the Board, and the application shall not be processed until the applicant's legal education is approved by the Board of Bar Examiners; and

(b) The attorney has been actively and substantially engaged in lawful practice of law as his or her principal business or occupation for at least three of the last five years immediately preceding the filing of the application; and

(c) In evaluating the education received the Board of Bar Examiners shall consider, but not be limited to, such factors as the admission of the applicant to the bar of another state or the District of Columbia, the similarity of the curriculum taken to that offered in law schools approved by the American Bar Association or by the Association of American Law Schools, and that the school

at which the applicant's legal education was received has been examined and approved by other state bar associations examining the legal qualifications of non-ABA law school graduates.

(d) The attorney meets all other requirements contained in the Rules of the Supreme Court of Kentucky pertaining to Admission of Persons to Practice Law.

(4) An attorney who received a legal education in a foreign country and is not eligible for admission by virtue of not having attended a law school approved by the American Bar Association or the Association of American Law Schools may nevertheless be considered for admission by examination provided the attorney satisfies the following requirements:

(a) The foreign attorney's legal education is the substantial equivalent of the legal education provided by approved law schools located in Kentucky. The applicant shall bear the cost of the evaluation of their legal education, as determined by the Board, and the application shall not be processed until the applicant's legal education is approved by the Board of Bar Examiners.

(b) In evaluating the education received the Board of Bar Examiners shall consider, but not be limited to, such factors as the admission of the applicant to the bar of another state or the District of Columbia, the similarity of the curriculum taken to that offered in law schools approved by the American Bar Association or by the Association of American Law Schools, that the school at which the applicant's legal education was received has been examined and approved by other state bar associations examining the legal qualifications of foreign law school graduates, and the applicant's proficiency in written and spoken English.

(c) The applicant shall, in order to qualify to sit for the Bar examination, also submit a certified copy of the record or license of the court or agency which admitted the applicant to practice law in such country, and satisfy the requirement that the applicant has been actively and substantially engaged in the lawful practice of law as his or her principal business or occupation for at least three of the last five years immediately preceding the filing of the application, in addition to any other requirements authorized by these rules.

(5) For purposes of (3)(b) and (4)(c), the active engagement in the teaching of the law, full time at an American Bar Association accredited law school, shall be considered active engagement in the practice of law.

SCR 2.017 Kentucky Law Component

New Rule 2.017 shall read:

All applicants for admission to the bar of this Commonwealth pursuant to SCR 2.080, 2.090, 2.112 and 2.113 must successfully complete the online Kentucky Law Component (KLC) developed and administered by the Board of Bar Examiners, as approved by the Supreme Court.

SCR 2.020 Board of Bar Examiners

Rule 2.020(3) shall read:

(3) The Board is charged with the responsibility of administering the bar examination to qualified applicants for admission to the bar of the Commonwealth and developing and administering the Kentucky Law Component.

SCR 2.040 Character and Fitness Committee; nominations

Rule 2.040, new subsection (8), shall read:

(8) From time to time, the Character and Fitness Committee shall recommend to the Supreme Court admission to the bar without examination of applicants for such admission who qualify therefor under the provisions of SCR 2.090, 2.110, 2.111, and 2.112.

SCR 2.080 Bar Examinations

Rule 2.080 shall read:

(1) The Board of Bar Examiners shall examine such applicants as are certified to it as provided in SCR 2.040. The examination shall cover a period of two days and may cover the subjects and skills tested on the Uniform Bar Examination, as published on the website of the National Conference of Bar Examiners at www.ncbex.org.

(2) Beginning with the February 2021 Bar Examination, the Board shall administer the Uniform Bar Examination (UBE) prepared by the National Conference of Bar Examiners and consisting of a written portion composed of the Multi-state Essay Examinations (MEE) and the Multi-state Performance Test (MPT), and the Multi-state Bar Examination (MBE).

(3) The Board of Bar Examiners shall, thirty (30) days before each examination, report to the Supreme Court information regarding the examination, including, but not limited to, its location, number of applicants,

special accommodations, and any other relevant information as determined by the Board.

(4) To pass the bar examination in Kentucky, an applicant must achieve a Uniform Bar Examination (UBE) total score equal to or greater than 266. In the calculating UBE total scores, the MEE is weighted 30%, the MPT is weighted 20%, and the MBE is weighted 50%. The National Conference of Bar Examiners will score the MBE, calculate scaled scores on the written portion by the methodology used for all UBE jurisdictions, and combine the scaled scores from the written portion and the MBE to produce UBE total scores. Applicants must sit for all portions of the bar examination in the same administration in order to qualify for admission in Kentucky and earn a portable UBE score that may be transferred to other UBE jurisdictions. Applicants who fail to earn the score required by the Board in five or fewer attempts on Kentucky Bar Examination, including attempts on the UBE taken in Kentucky or any other jurisdiction in February 2021 or after, shall not be permitted to sit for the Kentucky Bar Examination.

(5) For any applicant who completes his/her examination in written form, the Board of Bar Examiners at the beginning of the first session shall give each applicant a numbered envelope. The applicant shall write his/her name upon a slip of paper, seal the name in the envelope and return the envelope to the Secretary of the Board. All papers will then be signed by the applicant only with the number upon his/her envelope. When the applicant has completed answering the questions on any given subject, he/she shall deposit his/her written answers thereto with the Secretary of the Board.

(6) For any applicant who completes his/her examination in written form, the papers containing the questions and answers given by the applicant~~s~~ to the written portion of the examination will be preserved by the Secretary of the Board for a period of one year from the time that the application for admission has passed upon by the Supreme Court, and longer if so ordered by the Court.

(7) Upon recommendation of the Board of Bar Examiners, the Supreme Court may appoint qualified members of the bar, to be known as Bar Examination Graders, to assist the Examiners in the grading of examination papers. Persons so appointed shall hold those positions for terms of one year and until the appointment of their successors.

SCR 2.085 Approval of certificate of admission to practice law

SCR 2.085 shall read:

(1) When an applicant has passed an examination as provided by Rule 2.080, the Board of Bar Examiners shall certify that fact to the Supreme Court together with a recommendation that the applicant be admitted to practice law.

The Court may approve or disapprove the recommendations and, if approved, shall authorize the Clerk of the Court to issue a certificate of admission.

(2) When the Character and Fitness Committee determines that an applicant is eligible for admission to the Kentucky Bar without examination as provided by Rule 2.110 or for admission by transferred Uniform Bar Examination (UBE) score as provided by Rule 2.090, the Committee's recommendation as provided for in Rule 2.040(6) shall be certified to the Supreme Court, and the recommendation for admission to the practice of law shall be considered as set forth in paragraph (1) of this rule.

(3) When the Supreme Court has granted approval for the issuance of a certificate of admission based upon the recommendation submitted under paragraph (1) or (2), the applicant must be admitted to the Kentucky Bar within two years of said date. If an applicant fails to be admitted within the two-year period, the applicant must make new application for admission.

SCR 2.090 Admission by transferred Uniform Bar Examination score

New Rule 2.090 shall read:

(1) A person who meets all requirements of subparagraphs (a) through (j) of paragraph 2 of this Rule may be admitted to the practice of law in Kentucky.

(2) The applicant shall submit evidence to the Kentucky Office of Bar Admissions that he or she:

(a) has earned a UBE score 266 or higher in five or fewer attempts on the UBE taken in any jurisdiction;

(b) earned the score required in subparagraph (2)(a) in an administration of the UBE that occurred within five years of the date of application for admission pursuant to this Rule;

(c) intends to engage in the practice of law in Kentucky as set out in SCR 2.013;

(d) meets the educational requirements set out in SCR 2.014;

(e) has achieved the required score on the Multistate Professional Responsibility Examination as set out SCR 2.015;

(f) has successfully completed the Kentucky Law Component as set out in SCR 2.017;

(g) is a member in good standing in all jurisdictions where the applicant has been admitted;

(h) is not currently subject to lawyer discipline or the subject of a pending disciplinary complaint or matter in any jurisdiction;

(i) possesses the good character and fitness to practice law in Kentucky as determined by the Character and Fitness Committee; and

(j) certifies that he or she has read, is familiar with, and will follow the Kentucky Rules of Professional Conduct.

(3) The application for Admission by Transferred Uniform Bar Examination Score shall be filed with the Kentucky Office of Bar Admissions on a verified form approved by the Board. The application shall be accompanied by a nonrefundable fee of $875 for applicants whose UBE score was reported not more than 12 months before the application date, as measured from the date the score was released by the National Conference of Bar Examiners, and $1,200 for applicants whose UBE score was reported more than 12 months before the application date, along with written confirmation issued by the National Conference of Bar Examiners that the applicant has submitted a request for an Official UBE Transcript to be sent directly to Kentucky. An applicant shall file with the Character and Fitness Committee such other affidavits, certificates, documents and materials as shall be required to satisfy the Committee, pursuant to SCR 2.040, of the applicant's good moral character and fitness to be a member of the bar of this state.

(4) The Kentucky Office of Bar Admissions shall begin accepting applications under this rule as of January 1, 2021.

SCR 2.111 Limited certificate of admission to practice law

Rule 2.111(4) shall read:

(4) The only restrictions and limitations applicable to such membership in the Kentucky Bar Association and to such attorney's right to practice in this Commonwealth shall be:

(a) Such attorney shall perform legal services in this Commonwealth solely for his employer, its parent, subsidiary, or affiliated entities, and shall not provide legal services in this Commonwealth, to any other individual or entity, except as permitted under paragraph (4)(c) below.

(b) Such attorney shall not appear as attorney of record for his employer, its parent, subsidiary or affiliated entities, in any case or matter pending before the Courts of this Commonwealth, without first engaging an active member of

the Association in good standing, admitted under SCR 2.120 or SCR 2.110 other than one admitted under a limited certificate of admission, as co-counsel, whose presence shall be necessary, when required by the Court, at all trials or other times specified by the Court. Nothing herein shall prevent such attorney from appearing on his/her own behalf or representing himself/herself in any case or matter to which he/she is a party, or appearing in the Small Claims Division of the District Court as otherwise provided in Rule 3.020.

(c) An attorney admitted with a limited practice certificate under this rule is authorized to donate legal services in Kentucky through: [i] a duly organized legal aid program offering pro bono representation to indigent individuals within the Commonwealth of Kentucky, or [ii] a local bar association legal pro bono program or initiative. No fee can be accepted by the attorney with a limited practice certificate for the rendering of any legal services in connection with items [i] and [ii] above. An attorney donating legal services under this rule is subject to all duties and obligations of members admitted under SCR 2.110, SCR 2.120 and 3.645.

SCR 2.113 Military spouse provisional admission

Rule 2.113(2)(j) and (k) and (4)(f) shall read:

(2) Required Evidence. The applicant for provisional admission shall submit evidence satisfactory to the Kentucky Board of Bar Examiners that he or she:

(j) has never failed the Kentucky Bar Examination or failed to achieve a 266 on the Uniform Bar Examination at any time after Kentucky began administering it;

(k) has successfully completed the Kentucky Law Component as set out in SCR 2.017;

(4) Events of Termination. An attorney's provisional admission to practice law pursuant to this Rule shall immediately terminate and except as provided in subsection (i) of this rule, the attorney shall immediately cease all activities under this Rule upon the occurrence of any of the following:

(f) The attorney received a failing score on the Kentucky Bar Examination or failed to achieve a 266 on the Uniform Bar Examination taken in any jurisdiction;

SCR 2.120 Administration of Oath of Issuance of Certificate of Admission To Practice Law

Rule 2.120 shall read:

An applicant approved for admission under SCR 2.085, 2.090, 2.110, 2.111 or 2.112 must apply for and be granted a certificate of admission prior to engaging in the practice of law in this state. As prerequisites for the issuance of such a certificate an applicant shall pay the current annual dues or fees of the Kentucky Bar Association authorized under SCR 3.040, and a final fee of fifty dollars ($50.00) to the Kentucky Office of Bar Admissions, and shall be administered the Constitutional Oath of Office either by a Justice of the Supreme Court or by the Clerk of the Supreme Court. Upon completion of the prerequisites, the Clerk shall deliver to the applicant a Certificate of Admission on a form approved by the Court, and the issuance of the certificate shall be duly recorded by the Clerk.

SCR 3.500 Restoration to membership

Rule 3.500(3) shall read:

(3) A former member whose withdrawal or suspension from membership has prevailed for 5 years or longer may apply for restoration by:

(a) Submitting an application for restoration using the forms provided by the Director, with a fee of seven hundred fifty dollars ($750.00) and all applicable unpaid Bar Association dues; and

(b) Submitting with the application a certificate from the Office of Bar Counsel that the former member has no pending disciplinary matters; and

(c) Submitting with the application a certificate from the Director of Continuing Legal Education pursuant to SCR 3.685.

(d) Upon the filing of the foregoing items, the Director shall refer the application to the Character and Fitness Committee of the Kentucky Office of Bar Admissions for proceedings pursuant to SCR 2.040 and SCR 2.011. An additional fee of $750.00 shall be paid to the Kentucky Office of Bar Admissions. Upon completion of its review, the Character and Fitness Committee shall submit its recommendation to the Board of Governors for its action and recommendation to the Court.

(e) If the Character and Fitness Committee recommends approval of the application and the Board concurs, the application shall be referred to the Board of Bar Examiners of the Kentucky Office of Bar Admissions, for the administration of a written examination which includes the subject of

professional ethics and five essays relating to Kentucky law. A general average score of 75% or higher shall be deemed a passing score. Fees required by SCR 2.022, and SCR 2.023 shall be paid prior to taking the examination. As an alternative and upon referral from the Board of Governors, if the Applicant has practiced in a reciprocal jurisdiction after withdrawal pursuant to SCR 3.480 and meets all requirements of SCR 2.110, the Applicant may elect to have the Character and Fitness Committee consider an application for admission without examination under SCR 2.110. All fees required by that rule shall be paid prior to the processing of the application, instead of the fee referenced in subsection 3(d) of this rule.

If the Applicant passes the examination or is approved for admission without examination, such fact shall be certified to the Court and to the Director, together with a recommendation for the Applicant's restoration to membership. Upon this certification, the Disciplinary Clerk shall transmit the record to the Court for its consideration of the application for restoration. If the applicant fails the examination, the Board of Bar Examiners shall certify the fact of the failure to the Court and the Director. Upon that certification, the Disciplinary Clerk shall transmit the record to the Court for entry of an order denying restoration.

The provisions of SCR 2.015, SCR 2.080, and SCR 2.110 shall apply where not inconsistent with these provisions.

This Order shall be effective September 1, 2020, and until further Order of this Court.

Entered this 14th day of August 2020.

CHIEF JUSTICE

All sitting; all concur.