

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
AMENDMENT OF THE SUPREME
COURT RULES AND THE CREATION
OF COMMITTEES RELATING TO THE
ADMISSION OF APPLICANTS TO
PRACTICE LAW.

ADKT 171

FILED

APR 08 2002

SHARON M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

IN THE MATTER OF THE ADOPTION
OF POLICIES AND PROCEDURES OF
THE FUNCTIONAL EQUIVALENCY
COMMITTEE.

ADKT 176

IN THE MATTER OF THE APPROVAL
OF THE PROPOSED POLICIES AND
PROCEDURES OF THE BOARD OF
BAR EXAMINERS AND THE
COMMITTEE ON MORAL
CHARACTER AND FITNESS, A
SUBCOMMITTEE OF THE BOARD OF
BAR EXAMINERS.

ADKT 240

ORDER AMENDING RULE 49 OF THE SUPREME COURT RULES
AND ADDENDA 1 AND 2 TO THE SUPREME COURT RULES

WHEREAS, this court adopted Supreme Court Rule 49 to address the responsibilities and terms of the Board of Bar Examiners and to create two subcommittees of the Board of Bar Examiners--the Moral Character and Fitness Committee and the Functional Equivalency Committee; and

WHEREAS, this court subsequently approved administrative policies, procedures, and guidelines for the Board of Bar Examiners, the Moral Character and Fitness Committee, and the Functional Equivalency Committee, which were adopted as Addenda 1 and 2 to the Supreme Court

Rules, and set forth the terms of members of the board and its subcommittees; and

WHEREAS, this court has considered recommendations from the Board of Bar Examiners and the Board of Governors respecting the amendment of Supreme Court Rule 49 and the related administrative policies and procedures regarding the structure and responsibilities of the Board of Bar Examiners and its subcommittees; and

WHEREAS, this court, on September 24, 1999, temporarily suspended the terms and term limits of the members of the Board of Bar Examiners and its subcommittees; and

WHEREAS, it appears to this court that amendment of Nevada Supreme Court Rule 49 and Addenda 1 and 2 to the Supreme Court Rules is warranted, accordingly,

IT IS HEREBY ORDERED that Rule 49 of the Supreme Court Rules shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that Addendum 1 to the Supreme Court Rules shall be amended and shall read as set forth in Exhibit B.

IT IS FURTHER ORDERED that Addendum 2 to the Supreme Court Rules shall be amended and shall read as set forth in Exhibit C.

IT IS FURTHER ORDERED that the amended rules shall be effective immediately and shall apply to all current and former members of the Board of Bar Examiners, the Moral Character and Fitness Committee, and the Functional Equivalency Committee. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons

and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing amended rules.

Dated this 8th day of April, 2002.

Maupin, C.J.
Maupin

Young, J.
Young

Shearing, J.
Shearing

Agosti, J.
Agosti

Rose, J.
Rose

Leavitt, J.
Leavitt

Becker, J.
Becker

cc: John H. Mowbray, President, State Bar of Nevada
Allen W. Kimbrough, Executive Director, State Bar of Nevada
Richard M. Trachok, II, Chair, Board of Bar Examiners
Michael S. Rowe, Chair, Moral Character and Fitness Committee
Thomas D. Beatty, Chair, Functional Equivalency Committee
Gloria Sturman, Chair, Joint Subcommittee of Board of Governors
and Board of Bar Examiners
Patrice Eichman, Director of Admissions, State Bar of Nevada

EXHIBIT A
AMENDED RULE 49 OF THE
NEVADA SUPREME COURT RULES

Rule 49. Board of governors of state bar to govern admission to practice law; fees; board of bar examiners.

1. With the approval of the supreme court, the board of bar examiners, in consultation with the board of governors of the state bar, shall have the power to fix and determine the qualifications for admission to practice law in this state, and shall have the power to fix and collect fees from all applicants for admission to practice law in this state, which fees shall be paid into the treasury of the state bar.

2. The board of bar examiners shall be responsible to **[the board of governors]** the supreme court and shall govern the administration of the bar examination. **[Beginning with 1997, the board of bar examiners shall reduce its current membership through attrition until such time that the membership of the board of bar examiners shall be composed of a number of active members of the state bar equivalent to the number of essay questions offered at the annual bar examination, plus one member appointed as chair.]** The board is comprised of eleven members and the immediate past chair as an ex officio member. A majority of the board of bar examiners shall be appointed by the supreme court, and a minority shall be appointed by the board of governors. The supreme court shall appoint one of the members to chair the board.

The board of bar examiners may hire as many qualified graders as the chair deems necessary to assist the board in the writing and grading of the essay examination. Any grader employed by the board of bar examiners

shall be an active member of the state bar and shall be appointed for a period of time not to exceed the term of the board member to whom the grader is assigned. Graders shall be paid in accordance with a schedule proposed by the chair of the board of bar examiners and approved by the board of governors.

3. The committee on moral character and fitness is a subcommittee of the board of bar examiners, and has all those powers and duties delegated under the supreme court rules to **[the board of governors and]** the board of bar examiners relating to the conduct of investigations and hearings, and the submission of reports and recommendations to the supreme court respecting the ethical, moral and psychological fitness of applicants for admission to practice law in this state. The committee on moral character and fitness shall be composed of nine members who are active members of the state bar, and up to four lay members who are professionals with expertise in fields that are germane to the determination of character and fitness issues confronted by the committee. Five of the attorney members shall be appointed by the supreme court, and four of the attorney members shall be appointed by the board of governors. The board of governors shall also appoint the **[four]** lay members of the committee. The supreme court shall appoint one of the attorney members to chair the committee.

For each formal hearing the committee may be divided by its chair into as many hearing panels as the chair believes is necessary to conduct hearings in that district. A hearing panel shall be composed of a minimum of four members, one of whom, at the chair's discretion, may be a non-lawyer. The chair shall assign applicants for hearings to the panels and may sit as chair or designate an attorney to sit as acting chair in his or her place.

For those applicants whose applications reflect conduct or information warranting further inquiry, but not necessarily warranting a formal hearing, the chair and the director of admissions may conduct an informal interview in an attempt to counsel an applicant or to resolve a matter informally. If the matter is not resolved to the satisfaction of the chair, a formal hearing may be held.

4. The committee on functional equivalency is a subcommittee of the board of bar examiners, and shall have all those powers and duties delegated under the supreme court rules to **[the board of governors and]** the board of bar examiners relating to the conduct of investigations and hearings and the submission of reports and recommendations to the board of bar examiners and the supreme court respecting those petitioners seeking certification pursuant to Rule 51.5. The committee on functional equivalency shall be composed of seven members who are active members of the state bar. Four of the members shall be appointed by the supreme court, and three members shall be appointed by the board of governors. The supreme court shall appoint one of the members to chair the committee.

5. The terms of the members of the board of bar examiners and its subcommittees shall be staggered. Each member shall be appointed for a term of three years; however, **[no attorney may serve on the board of bar examiners for more than a lifetime total of nine years, and]** no member of the board of governors shall serve simultaneously on the board of bar examiners or on one of its subcommittees. The immediate past chair of the board of bar examiners serves as an ex officio member of the board for one year following expiration of his or her tenure as chair. There is no limit on the number of terms an attorney may serve on the board of bar examiners or one of its subcommittees.

6. The board of **[governors may delegate to the board of]** bar examiners has the power:

(a) To interview and examine applicants, determine their qualifications for admission to practice, recommend to the supreme court for admission applicants who fulfill requirements, and recommend to the supreme court the rejection of those who fail to meet requirements.

(b) To recommend directly to the supreme court changes in qualifications for admission. The board of bar examiners, however, shall consult with the board of governors before any recommendation is presented to the court.

7. The board of governors shall appoint a director of admissions, and as many assistants as are necessary to administer the admissions process and bar examination. The appointment of the admissions director shall be made only after consultation with the board of bar examiners. The admissions director shall have the responsibility to administer the bar examination, to carry out all the specific duties of the admissions director as hereinafter provided in these rules and shall serve as secretary to the board of bar examiners.

8. The board of bar examiners, the clerk of the supreme court and the admissions director shall, as approved by the supreme court, jointly define, adopt and publish specific administrative policies, procedures and guidelines consistent with these rules:

(a) To ensure timely and efficient admissions to the bar, accurate, fair and confidential administration of the bar examination and the reporting of the bar examination results to the supreme court.

(b) To inform applicants in a timely and accurate manner of all requirements pertaining to applications for and admission to practice and all

pertinent procedures relating to the administration, processing and grading of the bar examination.

(c) The provisions of these Rules shall prevail over any conflicting provisions in the administrative policies, procedures and guidelines.

EXHIBIT B
AMENDMENT TO ADDENDUM 1 TO THE
NEVADA SUPREME COURT RULES

**Addendum 1. Policies and Procedures of the Board of Bar
Examiners and the Moral Character and Fitness Committee**

I. BOARD OF BAR EXAMINERS

* * *

2. Composition. [As of October 1996, the board of bar examiners (board) was composed of thirteen active members of the state bar. In accordance with S.C.R. 49(2), amended November 1996, beginning with 1997, the board was granted a reduction in its membership, through attrition, until such time that the board is composed of a number of active members of the State Bar of Nevada that is equivalent to the number of essay questions offered on the annual bar examination, plus one member appointed as chair.] In accordance with S.C.R. 49(2), the board of bar examiners is comprised of eleven members and the immediate past chair as an ex officio member. A majority of the members are appointed by the supreme court (court), and a minority of the members by the board of governors. The chair is appointed by the court.

In addition to the members of the board, board members may hire as many qualified graders as the chair deems necessary to assist the board in the writing and grading of the essay examination. Said graders are to be paid in accordance with a schedule set by the chair and approved by the board of governors.

The board also maintains two subcommittees—the Committee on Moral Character and Fitness and the Functional Equivalency Committee.

A. **The Committee on Moral Character and Fitness (C & F Committee).** The C & F Committee was originally created by court order dated September 29, 1993, as a subcommittee of the board, and was formally codified in S.C.R. 49(3) in November 1996. The committee is composed of nine members who are active members of the State Bar of Nevada as well as up to four lay members who are professionals with expertise in fields that are germane to the determination of the character and fitness issues presented to the C & F Committee. Five attorney members are appointed by the court, and four attorney members by the board of governors. **[Four]** The lay members are appointed by the board of governors. The chair is selected by the court from the attorney members.

B. **The Committee on Functional Equivalency (Equivalency Committee).** Also by court order filed September 29, 1993, the court created the Equivalency Committee, a second subcommittee of the board, also formally codified in S.C.R. 49(3) in November 1996. The committee is composed of seven members who are active members of the State Bar of Nevada. Four of the members are appointed by the court, and three members are appointed by the board of governors. The chair is selected by the court from the appointed members.

3. **Tenure.** Members of the board and its subcommittees are appointed for a fixed term of three years, **[and are eligible for reappointment for a lifetime total of nine years.]** The immediate past chair of the board of bar examiners serves as an ex officio member of the board for one year following expiration of his or her tenure as chair. There is no limit on the number of terms an attorney may serve on the board of bar

examiners or one of its subcommittees. Graders hired by the board are to be appointed for a period of time not to exceed the term of the board member to whom the grader is assigned. Members are appointed for staggered terms to ensure continuity of policy, but with sufficient rotation in the personnel of the board and its subcommittees to bring new views and to ensure continuing interest in their work.

4. Responsibilities and Powers of the Board. The board has all those powers and duties delegated in the Supreme Court Rules to the **[board of governors and to the]** board of bar examiners relating to the application, screening and testing procedures for all persons seeking admission to the bar.

A. The C & F Committee. The C & F Committee has those powers and duties delegated in the Supreme Court Rules to the board of **[governors and the board]** bar examiners relating to the conduct of investigations and hearings, and the submission of reports and recommendations to the court respecting those applicants seeking admission to the bar.

B. The Equivalency Committee. The Equivalency Committee has all those powers and duties delegated under the Supreme Court Rules to **[the board of governors and]** the board of bar examiners relating to the conduct of investigations and hearings, and the submission of reports and recommendations to the board of bar examiners and the court respecting those prospective applicants seeking certification pursuant to S.C.R. 51.5.

5. Conflicts of Interest. A member of the board or one of its subcommittees should not have adverse interests, conflicting duties or inconsistent obligations that will in any way interfere or appear to interfere

with the proper administration of the examiner's functions. A member should not participate directly or indirectly in courses for the preparation of applicants for bar admission. The conduct of a member should be such that there may be no question that the member's judgment may be swayed by improper considerations. Members of the board are precluded from simultaneously serving on the board and on the board of governors.

EXHIBIT C
AMENDMENT TO ADDENDUM 2 TO THE
NEVADA SUPREME COURT RULES

**Addendum 2. Policies and Procedures of the Functional
Equivalency Committee**

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2. **Terms of Office.** The terms of the members of the committee shall be three years[; **provided however, that no attorney may serve on the committee for more than a lifetime total of nine years**]. There is no limit on the number of terms an attorney may serve on the committee.

3. **Responsibilities and Powers of the Committee.** The committee shall have all those powers and duties delegated under the Nevada Supreme Court Rules to **[the board of governors and]** the board of bar examiners relating to the conduct of investigations and hearings, and the submission of reports and recommendations to the board of bar examiners and the court respecting those petitioners seeking certification in accordance with S.C.R. 51.5.

A. **Chair.** The chair will be selected by the supreme court from the committee members and is responsible for ensuring that petitions for certification of the qualifications set forth in S.C.R. 51.5 are processed in accordance with the Supreme Court Rules and the policies and procedures of the committee as set forth herein.

B. **Vice-Chair.** The vice-chair is to be appointed by the committee and shall take on the duties and responsibilities of the chair in his/her absence.