

Rules Governing Admission to the Bar of Maryland

Adopted by THE COURT OF APPEALS OF MARYLAND

June 28, 1990

(Amended through September 10, 2009)

(Includes Rules of the Board Amended through December 9, 2008)

These Rules Governing Admission to the Bar of Maryland
are contained in the

CURRENT REPLACEMENT VOLUME OF
THE ANNOTATED CODE OF MARYLAND

Maryland Rules, Appendix

**Members, State Board of Law Examiners
State of Maryland**

Jonathan A. Azrael, Chairman

John F. Mudd

Robert H. Reinhart

Maurene Epps Webb

Linda D. Schwartz

David E. Ralph

Matthew T. Mills

For Further Information Contact:

Steven W. Boggs, Secretary

Barbara L. Gavin, Director of Character and Fitness

Rose E. Berg, Clerk

State Board of Law Examiners

2011 F Commerce Park Drive

Annapolis, MD 21401

Telephone: (410) 260-3640

www.mdcourts.gov

This unofficial copy of the Bar Admission Rules has been assembled as a convenience for bar applicants. In the event of any conflict between this document and the official, published editions of the Bar Admission Rules, the published Rules control.

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

TABLE OF CONTENTS

Rule 1. Definitions..... 4

Rule 2. Application For Admission And Preliminary Determination of Eligibility.....5

Rule 3. Pre-legal Education.....7

Rule 4. Eligibility to Take Bar Examination.....7

Rule 5. Character Review.....7

Rule 6. Petition to Take a Scheduled Examination.....9

Rule 6.1 Appeal of Denial of ADA Test Accommodation Request.....10

Rule 7. Bar Examination.....12

Rule 8. Notice of Grades and Review Procedure.....13

Rule 9. Re-examination after Failure.....13

Rule 10. Report to Court–Order.....15

Rule 11. Required Course on Professionalism.....16

Rule 12. Order of Admission; Time Limitation.....16

Rule 13. Out-of-State Attorneys.....17

Rule 14. Special Admission of Out-of-State Attorneys.....21

Rule 15. Special Authorization for Out-of-State Attorneys to Practice in this State.....22

Rule 16. Legal Assistance by Law Students.....23

Rule 17. Character Committees.....25

Rule 18. Fees.....25

Rule 19. Confidentiality.....25

Rule 20. The Board.....27

Rule 21. Suspension or Revocation of License of Attorney Ineligible for Admission.....28

Rule 22. Subpoena Power of Board and Character Committees.....28

RULES OF THE BOARD

Board Rule 1. Application Fees.....30

Board Rule 2. Filing Late for Good Cause.....31

Board Rule 3. Test Accommodations Pursuant to the Americans with Disabilities Act.....31

Board Rule 4. Examination--Subject Matter.....32

Board Rule 5. Examination Format, Scoring, and Passing Standard.....35

Board Rule 6. Out-of-State Attorney Examination.....36

CITATIONS.....38

Rule 1. DEFINITIONS

In these Rules, the following definitions apply, except as expressly otherwise provided or as necessary implication requires:

(a) ADA

“ADA” means the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*

(b) Board

"Board" means the Board of Law Examiners of the State of Maryland.

(c) Court

"Court" means the Court of Appeals of Maryland.

(d) Code, Reference to

Reference to an article and section of the Code means the article and section of the Annotated Code of Public General Laws of Maryland as from time to time amended.

(e) Filed

"Filed" means received in the office of the Secretary of the Board during normal business hours.

(f) MBE

"MBE" means the Multi-state Bar Examination published by the National Conference of Bar Examiners.

(g) MPT

“MPT” means the Multistate Performance Test published by the National Conference of Bar Examiners.

(h) Oath

"Oath" means a declaration or affirmation made under the penalties of perjury that a certain statement or fact is true.

(i) State

"State" means (1) a state, possession, territory, or commonwealth of the United States or (2) the District of Columbia.

Source: This Rule is derived from former Rule 1.

Rule 2. APPLICATION FOR ADMISSION AND PRELIMINARY DETERMINATION OF ELIGIBILITY

(a) By Application

A person who meets the requirements of Rules 3 and 4 may apply for admission to the Bar of this State by filing an application for admission, accompanied by the prescribed fee, with the Board.

Committee note: The application is the first step in the admissions process. These steps include application for admission, proof of character, proof of graduation from an approved law school, application to take a particular bar examination, and passing of that examination.

(b) Form of Application

The application shall be on a form prescribed by the Board and shall be under oath. The form shall elicit the information the Board considers appropriate concerning the applicant's character, education, and eligibility to become a candidate for admission. The application shall include an authorization for release of confidential information pertaining to character and fitness for the practice of law to a Character Committee, the Board, and the Court.

(c) Time for Filing

(1) Without Intent to Take Particular Examination

At any time after the completion of pre-legal studies, a person may file an application for the purpose of determining whether there are any existing impediments to the applicant's qualifications for admission.

Committee note: Subsection (c)(1) of this Rule is particularly intended to encourage persons whose eligibility may be in question for reasons pertaining to character and sufficiency of pre-legal education to seek early review by the Character Committee and Board.

(2) With Intent to Take Particular Examination

An applicant who intends to take the examination in July shall file the application no later than the preceding January 16 or, upon payment of the required late fee, no later than the preceding May 20. An applicant who intends to take the examination in February shall file the application no later than the preceding September 15 or, upon payment of the required late fee, no later than the preceding December 20.

(3) Acceptance of Late Application

Upon written request of the applicant and for good cause shown, the Board may accept an application filed after the applicable deadline for a late filing prescribed in subsection (c)(2) of this Rule. If the Board rejects the application, the applicant may file an exception with the Court within five days after notice of the rejection.

(d) Preliminary Determination of Eligibility

On receipt of an application, the Board shall determine whether the applicant has met the pre-legal education requirements set forth in Rule 3 and in Code, Business Occupations and Professions Article, § 10-207. If the Board concludes that the requirements have been met, it shall forward the character questionnaire portion of the application to a Character Committee. If the Board concludes that the requirements have not been met, it shall promptly notify the applicant in writing.

(e) Withdrawal of Application

At any time, an applicant may withdraw as a candidate for admission by filing written notice of withdrawal with the Board. No fees will be refunded.

(f) Subsequent Application

A person who reapplies for admission after an earlier application has been withdrawn or rejected pursuant to Rule 5 must retake and pass the bar examination even if the person passed the examination when the earlier application was pending. If the person failed the examination when the earlier application was pending, the failure will be counted under Rule 9.

Source: This Rule is derived as follows:

Section (a) is in part derived from the first sentence of former Rule 2b and in part new.

Section (b) is new.

Section (c) is derived from former Rule 2a, 2b, and f.

Section (d) is in part derived from former Rule 2g and in part new.

Section (e) is derived from former Rule 2h.

Section (f) is new.

Rule 3. PRE-LEGAL EDUCATION

An applicant for admission must have completed the pre-legal education necessary to meet the minimum requirements for admission to an American Bar Association approved law school.

Source: This Rule is new.

Rule 4. ELIGIBILITY TO TAKE BAR EXAMINATION

(a) Legal Education

(1) In order to take the bar examination of this State a person either shall have graduated or shall be unqualifiedly eligible for graduation from a law school.

(2) The law school shall be located in a state and shall be approved by the American Bar Association.

(b) Waiver

The Board shall have discretion to waive the requirements of subsection (a)(2) of this Rule and of Rule 3 for any person who (1) has passed the bar examination of another state and is a member in good standing of the Bar of that state and (2) in the Board's opinion is qualified by reason of education, experience, or both to take the bar examination.

(c) Minors

If otherwise qualified a person who is under 18 years of age is eligible to take the bar examination but shall not be admitted to the Bar until 18 years of age.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 5b.

Section (b) is derived from former Rule 5c.

Section (c) is derived from former Rule 5d.

Rule 5. CHARACTER REVIEW

(a) Burden of Proof

The applicant bears the burden of proving to the Character Committee, the Board, and the Court the applicant's good moral character and fitness for the practice of law. Failure or refusal to answer fully and candidly any question set forth in the application or any relevant question asked by a member of the Character Committee, the Board, or the Court is sufficient cause for a finding that the applicant has not met this burden.

(b) Investigation and Report of Character Committee

(1) On receipt of a character questionnaire forwarded by the Board pursuant to Rule 2(d), the Character Committee shall (A) through one of its members, personally interview the applicant, (B) verify the facts stated in the questionnaire, contact the applicant's references, and make any further investigation it finds necessary or desirable, (C) evaluate the applicant's character and fitness for the practice of law, and (D) transmit to the Board a report of its investigation and a recommendation as to the approval or denial of the application for admission.

(2) If the Committee concludes that there may be grounds for recommending denial of the application, it shall notify the applicant and schedule a hearing. The hearing shall be conducted on the record and the applicant shall have the right to testify, to present witnesses, and to be represented by counsel. A transcript of the hearing shall be transmitted by the Committee to the Board along with the Committee's report. The Committee's report shall set forth findings of fact on which the recommendation is based and a statement supporting the conclusion. The Committee shall mail a copy of its report to the applicant, and a copy of the hearing transcript shall be furnished to the applicant upon payment of reasonable charges.

(c) Hearing by Board

If the Board concludes after review of the Committee's report and the transcript that there may be grounds for recommending denial of the application, it shall promptly afford the applicant the opportunity for a hearing on the record made before the Committee. The Board shall mail a copy of its report and recommendation to the applicant and the Committee. If the Board decides to recommend denial of the application in its report to the Court, the Board shall first give the applicant an opportunity to withdraw the application. If the applicant withdraws the application, the Board shall retain the records. Otherwise, it shall transmit to the Court a report of its proceedings and a recommendation as to the approval or denial of the application together with all papers relating to the matter.

(d) Review by Court

(1) If the applicant elects not to withdraw the application, after the Board submits its report and adverse recommendation the Court shall require the applicant to show cause why the application should not be denied.

(2) If the Board recommends approval of the application contrary to an adverse recommendation by the Committee, within 30 days after the filing of the Board's report the Committee may file with the Court exceptions to the Board's recommendation. The Committee shall mail copies of its exceptions to the applicant and the Board.

(3) Proceedings in the Court under this section shall be on the records made before the Character Committee and the Board. If the Court denies the application, the Board shall retain the records.

(e) Continuing Review

All applicants remain subject to further Committee review and report until admitted to the Bar.

Source: This Rule is derived as follows:

Section (a) is in part derived from the first sentence of former Rule 2d and in part new.

Section (b) is in part derived from former Rule 4b and in part new.

Section (c) is in part derived from former Rule 4c and in part new.

Section (d) is in part derived from former Rule 4c and in part new.

Section (e) is derived from former Rule 4d.

Rule 6. PETITION TO TAKE A SCHEDULED EXAMINATION

(a) Filing

An applicant may file a petition to take a scheduled bar examination if the applicant (1) is eligible under Rule 4 to take the bar examination and (2) has applied for admission pursuant to Rule 2 and the application has not been withdrawn or rejected pursuant to Rule 5. The petition shall be under oath and shall be filed on the form prescribed by the Board.

(b) Request for Test Accommodation

An applicant who seeks a test accommodation under the ADA for the bar examination shall file with the Board an "Accommodation Request" on a form prescribed by the Board together with any supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline stated in section (c) of this Rule for filing a petition to take a scheduled bar examination.

(c) Time for Filing

A petitioner who intends to take the examination in July shall file the petition no later than the preceding May 20. A petitioner who intends to take the examination in February shall file the petition no later than the preceding December 20. Upon written request of a petitioner and for good cause shown, the Board may accept a petition filed after that deadline. If the Board rejects the petition, the petitioner may file an exception with the Court within five days after notice of the rejection.

(d) Affirmation and Verification of Eligibility

The petition to take an examination shall contain a signed, notarized statement affirming that the petitioner is eligible to take the examination. No later than the first day of September following an examination in July or the fifteenth day of March following an examination in February, the petitioner shall cause to be sent to the Office of the State Board of Law Examiners a transcript that reflects the date of the award of a Juris Doctor degree to the petitioner.

(e) Voiding of Examination Results for Ineligibility

If an applicant who is not eligible under Rule 4 takes an examination, the applicant's petition will be deemed invalid and the applicant's examination results will be voided. No fees will be refunded.

(f) Certification by Law School

Promptly following each bar examination, the Board shall submit a list of petitioners who identified themselves as graduates of a particular law school and who sat for the most recent bar examination to the law school for certification of graduation and good moral character. Not later than 45 days after each examination, the law school dean or other authorized official shall certify to the Board in writing (1) the date of graduation of each of its graduates on the list or shall state that the petitioner is unqualifiedly eligible for graduation at the next commencement exercise, naming the date; and (2) that each of the petitioners on the list, so far as is known to that official, has not been guilty of any criminal or dishonest conduct other than minor traffic offenses and is of good moral character, except as otherwise noted.

(g) Refunds

If a petitioner withdraws the petition or fails to attend and take the examination, the examination fee will not be refunded except for good cause shown. The examination fee may not be applied to a subsequent examination unless the petitioner is permitted by the Board to defer taking the examination.

Source: This Rule is new, except that section (a) is derived from former Rule 6 (a).

Rule 6.1. APPEAL OF DENIAL OF ADA TEST ACCOMMODATION REQUEST

(a) Definition.

In this Rule, "applicant" includes a petitioner under Rule 13 who seeks a test accommodation under the ADA for the attorney examination.

(b) Accommodations Review Committee

(1) **Creation and Composition.** There is an Accommodations Review Committee that shall consist of nine members appointed by the Court of Appeals. Six members shall be lawyers who are not members of the Board. Three members shall not be lawyers. Each non-lawyer member shall be a licensed psychologist or physician who during the member's term does not serve the Board as a consultant or in any capacity other than as a member of the Committee. The Court shall designate one lawyer member as Chair of the Committee and one lawyer member as the Vice Chair. In the absence or disability of the Chair or upon express delegation of authority by the Chair, the Vice Chair shall have the authority and perform the duties of the Chair.

(2) Term. Subject to subsection (b)(4) of this Rule, the term of each member is five years. A member may serve more than one term.

(3) Reimbursement; Compensation. A member is entitled to reimbursement for expenses reasonably incurred in the performance of official duties in accordance with standard State travel regulations. In addition, the Court may provided compensation for the members.

(4) Removal. The Court of Appeals may remove a member of the Accommodations Review Committee at any time.

(c) Procedure for Appeal

(1) Notice of Appeal. An applicant whose request for a test accommodation pursuant to the ADA is denied in whole or in part by the Board may note an appeal to the Accommodations Review Committee by filing a Notice of Appeal with the Board.

(2) Transmittal of Record. Upon receiving a notice of appeal, the Board shall (A) transmit to the Chair of the Accommodations Review Committee a copy of the applicant's request for a test accommodation, all documentation submitted in support of the request, the report of each expert retained by the Board to analyze the applicant's request, and the Board's letter denying the request and (B) mail to the applicant notice of the transmittal, and a copy of the each report of an expert retained by the Board.

(3) Hearing. The Chair of the Accommodations Review Committee shall appoint a panel of the Committee, consisting of two lawyers and one non-lawyer, to hold a hearing at which the applicant and the Board have the right to present witnesses and documentary evidence and be represented by counsel. In the interest of justice, the panel may decline to require strict application of the Rules in Title 5, other than those relating to the competency of witnesses. Lawful privileges shall be respected. The hearing shall be recorded verbatim by shorthand, stenotype, mechanical, or electronic audio recording methods, electronic word or text processing methods, or any combination of those methods.

(4) Report. The panel shall (A) file with the Board a report containing its recommendation, the reasons for the recommendation, and findings of fact upon which the recommendation is based, (B) mail a copy of its report to the applicant, and (C) provide a copy of the report to the Chair of the Committee.

(d) Exceptions

Within 30 days after the report of the panel is filed with the Board, the applicant or the Board may file with the Chair of the Committee exceptions to the recommendation and shall mail a copy of the exceptions to the other party. Upon receiving the exceptions, the Chair shall cause to be prepared a transcript of the proceedings and transmit to the Court of Appeals the record of the proceedings, which shall include the transcript and the exceptions. The Chair shall notify the applicant and the Board of the transmittal to the Court and provide to each party a copy of the

transcript.

(e) Proceedings in the Court of Appeals

Proceedings in the Court of Appeals shall be on the record made before the panel. The Court shall require the party who filed exceptions to show cause why the exceptions should not be denied.

(f) If No Exceptions Filed

If no exceptions pursuant to section (d) of this Rule are timely filed, no transcript of the proceedings before the panel shall be prepared, the panel shall transmit its record to the Board, and the Board shall provide the test accommodation, if any, recommended by the panel. (Added December 4, 2007, effective June 1, 2008)

Source – This Rule is new.

Rule 7. BAR EXAMINATION

(a) Scheduling

The Board shall administer a written examination twice annually, once in February and once in July. The examination shall be held on two successive days. The total duration of the examination shall be not more than 12 hours nor less than nine hours. The Board shall publish notice of the dates, times, and place or places of the examination no later than the preceding December 1 for the February examination and no later than the preceding May 1 for the July examination.

(b) Purpose of Examination

It is the policy of the Court that no quota of successful examinees be set, but that each examinee be judged for fitness to be a member of the Bar as demonstrated by the examination answers. To this end, the examination shall be designed to test the examinee's knowledge of legal principles in the subjects on which examined and the examinee's ability to recognize, analyze, and intelligibly discuss legal problems and to apply that knowledge in reasoning their solution. The examination will not be designed primarily to test information, memory, or experience.

(c) Format and Scope of Examination

The Board shall prepare the examination and may adopt the MBE and the MPT as part of it. The examination shall include an essay test. The Board shall define by rule the subject matter of the essay test, but the essay test shall include at least one question dealing in whole or part with professional conduct.

(d) Grading

(1) The Board shall grade the examination and shall by rule establish passing grades for the examination. The Board may provide by rule that an examinee may satisfy the MBE part of the Maryland examination requirement by applying a grade on an MBE taken in another jurisdiction at the same examination.

(2) At any time before it notifies examinees of the results, the Board, in its discretion and in the interest of fairness, may lower, but not raise, the passing grades it has established for any particular examination.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 7a and b.

Section (b) is derived from former Rule 7c.

Section (c) is derived from former Rule 7d and e.

Section (d) is derived from former Rule 7e.

Rule 8. NOTICE OF GRADES AND REVIEW PROCEDURE

(a) Notice of Grades, Alteration

Notice of examination results shall be sent to each examinee by regular mail, postage prepaid. Successful examinees shall be notified only that they have passed. Unsuccessful examinees shall be given their grades in the detail the Board considers appropriate. Thereafter, the Board may not alter any examinee's grades except when necessary to correct a clerical error.

(b) Review Procedure

On written request filed with the Board within 60 days after the mailing date of examination results, unsuccessful examinees, in accordance with the procedures prescribed by the Board, may (1) review their essay test answer books and the Board's analysis for the essay test, (2) review their MPT answer books, (3) order the National Conference of Bar Examiners' MPT Point Sheet and Grading Guidelines, and (4) upon payment of the required costs, obtain confirmation of their MBE scores. No further review of the MBE will be permitted.

Source: This Rule is derived as follows:

Section (a) is derived in part from former Rule 7f and in part new.

Section (b) is derived from former Rule 8b.

Rule 9. RE-EXAMINATION AFTER FAILURE

(a) Petition for re-examination

An unsuccessful examinee may file a petition to take another scheduled examination. The petition shall be on the form prescribed by the Board and shall be accompanied by the required

examination fee.

(b) Request for Test Accommodation.

An applicant who seeks a test accommodation under the ADA for the bar examination shall file with the Board an “Accommodation Request” on a form prescribed by the Board, together with any supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline stated in section (c) of this Rule for filing a petition to take a scheduled bar examination.

(c) *Time for Filing*

A petitioner who intends to take the July examination shall file the petition, together with the prescribed fee, no later than the preceding May 20. A petitioner who intends to take the examination in February shall file the petition, together with the prescribed fee, no later than the preceding December 20. Upon written request of a petitioner and for good cause shown, the Board may accept a petition filed after that deadline. If the Board rejects the petition, the petitioner may file an exception with the Court within five days after notice of the rejection.

(d) *Deferment of Re-examination*

To meet scheduling needs at either the July or the February examination, the Board may require a petitioner to defer re-examination for one sitting.

(e) *Three or More Failures--Re-examination Conditional*

If a person fails three or more examinations, the Board may condition retaking of the examination on the successful completion of specified additional study.

(f) *No Refunds*

If a petitioner withdraws the petition or fails to attend and take the examination, the examination fee will not be refunded and may not be applied to a subsequent examination unless the petitioner is required by the Board to defer retaking the examination or establishes good cause for the withdrawal or failure to attend.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 8a.

Section (b) is new.

Section (c) and (d) are derived from former Rule 8c.

Rule 10. REPORT TO COURT--ORDER

(a) Report and Recommendations as to Candidates

As soon as practicable after each examination, the Board shall file with the Court a report of the names of the successful candidates and the Board's recommendation for admission. If proceedings as to the character of a candidate are pending, the Board's recommendation of that candidate shall be conditioned on the outcome of the proceedings.

(b) Order of Ratification

On receipt of the Board's report, the Court shall enter an order fixing a date at least 30 days after the filing of the report for ratification of the Board's recommendations. The order shall include the names and addresses of all persons who are recommended for admission, including those who are conditionally recommended. The order shall state generally that all recommendations are conditioned on character approval, but shall not identify those persons as to whom proceedings are still pending. The order shall be published in the Maryland Register at least once before ratification of the Board's recommendations.

(c) Exceptions

Before ratification of the Board's report, any person may file with the Court exceptions relating to any relevant matter. For good cause shown the Court may permit the filing of exceptions after ratification of the Board's report and before the candidate's admission to the Bar. The Court shall give notice of the filing of exceptions to the candidate, the Board, and the Character Committee that passed on the candidate's application. A hearing on the exceptions shall be held to allow the exceptant and candidate to present evidence in support of or in opposition to the exceptions and the Board and Character Committee to be heard. The Court may hold the hearing or may refer the exceptions to the Board, the Character Committee, or an examiner for hearing. The Board, Character Committee, or examiner hearing the exceptions shall file with the Court, as soon as practicable after the hearing, a report of the proceedings. The Court may decide the exceptions without further hearing.

(d) Ratification of Board's Report

On expiration of the time fixed in the order entered pursuant to section (b) of this Rule, the Board's report and recommendations shall be ratified subject to the conditions stated in the recommendations and to any exceptions noted under section (c) of this Rule.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 11.

Section (b) is derived from former Rule 12a.

Section (c) is derived from former Rule 12b.

Section (d) is derived from former Rule 12c.

Rule 11. REQUIRED COURSE ON PROFESSIONALISM

(a) Duty to Complete Course

Before admission to the Bar, a person recommended for admission pursuant to Rule 10 shall complete a course on legal professionalism. For good cause shown, the Court of Appeals may admit a person who has not completed the course provided that the person represents to the Court that he or she will complete the next regularly scheduled course.

(b) Course and Faculty; Costs

The course and faculty shall be proposed by the Maryland State Bar Association and approved by the Court of Appeals. The Association shall give the course at least twice annually during the period between the announcement of examination results and the scheduled admission ceremony. The Association may charge a reasonable fee to defray the expenses of giving the course.

(c) Duration of Requirement; Evaluation

The requirement set forth in section(a) shall remain in force for a period of ten years beginning January 1, 2001 and ending December 31, 2010. During that period the Court of Appeals shall evaluate the results of the course requirement to determine whether to extend the requirement. The Chief Judge of the Court of Appeals may appoint a committee consisting of one or more judges, lawyers, legal educators, bar association representatives, and other interested and knowledgeable persons to assist the Court in the evaluation. (Amended effective Aug. 18, 1994; July 14, 1995; Nov. 21, 1995, effective Jan. 1, 1996; Nov. 2, 2000, effective Jan. 1, 2001.)

Source: This Rule is new.

Rule 12. ORDER OF ADMISSION; TIME LIMITATION.

When the Court has determined that a candidate is qualified to practice law and is of good moral character, it shall enter an order directing that the candidate be admitted to the Bar on taking the oath required by law. A candidate who has passed the Maryland bar examination may not take the oath of admission to the Bar later than 24 months after the date that the Court of Appeals ratified the Board's report for that examination. For good cause, the Board may extend the time for taking the oath, but the candidate's failure to take action to satisfy admission requirements does not constitute good cause. A candidate who fails to take the oath within the required time period shall reapply for admission and retake the bar examination, unless excused by the Court. (Amended June 5, 1996, effective Jan. 1, 1997; Nov. 1, 2001, effective Jan. 1, 2002)

Cross reference: See Code, Business and Professions Article, § 10-212, for form of oath. See also Maryland Rule 16-811f (Client Protection Fund--Payments to Fund) and Maryland Rule 16-714 (Disciplinary Fund), which require persons admitted to the Maryland Bar, as a condition precedent to the practice of law in this State, to pay an annual assessment to the Client Protection Fund and the Attorney Grievance Commission Disciplinary Fund.

Source: This Rule is in part derived from former Rule 13 and is in part new.

Rule 13. OUT-OF-STATE ATTORNEYS

(a) Eligibility for Admission by Attorney Examination—Generally

A person is eligible for admission to the Bar of this State under this Rule if the person

- (1) is a member of the Bar of a state;
- (2) has passed a written bar examination in a state;
- (3) has the professional experience required by this Rule;
- (4) successfully completes the attorney examination prescribed by this Rule; and
- (5) possesses the good moral character and fitness necessary for the practice of law.

(b) Required Professional Experience

The professional experience required for admission under this rule shall be on a full time basis as (1) a practitioner of law as provided in section(c) of this Rule; (2) a teacher of law at a law school approved by the American Bar Association; (3) a judge of a court of record in a state; or (4) a combination thereof.

(c) Practitioner of Law

(1) Subject to paragraphs (2), (3), and (4) of this section, a practitioner of law is a person who has regularly engaged in the authorized practice of law

(A) in a state;

(B) as the principal means of earning a livelihood, and

(C) whose professional experience and responsibilities have been sufficient to satisfy the Board that the petitioner should be admitted under this Rule.

(2) As evidence of the requisite professional experience, for purposes of subsection (c)(1)(C) of this Rule, the Board may consider, among other things:

(A) the extent of the petitioner's experience in general practice;

(B) the petitioner's professional duties and responsibilities, the extent of contacts with and

responsibility to clients or other beneficiaries of the petitioner's professional skills, the extent of professional contacts with practicing lawyers and judges, and the petitioner's professional reputation among those lawyers and judges; and

(C) if the petitioner is or has been a specialist, the extent of the petitioner's experience and reputation for competence in such specialty, and any professional articles or treatises that the petitioner has written.

(3) The Board may consider as the equivalent of practice of law in a state practice outside the United States if the Board concludes that the nature of the practice makes it the functional equivalent of practice within a state.

(d) Duration of Professional Experience

(1) A person shall have the professional experience required by section (b) of this Rule for (A) a total of ten years, or (B) at least five of the ten years immediately preceding the filing of a petition pursuant to this Rule.

(e) Exceptional Cases

In exceptional cases, the Board may treat a petitioner's actual experience, although not meeting the literal requirement of subsections(c)(1) or (d) of this Rule, as the equivalent of the professional experience otherwise required by this Rule.

(f) Petition

(1) The petitioner shall file with the Board a petition under oath on a form prescribed by the Board, accompanied by the fees required by the Board and the cost assessed for the character and fitness investigation and report by the National Conference of Bar Examiners.

(2) The petition shall state (A) each jurisdiction in which the petitioner has been admitted to the Bar and whether each admission was by examination, by diploma privilege or on motion and (B) the additional facts showing that the petitioner meets the requirements of section (a) of this Rule or should be qualified under section (e) of this Rule.

(3) The petitioner shall file with the petition the supporting data required by the Board as to the Petitioner's professional experience, character, and fitness to practice law.

(4) The petitioner shall be under a continuing obligation to report to the Board any material change in information previously furnished.

(g) Request for Test Accommodation

A petitioner who seeks a test accommodation under the ADA for the attorney examination shall file with the Board an "Accommodation Request" on a form prescribed by the Board, together

with any supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline stated in section (i) of this Rule for filing a petition to take a scheduled attorney examination.

(h) Refunds

If the Board determines on the face of the petition that the applicant is not qualified to sit for the attorney's examination and the petitioner elects to withdraw the petition without further proceedings, all fees shall be refunded. If in other circumstances a petitioner withdraws the petition or fails to attend and take the examination without permission from the Board, no fees will be refunded and the examination fee may not be applied to a subsequent examination unless the petitioner establishes good cause for the withdrawal or failure to attend.

(i) Time for Filing

The petition shall be filed at least 60 days before the scheduled attorney examination that the petitioner wishes to take. On written request of the petitioner and for good cause shown, the Board may accept a petition filed after the deadline. If the Board rejects the petition, the petitioner may file an exception with the Court within five days after notice of the rejection.

(j) Standard for Admission and Burden of Proof

(1) The petitioner bears the burden of proving to the Board and the Court that the petitioner is qualified on the basis of professional experience and possesses the good moral character and fitness necessary to practice law in this State.

(2) The Board shall recommend rejection of a petition if it is not satisfied that the petitioner possesses good moral character and fitness and that the contents of the petition are true and correct. Failure or refusal to answer fully and candidly any relevant questions asked by the Board, either orally or in writing, is sufficient cause for rejection of the petition.

(k) Action by Board on Petition

The Board shall investigate the matters set forth in the petition. (1) If the Board decides that the petition should be accepted, it shall mail notice of its decision to recommend acceptance of the petition to the petitioner. (2) If the Board concludes that there may be grounds for rejecting the petition, the Board shall notify the petitioner and shall afford the petitioner an opportunity for a hearing. The hearing will not be held until after the National Conference of Bar Examiners completes its investigation of the petitioner's character and fitness to practice law and reports to the Board. The petitioner may be represented by an attorney at the hearing. Promptly after the Board makes its final decision to recommend acceptance or rejection of the petition, the Board shall mail notice of its decision to the petitioner. (3) If the Board decides to recommend rejection of the petition, it shall file with the Court a report of its decision and all papers relating to the matter.

(l) Exceptions

Within 30 days after the Board mails notice of its adverse decision to the petitioner, the petitioner may file with the Court exceptions to the Board's decision. The petitioner shall mail or deliver to the Board a copy of the exceptions. The Court may hear the exceptions or may appoint an examiner to hear the evidence and shall afford the Board an opportunity to be heard on the exceptions.

(m) Attorney Examination

The petitioner must pass an attorney examination prescribed by the Board. The Board shall define, by rule, the subject matter of the examination, prepare the examination, and establish the passing grade. The Board shall administer the attorney examination on a date and at a time during the administration of the regular examination pursuant to Rule 7 and shall publish at least 30 days in advance notice of the date and time of the examination. The Board shall grade the examination and shall send notice of examination results to each examinee by regular mail, postage prepaid. Successful examinees shall be notified only that they have passed. Unsuccessful examinees shall be given their grades in the detail the Board considers appropriate. Review by unsuccessful examinees shall be in accordance with the provisions of Rule 8(b).

(n) Re-examination

In the event of failure on the first examination, a petitioner may file a petition to retake the examination, but a petitioner may not be admitted under this Rule after failing four examinations. A petition for re-examination shall be accompanied by the required fees. Failure to pass the attorney examination shall not preclude any person from taking the regular examination.

(o) Report to Court--Order

The Board shall file a report and recommendations pursuant to Rule 10. Proceedings on the report, including the disposition of any exceptions filed, shall be as prescribed in that Rule. If the Court determines that the petitioner has met all the requirements of this Rule, it shall enter an order directing that the petitioner be admitted to the Bar of Maryland on taking the oath required by law.

(p) Required Course on Professionalism

A petitioner recommended for admission pursuant to section (n) of this Rule shall comply with Rule 11.

(q) Time limitation for admission to the Bar

A petitioner under this Rule is subject to the time limitation of Rule 12. (Amended June 5, 1966, effective Jan. 1, 1997; Nov. 1, 2001, effective Jan. 1, 2002.)

Cross reference: See Code, Business Occupations and Professions Article, § 10-212 for form of oath. See also Maryland Rule 16-811f (Client Protection Fund--Payments to Fund) and Maryland Rule 16-714 (Attorney Grievance Commission--Disciplinary Fund) which require persons admitted to the Maryland Bar, as a condition precedent to the practice of law

in this State, to pay an annual assessment to the Client Protection Fund and the Attorney Grievance Commission Disciplinary Fund.

Source: This Rule is derived in part from former Rule 14 and is in part new.

Rule 14. SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEYS

(a) Motion for Special Admission

A member of the Bar of this State who is an attorney of record in an action pending in any court of this State or before an administrative agency of this State or any of its political subdivisions, or representing a client in an arbitration taking place in this state involving the application of Maryland law, may move, in writing, that an attorney who is a member in good standing of the Bar of another state be admitted to practice in this State for the limited purpose of appearing and participating in the action as co-counsel with the movant. If the action is pending in a court, the motion shall be filed in that court. If the action is pending before an administrative agency or arbitration panel, the motion shall be filed in the circuit court for the county in which the principal office of the agency is located or in which the arbitration hearing is located or in any other circuit to which the action may be appealed and shall include the movant's signed certification that copies of the motion have been furnished to the agency or the arbitration panel, and to all parties of record.

(b) Certification By Out-of-State Attorney

The attorney whose special admission is moved shall certify in writing the number of times the attorney has been specially admitted during the twelve months immediately preceding the filing of the motion. The certification may be filed as a separate paper or may be included in the motion under an appropriate heading.

(c) Order

The court by order may admit specially or deny the special admission of an attorney. In either case, the clerk shall forward a copy of the order to the State Court Administrator, who shall maintain a docket of all attorneys granted or denied special admission. When the order grants or denies the special admission of an attorney in an action pending before an administrative agency, the clerk also shall forward a copy of the order to the agency.

(d) Limitations on Out-of-State Attorney's Practice

An attorney specially admitted may act only as co-counsel for a party represented by an attorney of record in the action who is admitted to practice in this State. The specially admitted attorney may participate in the court or administrative proceedings only when accompanied by the Maryland attorney, unless the latter's presence is waived by the judge or administrative hearing officer presiding over the action. Any out-of-state attorney so admitted is subject to the Maryland Lawyers' Rules of Professional Conduct. (Amended Mar. 5, 2001, effective July 1, 2001; effective Nov. 6, 2002; amended Feb. 8, 2005, effective July 1, 2005.)

Cross reference: See Code, Business Occupations and Professions Article § 10-215.

Committee Note: The committee has not recommended a numerical limitation on a number of appearances *pro hac vice* to be allowed any attorney. Specialized expertise of out-of-state attorneys or other special circumstances may be important factors to be considered by judges in assessing whether Maryland litigants have access to effective representation. This rule is not intended, however, to permit extensive or systematic practice by attorneys not licensed in Maryland. The Committee is primarily concerned with assuring professional responsibility of attorneys in Maryland by avoiding circumvention of Rule 13 (Out-of-State Attorneys) or *Kemp Pontiac Cadillac, Inc. et al vs. S&M Construction Co., Inc.*, 33 Md. App. 516 (1976). The Committee also noted that payment to the Client Protection Fund of the Bar of Maryland by an attorney admitted specially for the purposes of an action is not required by existing statute or rule of court.

Source: this Rule is derived from former Rule 20.

Rule 15. SPECIAL AUTHORIZATION FOR OUT-OF-STATE ATTORNEYS TO PRACTICE IN THIS STATE

(a) Eligibility

Subject to the provisions of this Rule, a member of the Bar of another state who is employed by or associated with an organized legal services program that is sponsored or approved by Legal Aid Bureau, Inc. may practice in this State pursuant to that organized legal services program, if (1) the individual is a graduate of a law school meeting the requirements of Rule 4(a)(2), (2) the legal services program provides legal assistance to indigents in this State, and (3) the individual will practice under the supervision of a member of the Bar of this State.

(b) Proof of Eligibility

To obtain authorization to practice under this Rule the out-of-state attorney shall file with the Clerk of the Court of Appeals a written request accompanied by (1) evidence of graduation from a law school as defined in Rule 4(a)(2), (2) a certificate of the highest court of another state certifying that the attorney is a member in good standing of the Bar of that state, and (3) a statement signed by the Executive Director of Legal Aid Bureau, Inc., that the attorney is currently employed by or associated with an approved organized legal services program.

(c) Certificate of Authorization to Practice

Upon the filing of the proof of eligibility required by this Rule, the Clerk of the Court of Appeals shall issue a certificate under the seal of the Court certifying that the attorney is authorized to practice under this Rule. The certificate shall contain the effective date and expiration date of the special authorization to practice. The expiration date shall be no later than two years after the

effective date.

(d) Automatic Termination Before Expiration

Authorization to practice under this Rule is automatically terminated before its expiration date if the attorney ceases to be employed by or associated with an approved organized legal services program in this State. Within five days after cessation of the attorney's employment or association, the Executive Director of Legal Aid Bureau, Inc. shall file with the Clerk of the Court of Appeals notice of the termination of authorization.

(e) Revocation or Suspension

At any time, the Court, in its discretion, may revoke or suspend authorization to practice under this Rule either by written notice to the attorney or by amendment or deletion of this Rule.

(f) Special Authorization Not Admission

Out-of-state attorneys authorized to practice under this Rule are not and shall not represent themselves to be members of the Bar of this State, except in connection with practice that is authorized under this Rule. They shall be required to make payments to the Client Protection Fund and the Disciplinary Fund.

Source: This rule is derived from former Rule 19.

Rule 16. LEGAL ASSISTANCE BY LAW STUDENTS

(a) Definitions

As used in this Rule, the following terms have the following meanings:

(1) Law School

"Law school" means a law school meeting the requirements of Rule 4(a)(2).

(2) Clinical program

"Clinical Program" means a law school program for credit, in which a student obtains experience in the operation of the legal system by engaging in the practice of law, that is (A) under the direction of a faculty member of the school and (B) has been approved by the section Council of the Section of Legal Education and Admissions to the Bar of the Maryland State Bar Association, Inc.

(3) Supervising Attorney

"Supervising attorney" means an attorney who is a member in good standing of the Bar of

this State and whose service as a supervising attorney for the clinical program is approved by the dean of the law school in which the law student is enrolled or by the dean's designee.

(b) Eligibility

A law student enrolled in a clinical program is eligible to engage in the practice of law as provided in this Rule if the student:

(1) is enrolled in a law school;

(2) has read and is familiar with the Maryland Lawyers' Rules of Professional Conduct and the relevant Maryland Rules of Procedure; and

(3) has been verified in accordance with section (c) of this Rule.

(c) Certification

(1) Contents and Filing

The dean of the law school shall file the certification of a student with the Clerk of the Court of Appeals. It shall state that the student is in good academic standing and has successfully completed legal studies in the law school amounting to the equivalent of at least one-third of the total credit hours required to complete the law school program. It shall also state its effective date and expiration date, which shall be not later than one year after the effective date.

(2) Withdrawal or Suspension

The dean may withdraw the certificate at any time by mailing a notice to that effect to the Clerk of the Court of Appeals. It shall automatically be suspended upon the issuance of an unfavorable report of the Character Committee made in connection with the student's application for registration as a candidate for admission to the Bar. Upon reversal of the Character Committee, the certification shall be reinstated.

(d) Practice

In connection with a clinical program, a law student for whom a certificate is in effect may appear in any trial court or the Court of Special Appeals or otherwise engage in the practice of law in Maryland provided that the supervising attorney (1) is satisfied that the student is competent to perform the duties assigned, (2) assumes responsibility for the quality of the student's work, (3) directs and assists the student to the extent necessary, in the supervising attorney's professional judgment, to ensure that the student's participation is effective on behalf of the client the student represents, and (4) accompanies the student when the student appears in court or before an administrative agency. The law student shall neither ask for nor receive personal compensation of any kind for service rendered under this Rule. (Amended Feb. 8, 2005, effective July 1, 2005)

Source: This Rule is derived from former Rule 18.

Rule 17. CHARACTER COMMITTEES

The Court shall appoint a Character Committee for each of the seven Appellate Judicial Circuits of the State. Each Character Committee shall consist of not less than five members whose terms shall be for five years each, except that in the Sixth Appellate Judicial Circuit the term of each member shall be two years. The terms shall be staggered. The Court shall designate the chair of each Committee, and may provide compensation to the members.

Source: This Rule is derived from former Rule 4 a and e.

Rule 18. FEES

The Board shall prescribe the fees, subject to approval by the Court, to be paid by applicants under Rules 2 and 7 and by petitioners under Rule 13.

Cross reference: See Code, Business Occupations and Professions Article, § 10-208(b) for maximum examination fee allowed by law.

Source: This Rule is new and replaces former Rule 2e, 6, 8a, and 14c.

Rule 19. CONFIDENTIALITY

(a) Proceedings before Committee or Board; General Policy

Except as provided in sections (b), (c), and (d) of this Rule, the proceedings before the Accommodations Review Committee and its panels, a Character Committee and the Board and the related papers, evidence, and information are confidential and shall not be open to public inspection or subject to court process or compulsory disclosure.

(b) Right of Applicant

(1) Except as provided in paragraph (2) of this section, an applicant has the right to attend all hearings before a panel of the Accommodations Review Committee, a Character Committee and the Board pertaining to his or her application and to be informed of and inspect all papers, evidence, and information received or considered by the panel, Committee or the Board pertaining to the applicant.

(2) This section does not apply to (A) papers or evidence received or considered by a Character Committee or the Board if the Committee or Board, without a hearing, recommends the applicant's admission; (B) Personal memoranda, notes, and work papers of members or staff of a Character Committee or the Board; (C) correspondence between or among members or staff of a Character Committee or the Board; or (D) an applicant's bar examination grades and answers, except as authorized in Rule 8 and Rule 13.

(c) When Disclosure Authorized

The Board may disclose:

- (1) statistical information that does not reveal the identity of any individual applicant;
- (2) the fact that an applicant has passed the bar examination and the date of the examination;
- (3) any material pertaining to an applicant that the applicant would be entitled to inspect under section (b) of this Rule, if the applicant has consented in writing to the disclosure;
- (4) any material pertaining to an applicant requested by
 - (A) a court of this State, another state, or the United States,
 - (B) Bar Counsel, the Attorney Grievance Commission, or the attorney disciplinary authority in another state,
 - (C) the authority in another jurisdiction that is responsible for investigating the character and fitness of an applicant for admission to the bar of that jurisdiction, or
 - (D) Investigative Counsel, the Commission on Judicial Disabilities, or the judicial disciplinary authority in another jurisdiction for use in:
 - (i) a pending disciplinary proceeding against the applicant as an attorney or judge;
 - (ii) a pending proceeding for reinstatement of the applicant as an attorney after disbarment; or
 - (iii) a pending proceeding for original admission of the applicant to the Bar;
- (5) any material pertaining to an applicant requested by a judicial nominating commission or the Governor of this State, a committee of the Senate of Maryland, or a committee of the United States Senate in connection with an application by or nomination of the applicant for judicial office;
- (6) to a law school, the names of persons who graduated from that law school who took a bar examination and whether they passed or failed the examination;
- (7) to the National Conference of Bar Examiners, the following information regarding persons who have filed applications for admission pursuant to Rule 2 or petitions to take the attorney's examination pursuant to Rule 13: the applicant's name and aliases, applicant number, birthdate, Law School Admission Council number, law school, date that juris doctor degree conferred, bar examination results and pass/fail status, and number of bar examination attempts;
- (8) to any member of a Character Committee, the report of any Character Committee or the Board following a hearing on an application; and
- (9) to the Child Support Enforcement Administration, upon its request, the name, Social Security number, and address of a person who has filed an application pursuant to Rule 2 or a petition to take the attorney's examination pursuant to Rule 13.

Unless information disclosed pursuant to paragraphs (4) and (5) of this section is disclosed with the written consent of the applicant, an applicant shall receive a copy of the information and

may rebut, in writing, any matter contained in it. Upon receipt of a written rebuttal, the Board shall forward a copy to the person or entity to whom the information was disclosed.

(d) Proceedings and Access to Records in the Court of Appeals

(1) Subject to reasonable regulation by the Court of Appeals, Bar Admission ceremonies shall be open.

(2) Unless the Court otherwise orders in a particular case:

(A) hearings in the Court of Appeals shall be open, and

(B) if the Court conducts a hearing regarding a bar applicant, any report by the Accommodations Review Committee, a Character Committee, or the Board filed with the Court, but no other part of the applicant's record, shall be subject to public inspection.

(3) The Court of Appeals may make any of the disclosures that the Board may make pursuant to section (c) of this Rule.

(4) Except as provided in paragraphs (1), (2), and (3) of this section or as otherwise required by law, proceedings before the Court of Appeals and the related papers, evidence, and information are confidential and shall not be open to public inspection or subject to court process or compulsory disclosure.

Source: This Rule is new.

Rule 20. THE BOARD

(a) Authority to Adopt Rules

The Board may adopt rules to carry out the requirements of these Rules and to facilitate the conduct of examinations. The Rules of the Board shall be published in the Code, Maryland Rules, following these Rules.

(b) Amendment of Board Rule--Publication

Any amendment of the Board's rules shall be published at least once in a daily newspaper of general circulation in this State. The amendment shall be published at least 45 days before the examination at which it is to become effective, except that an amendment that substantially increases the area of subject matter knowledge required for any examination shall be published at least one year before the examination.

(c) Assistants

The Board may appoint the assistants necessary for the proper conduct of its business. Each assistant shall be an attorney admitted by the Court of Appeals and shall serve at the pleasure of the Board.

(d) Compensation of Board Members and Assistants

The members of the Board and assistants shall receive the compensation fixed from time to time by the Court.

(e) Secretary to the Board

The Court may appoint a secretary to the Board, to hold office during the pleasure of the Court. The secretary shall have the administrative powers and duties that the Board may prescribe.

Source: This rule is derived as follows:

Section (a) is derived from former Rule 7h and 9a.

Section (b) is derived from former Rule 7h and i.

Section (c) is derived from former Rule 9c.

Section (d) is derived from former Rule 16.

Section (e) is derived from former Rule 17.

Rule 21. SUSPENSION OR REVOCATION OF LICENSE OF ATTORNEY INELIGIBLE FOR ADMISSION

If an attorney admitted to the Bar of this State is discovered to have been ineligible for admission under circumstances that do not warrant disbarment or other disciplinary proceedings, the Court of Appeals may, upon a recommendation by the Board and after notice and opportunity to be heard, suspend or revoke the attorney's license. In the case of a suspension the Court shall specify in its order the duration of the suspension and the conditions upon which the suspension may be lifted.

Source: This rule is new.

Rule 22. SUBPOENA POWER OF BOARD AND CHARACTER COMMITTEES

(a) Subpoena

In any proceeding before the Board or a Character Committee pursuant to Bar Admission Rule 5 or Bar Admission Rule 13, the Board or Committee, on its own motion or the motion of an applicant, may cause a subpoena to be issued by a clerk pursuant to Rule 2-510. The subpoena shall issue from the Circuit Court for Anne Arundel County if incident to Board proceedings or from the circuit court in the county in which Character Committee proceedings are pending, and the proceedings may not be docketed in court. The subpoena shall not divulge the name of the applicant, except to the extent this requirement is impracticable. The sheriff's return shall be made as directed in the subpoena. The Character Committee or the Board, as applicable, shall maintain dockets and files of all papers filed in the proceedings.

(b) Sanctions

If a person is subpoenaed to appear and give testimony or to produce books, documents, or other tangible things and fails to do so, the party who requested the subpoena, by motion that does not divulge the name of the applicant (except to the extent that this requirement is impracticable), may request the court to issue an attachment pursuant to Rule 2-510(j), or to cite the person for contempt pursuant to Title 15, Chapter 200 of the Maryland Rules, or both.

(c) Court Rules

All court costs in proceedings under this Rule shall be assessable to and paid by the State.
(Added June 7, 1994, effective October 1, 1994.)

Source: This Rule is new.

RULES OF THE BOARD

Pursuant to Rule 20 of the Court of Appeals' Rules Governing Admission to the Bar of Maryland, the State Board of Law Examiners adopted the following Rules of the Board on October 8, 1990 to be effective immediately and superseding all previous Rules of the Board:

RULES OF THE BOARD

1. Application Fees
2. Filing Late for Good Cause
3. Test Accommodations Pursuant to the Americans with Disabilities Act
4. Examination--Subject Matter
5. Examination Format, Scoring, and Passing Standard
6. Out-of-State Attorney Examination

Board Rule 1

Rule 1. Application Fees

(a) General Bar Examination

1. An Application filed pursuant to the Court's Bar Admission Rule 2 shall be accompanied by a check or money order payable to the State Board of Law Examiners in the amount of

- (i) \$225 if timely filed, or
- (ii) \$275 if filed late.

2. A petition to take a scheduled bar examination pursuant to the Court's Bar Admission Rule 6 shall be accompanied by a check or money order in the amount of \$250.

(b) Out-of-State Attorney Examination

1. A petition filed pursuant to the Court's Bar Admission Rule 13 shall be accompanied by a check or money order payable to the State Board of Law Examiners in the amount of \$700 and a separate check, money order, or credit card authorization for the National Conference of Bar Examiners in such amount as required to cover the cost of the character and fitness investigation and report.

2. A petition for re-examination filed pursuant to the Court's Bar Admission Rule 13 shall be accompanied by a check or money order payable to the State Board of Law Examiners in the amount of \$250.

(c) Effective date. The fees prescribed in sections a. and b. of this rule apply to all applications and petitions filed on or after January 1, 2009. “Filed” means received in the office of the Secretary of the Board during normal business hours. (Amended December 9, 2008.)

Board Rule 2

Rule 2. Filing Late for Good Cause

An applicant's written request for acceptance of an application or petition filed late for good cause pursuant to the Court's Bar Admission Rule 2c(3), Rule 6 or Rule 13h shall include a statement indicating:

- (a) whether the applicant's failure to timely file was due to facts and circumstances beyond the applicant's control and stating those facts and circumstances,
- (b) whether the applicant presently has a bar application pending with any other jurisdiction,
- (c) whether the applicant presently is a member of the Bar of any other jurisdiction, and
- (d) the specific nature of the hardship which would result if the applicant's request is denied.

Board Rule 3

Board Rule 3. Test Accommodations Pursuant to the Americans with Disabilities Act

a. Definition

In this Rule, “applicant” includes a petitioner under Bar Admission Rule 13 who seeks test accommodations under the ADA for the attorney examination.

b. Policy

In accordance with the ADA, the Board shall provide test accommodations to an applicant taking the Maryland bar examination, to the extent that such accommodations are reasonable, consistent with the nature and purpose of the examination, and necessitated by the applicant’s disability.

c. Requesting Test Accommodations

An individual must be an applicant for admission to the Bar of Maryland prior to requesting test accommodations. In order to request test accommodations an applicant must file a completed Applicant’s Accommodations Request Form along with the specified supporting documentation. The Applicant’s Accommodations Request Form must be filed not later than the deadline for filing the petition to sit for the bar examination pursuant to Bar Admission 6, 9, or 13.

d. *Review By Board*

(1). *Initial Review for Sufficiency.* The Board's staff shall conduct an initial review of a request for test accommodations. The Board's staff shall reject a request if the request fails to adequately specify the test accommodations required or if the supporting documentation is substantially incomplete or is otherwise deficient. If the request is rejected, the Board's staff shall advise the applicant in writing of the deficiencies in the request and supporting documentation.

(2). *Board Determination*

If there is uncertainty about whether the requested test accommodation is warranted pursuant to the ADA, the applicant's request and all supporting documentation may be referred to a qualified expert retained by the Board to review and analyze whether the applicant has documented a disability and requested a reasonable accommodation. Thereafter, a designated member of the Board shall determine whether test accommodations should be granted after examining the applicant's request and the report of the Board's expert. The Board's staff shall advise the applicant in writing whether the request for test accommodations is granted or denied in whole or in part.

e. *Appeal to the Accommodations Review Committee*

If the Board denies a request for test accommodations in whole or in part, the applicant may file an appeal with the Accommodations Review Committee pursuant to Bar Admission Rule 6.1. (Adopted December 9, 2008.)

Board Rule 4

Rule 4. Examination-Subject Matter

Pursuant to section c of Rule 7 (Bar Examination), Rules Governing Admission to the Bar of Maryland, the subject matter of the Maryland Bar Examination is defined as follows:

AGENCY

The law of agency will be included on the examination only to the extent provided in the definitions of Business Associations, Contracts and Torts.

BUSINESS ASSOCIATIONS

The legal principles pertaining to forming, organizing, operating and dissolving business entities in Maryland and related principles of agency. The business entities include: (a) corporations, (b) close corporations, (c) limited liability companies, (d) professional service corporations, (e) general, limited and limited liability partnerships, (f) joint ventures, (g) unincorporated associations, and (h) sole proprietorships. The subject also includes: (a) the rights, powers, duties and liabilities of owners, partners, members, shareholders, managers, directors, officers, (b) the issuance of shares or other ownership interests in business entities, (c) the distribution of dividends and assets, and (d) the allocation of profits and losses from business entities. (Amended February 25, 1998.)

COMMERCIAL TRANSACTIONS

The law governing commercial transactions including negotiable instruments, sales and sales financing, secured transactions, rights and remedies of buyers and sellers with emphasis on the Uniform Commercial Code as the prevailing commercial legislation.

CONSTITUTIONAL LAW

The interpretation of the Constitution of the United States and its amendments, division of powers between the states and national government, powers of the President, the Congress, and the Supreme Court, limitations on the powers of the state and national government.

CONTRACTS

The consideration of agreements enforceable at law. The subject includes: (a) formation of contracts--offer and acceptance, mistake, fraud, misrepresentation or duress, contractual capacity, effect of illegality, consideration; informal contracts; (b) third-party beneficiary contracts; (c) assignment of contracts; (d) statute of frauds; (e) parol evidence rule, interpretation of contracts; (f) performance-conditions, failure of consideration, aleatory promises, rights of defaulting plaintiff, substantial performance, specific performance, (g) breach of contract and remedies therefor, including measure of damages; (h) impossibility of performance, frustration of purpose; and (i) discharge of contracts. This subject may also include law dealing with an agent's ability to bind a principal to a contract, and the agent's personal liability on a contract made for a principal.

CRIMINAL LAW AND PROCEDURE

The law of crimes against the person; crimes against public peace and morals; property crimes; crimes involving the breach of public trust or civic duty, obstruction of justice; criminal responsibility, causation, justification and other defenses; constitutional limitations and protections.

EVIDENCE

The law governing the proof of issues of fact in civil and criminal trials including functions of the court and jury; competence of witnesses; examination, cross-examination and impeachment of witnesses; presumptions, burden of producing evidence and burden of persuasion; privileges against disclosure of information; relevancy; demonstrative, experimental and scientific evidence; opinion evidence; admissibility of writings; parol evidence rule; hearsay rule; judicial notice. The Board's Test will cover only the Maryland substantive Law of Evidence, including the *Maryland Rules of Evidence*, common law, and statute. (Amended November 11, 2004.)

FAMILY LAW

The principles of Maryland law regarding creation of (or the existence of) the marriage relationship; termination of the marriage; alimony and support of the marriage partner; support and custody of children; marital property issues; and prenuptial agreements. Includes both statutory and common law principles of Maryland law and procedure except for matters of adoption, paternity, and juvenile law. (Adopted April 8, 1992, effective beginning with the July 1993 bar examination.)

MARYLAND CIVIL PROCEDURE

The various procedural steps and matters involved in an action at law or in equity, from commencement of the action to final disposition on appeal. The subject includes: (a) jurisdiction of courts; (b) venue; (c) parties and process; (d) forms of pleadings; (e) motions and other means of raising procedural objections and defenses, including affirmative defenses and counterclaims; (f) discovery and other pre-trial procedures; (g) trial practice; (h) entry, effect and enforcement of judgments; (i) methods of taking appeal or otherwise securing appellate review; and (j) appellate practice and procedure. The subject embraces civil procedure and practice in the State courts. Federal Rules of practice and procedure are not covered on the examination.

PROFESSIONAL CONDUCT

The Maryland Lawyers' Rules of Professional Conduct as adopted by Maryland Rule 16-812. These are contained in *Maryland Rules*, Appendix. (Amended April 15, 2005.)

PROPERTY

The fundamentals of real property law including concepts of possession; concurrent and consecutive future estates in land (and their counterparts in testamentary and *inter vivos* trusts); leaseholds and landlord-tenant relationships; fixtures and the distinction between real and personal property; covenants enforceable in equity; easements, profits and license; rights of user and exploitation in land (including rights to lateral and subjacent support); contracts of sale of real estate; the statute of limitations on real actions (adverse possession) and prescription; conveyancing priorities and recording (including marketable title); remedies. Problems of rules against perpetuities will appear only on the MBE test (Board Rule 4).

TORTS

The law of civil wrongs. The subject includes, but is not limited to: (a) negligent torts including causation, standard of care, primary negligence, comparative and contributory negligence, assumption of risk, limitations on liability, contribution and indemnity; impact of insurance; (b) intentional torts; (c) strict liability, products liability; (d) nuisance; (e) invasion of privacy; (f) defamation; (g) vicarious liability; and (h) defenses, immunity and privilege, and damages in connection with any of these areas.

Board Rule 5

Rule 5. Examination Format, Scoring, and Passing Standard

a. Authority

Pursuant to section (c) of Rule 7, Bar Examination, of the *Rules Governing Admission to the Bar of Maryland adopted by the Court of Appeals of Maryland*, the State Board of Law Examiners adopts the Multistate Bar Examination and the Multistate Performance Test as part of the Maryland Bar Examination. Pursuant to section (d) of the Court's Bar Admission Rule 7, the Board establishes the policies and standards set forth in the following sections of this Board Rule to govern the format, scoring, and passing standard for the Maryland Bar Examination.

b. Multistate Bar Examination (MBE)

(i) One part of the Maryland Bar Examination is the Multistate Bar Examination (MBE). The MBE is published and scored by the National Conference of Bar Examiners (NCBE) and its agents.

(ii) The MBE is a multiple choice test. An applicant's MBE raw score is the number of questions answered correctly. MBE raw scores are scaled to adjust for possible differences in average question difficulty across administrations of the exam. As a result of scaling, a given MBE scale score indicates about the same level of performance regardless of the particular administration of the examination on which it is earned.

c. Written Test: Board's Essay Test and the Multistate Performance Test (MPT)

(i) The other part of the Maryland Bar Examination is the Written Test, which comprises the Board's Essay Test and one MPT question. The Board will prepare and grade the Board's Essay test. The MPT is published by the NCBE and graded by the Board.

(ii) The Board's Essay test will consist entirely of questions requiring essay answers. Questions will not be labeled by subject matter. Single questions may involve two or more subject matters from the list in Board Rule 4.

(iii) The format and specifications for the MPT are determined by the NCBE.

(iv) The raw score for the Written Test will be calculated as follows:

Written Test raw score = Sum of Board's Essay test raw scores + (MPT raw score x 2)

(v) The Written Test raw score will be converted to the same scale of measurement as that used on the MBE to adjust for possible differences in average question difficulty across administrations of the examination.

d. Combining MBE and Written Test Scores to Calculate Total Examination Score

(i) For purposes of calculating an applicant's total scale score, both the MBE and Written Test scale scores will be rounded to the nearest whole number.

(ii) The Written Test shall be weighted twice as much as the MBE in the computation of the total scale score. The following formula will be used to compute an applicant's total scale score on the Maryland Bar Examination:

$$\text{Total Scale Score} = (\text{Written Test Scale Score} \times 2) + \text{MBE Scale Score}$$

e. Passing Standard

In order to pass the Maryland Bar Examination, an applicant must achieve a total scale score, as defined in section d(ii), of 406 or higher.

f. No Carryover of MBE Score or Written Test Score from Prior Examinations

An applicant must achieve both the MBE and Written Test scale scores on the same administration of the Bar Examination for purposes of the Board's calculation of the total scale score and determination of the applicant's pass/fail status.

g. Recognition of MBE Score Achieved Concurrently in Another Jurisdiction

The Board will accept an MBE score which an applicant achieves in another jurisdiction in an administration of the MBE which is concurrent with Maryland's administration of the Written Test to the applicant. The concurrent MBE score will be treated exactly as though it were achieved in Maryland for purposes of the Board's calculation of the total scale score and determination of the applicant's pass/fail status.

h. Adjustment of Passing Standard

For any particular examination, the Board may, in the interest of justice, lower (but not raise) the passing score standard at any time before notices of the examination results are mailed. (Amended August 12, 1999; amended November 11, 2005)

Board Rule 6

Rule 6. Out-of-State Attorney Examination

a. Subject Matter

The out-of-state attorney examination will be prepared and graded by the Board and will consist entirely of questions requiring essay answers. It will relate to:

(i) Maryland Rules of Procedure governing practice and procedure in civil cases and criminal

causes in all the Courts of the State of Maryland, including the Appendix of forms (*Maryland Rules*),

(ii) the Maryland Lawyers' Rules of Professional Conduct, as adopted by Maryland Rule 16-812 (*Maryland Rules*),

(iii) the provisions of the *Courts and Judicial Proceedings Article* of the Annotated Code of Maryland, and

(iv) the provisions of the *Criminal Procedure Article* of the Annotated Code of Maryland.

b. Time-Duration

The attorney examination shall be conducted during a part of the essay day of each regularly scheduled bar examination and will have a total of three hours writing time for the entire test. The point score allotted for each question will be noted on the examination sheet.

c. Requirement for Passing

In order to pass the examination, a petitioner shall attain a score of at least 70% of the total point score allotted to the entire test. (Amended November 11, 2004; amended April 15, 2005.)
[Note: Subsection a. (iv) is effective for examinations administered after January 1, 2006.]

CITATIONS

Statutes Relating to Bar Admissions:

Ann. Code Md., *Business Occupations and Professions*, **Title 10, Lawyers.**

Decisions Relating to Admission of Out-of-State Attorneys:

In Re Application of Mark W., 303 Md. 1, 491 2d 576(1985) (Employment as hearing examiner with Department of Employment and Training merely involves work with legally related matters and does not fall within fair intendment of term "practitioner of law" so as to permit individual who is member of another bar to become member of state bar without taking bar examination. Code 1957, Art. 10, Sec. 7; Admission to the Bar Rule 14, subis. a(iii),d.)

Attorney Grievance Commission of Maryland v. Michael Patrick Keehan, 311 Md. 161, 533A.2d 278 (1987). In his application for admission to the Bar of Maryland as an out-of-state attorney, Keehan failed to disclose his full-time employment as an adjuster for an insurance company. He was admitted to the Maryland Bar based on his representation that he was a sole practitioner in Pennsylvania. Following investigation by the Attorney Grievance Commission and subsequent disciplinary proceedings, Keehan was disbarred by the Court of Appeals of Maryland for deliberately failing to disclose material information in his Bar application.

In the Matter of the Application of R.G.S. for Admission to the Bar of Maryland, 312 Md. 626, 541 A.2d 977 (1988). The Court held, by a 4-3 majority, that applicant, who was formerly a law professor and who was admitted to practice in another state, was "practicing law" for purposes of bar admissions rule during period in which he was employed full-time by Maryland law firm and applicant was not engaged in "unauthorized practice of law." The majority stressed that applicant's activities were very close to those of corporate house counsel.

Thomas F. Kennedy v. the Bar Association of Montgomery County, Inc. 316 Md.646, 561 A.2d 200 (1989). Kennedy was a member of the Bar of the District of Columbia Court of Appeals and had been admitted to practice before the United States District Court for the District of Maryland, but was not admitted to practice before the Bar of the Court of Appeals of Maryland. The Bar Association of Montgomery County successfully sought an injunction in which the Circuit Court for Montgomery County found, among other facts, that Kennedy deliberately attempted to engage in an extensive and systematic practice of law in the State of Maryland while not being licensed to practice in the State of Maryland. In an appeal to the Court of Appeals of Maryland, Kennedy challenged the scope of the permanent injunction which was issued against him. In its opinion upholding in part and reversing in part the Circuit Court's injunction, the Court of Appeals asserted: "Kennedy may not utilize his admission to the bar of the federal court in Maryland, or his admission in Washington, D.C. as a shield against injunctive relief by asserting that he will operate a triage. He is not permitted to sort through clients who may present themselves at his Maryland office and represent only those whose legal matters would require suit or defense in a Washington, D.C. court or in the federal court in Maryland because the very acts of interview, analysis, and explanation of legal rights constitute practicing law in Maryland. For an unadmitted person to do so on a regular basis from a Maryland principal office is the unauthorized practice of law in Maryland."

Decisions Relating to Moral Character

In Re Application of Allan S., 282 Md. 683, 387 A.2d 271 (1978)

In Re Application of David H., 283 Md. 632, 392 A.2d 83 (1978)

In Re Application of Howard C., 286 Md. 244, 407 A.2d 1124 (1979)

In Re Application of A.T., 286 Md. 507, 408 A.2d 1023 (1979)

In Re Application of K.B., 291 Md. 170, 434 A.2d 541 (1981)

In Re Application of G.S., 291 Md. 182, 433 A.2d 1159 (1981)

In Re Application of G.L.S., 292 Md. 378, 439 A.2d 1107 (1982)

In Re Application of Maria C. For Admission To the Bar Of Maryland, 294 Md. 538, 451 A.2d 655 (1982) (Dissenting Opinion by Smith, J.)

In Re Application of David H. For Admission To The Bar Of Maryland, 294 Md. 546, 451 A.2d 657 (1982) (Dissenting Opinions by Smith, J. and Rodowsky, J.)

In Re Application of James G., 296 Md. 310, 462 A.2d 1198 (1983)(Dissenting Opinion by Smith, J., in which Rodowsky, J. concurs.)

Attorney Grievance Commission of Maryland v. James Henry Gilbert, 307 Md. 481, 515 A.2d 454 (1986)

See, *Supra*, *In Re Application of James G.*, 296 Md. 310 (1983), 5-2 Decision of the Court of Appeals admitting to practice, applicant James Gilbert, following extensive hearings before the Character Committee and the Board of Law Examiners regarding prior criminal charges, conviction and overall good moral character.

The Court of Appeals, following proceedings for disbarment, agreed with the findings of fact and conclusion reached by the Circuit Trial Judge assigned to hear the case, that the applicant had intentionally failed to disclose a material fact by not disclosing the information requested on the bar admission application. This raised serious questions as to the attorney's fitness to practice law. Because of the gravity of this misconduct and the absence of any compelling circumstances, "disbarment" was the appropriate sanction.

In Re Application of George B., 297 Md 421, 466 A.2d 1286 (1983)

In Re Application of J. L. L., 304 Md. 394, 499 A.2d 935 (1985)

In Re Application of Charles M., 313 Md. 168, 545 A.2d 7(1988)

In Re Application of Jeb F., 316 Md. 234, 558 A.2d 378 (1989)

Attorney Grievance Commission v. Jeffrey Thomas Joehl, 335 Md.83, 642 A.2d 194 (1994). The Attorney Grievance Commission charged Jeffrey Thomas Joehl, the respondent in this appeal, with professional misconduct primarily arising out of certain representations and omissions made by Joehl in connection with his application for admission to the Bar of Maryland. The Court of Appeals noted a pattern of dishonesty over a prolonged period of time: Joehl omitted material facts from his application and lied about them to his character interviewer and to the Bar's inquiry panel. The court concluded that disbarment was the appropriate sanction in this case.

Application of Hyland, 339 Md. 521, 663 A.2d 1309 (1995). The applicant disclosed in his Bar application that he was convicted in 1986 of fifteen counts of failure to file state sales tax returns arising from his operation of a Pennsylvania restaurant. He also failed to pay applicable Federal payroll withholding taxes. The Court of Appeals concluded that the applicant had not demonstrated an appreciation for the fiduciary responsibility incumbent upon an attorney when entrusted with the monies of another person. The applicant's conduct reflected adversely on his personal commitment to the proper administration of justice. The applicant's lack of candor and misleading or evasive answers to the Character Committee and Board of Law Examiners contributed to the Court's finding that the applicant's claim of rehabilitation was not persuasive.

In the Matter of the Application of John Curtis Dortch for Admission to the Bar of Maryland, 344 Md. 376, 687 A.2d 245 (1997). Dortch had been convicted of second degree murder, conspiracy to commit a felony, and attempted armed robbery in 1975. He was sentenced to fifteen years to life imprisonment. Dortch's Petition for Parole was granted in March 1990. He remained on supervised parole as of the date of filing his application. The Court of Appeals denied his application stating that "A person on parole is still serving a prison sentence.... We will not even entertain an application to admit a person to the practice of law when that person is still directly or indirectly serving a prison sentence for a crime so severe that disbarment would be clearly necessitated if the crime were committed by an attorney." The Court stated that the application was premature.

In the Matter of the Application of Emsean L. Brown for Admission to the Bar of Maryland, 392 Md. 44, 895 A.2d 1050 (2006). The applicant disclosed in his application that he was convicted of bank fraud in 1991. He was sentenced to 10 months incarceration and 3 years of probation and ordered to pay restitution to the bank. It was unclear whether the applicant completed court ordered restitution to the bank. He did not disclose the conviction on his application for admission to law school in 1999, but disclosed it in the first semester of his second year in law school, allegedly believing that the conviction had been expunged. He also did not disclose to the law school that he had been terminated from employment with the bank, and he failed to disclose his lapse in his employment history because of his incarceration. The Court found that the applicant exhibited a lack of candor in his law school application and failed to prove by clear and convincing evidence that he was rehabilitated after committing a crime of moral turpitude. The applicant was denied admission.

In the Matter of the Application of Kevin Charles Stern for Admission to the Bar of Maryland. 403 Md. 615, 943 A.2d 1247 (2008), 2008 Md. LEXIS 115. The applicant admitted his prior financial irresponsibility, but claimed that he had been rehabilitated. However, he satisfied his creditors using the resources of others, specifically a loan from his mother and gifts received after

his graduation from law school. Absent the exigency of the bar admission process, he likely would have continued to ignore his obligation to repay his debt. He had allowed his debts to increase even when it appeared he had the means to resolve his obligations. Further, he was involved in an inappropriate relationship with a 15 year old female. The applicant was denied admission.

In the Matter of the Application of Gregory John Strzempek for Admission to the Bar of Maryland. 407 Md.102, 962 A.2d 988 (2008), 2008 Md. LEXIS 633. This case involves an applicant's duty to immediately disclose to the Maryland Board of Law Examiners any changes to responses previously submitted on a Bar Application. After Gregory John Strzempek submitted his Bar Application in December of 2005, he was arrested in Fairfax, Virginia, the next February, for driving under the influence, refusing a breath test, reckless driving –speed, eluding a police officer, and unsafe lane changing. In April of 2006, Strzempek pled guilty to driving under the influence, reckless driving, eluding a police officer and unsafe lane changing and was sentenced to four days in prison, as well as a fine. Nine days after being released from prison, he sat for his Character Committee interview, during which he did not disclose his arrest, convictions or sentences. In November of 2006, after Strzempek learned that he had passed the bar examination and received an Affirmation Form, which required him to affirm that his application was current, he provided documents to the Board reflecting his violations. The Board entered an exception to Strzempek's admission, and returned the file to the Character Committee, which, after a hearing, recommended that Strzempek be denied admission. The Board, thereafter, held a hearing and recommended admission, based upon Strzempek's voluntarily disclosure and professed intent not to conceal. The Court of Appeals held that Strzempek did not carry his burden of proof that he possessed the present moral character and fitness for admission, because Strzempek intentionally breached his duty to disclose and his disclosure was not voluntary; his purported intent to ultimately reveal was not relevant, because he had not disclosed when required to do so.

Decision Relating to Test Accommodations pursuant to the Americans with Disabilities Act:

In the Matter of the Application of Robert J. Kimmer for Admission to the Bar of Maryland., Misc. Docket No. 12, September Term, 2005. The applicant requested double time and the use of a computer to take the bar examination because of an alleged learning disability. The applicant had not been diagnosed with a learning disability or accorded test accommodations prior to law school. After having the Board's expert review the documentation of the alleged learning disability submitted by the applicant, the Board denied his request and rejected his appeal of that decision. The applicant obtained a temporary restraining order in state circuit court compelling the Board to grant him the requested accommodations, and he took the bar examination with those accommodations. The Board advised him that, should he pass the bar examination, he would not be recommended for admission to the bar unless he first established on the merits that he was entitled to the accommodations he received. The applicant passed the bar examination. After the Board filed an exception to his admission with the Court of Appeals, the applicant sought to have the circuit court compel the Board to recommend him for admission to the bar. The Board petitioned the Court of Appeals to deny the applicant's admission prior to a hearing on the merits and to affirm that bar admission decisions are controlled exclusively by the Court of Appeals. The Court of Appeals, following a hearing on these questions, issued an opinion and order denying the applicant admission to the Maryland bar and affirming that all questions regarding bar admissions are to be decided by the Court of Appeals.

Decisions Involving Constitutional Rights in Admission and Disbarment Proceedings:

In Re Ruffalo, 390 U.S. 544, 20 L. Ed.2d 117 (1968)

Spevack v. Klein, 385 U.S. 511, 17L. Ed.2d 574 (1967)

Willner v. Committee on Character, 373 U.S. 96, 10 L. Ed. 2d 224 (1963)

Konigsberg V. State Bar, 366 U.S. 36, 6L. Ed. 2d 105 (1961)

Konigsberg V. State Bar, 353 U.S. 252, 1L. Ed. 2d 810 (1957)

Schware v. Board of Bar Examiners, 353 U.S. 232, 1L. Ed. 2d 96 (1957)