

FILED

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**DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS**

IN THE SUPREME COURT OF THE STATE OF KANSAS

ORDER

2020-RL-003

RULES RELATING TO ADMISSION OF ATTORNEYS

The attached Supreme Court Rules 701 through 723 are hereby amended, effective the date of this order.

Dated this 24th day of January 2020.

FOR THE COURT:


MARLA LUCKERT
Chief Justice

RULES RELATING TO ADMISSION OF ATTORNEYS

Rule 701

KANSAS BOARD OF LAW EXAMINERS

- (a) The Supreme Court shall appoint a board consisting of ten members to be known as the Kansas Board of Law Examiners (hereinafter referred to as the Board).

Effective July 1, 2012, the terms of existing Board members will be vacated and each will be assigned a term between one and five years. At the conclusion of that term, any member who has not yet served ten years on the Board may be appointed to one additional five-year term.

At the expiration of the terms of existing members, the term of each succeeding member of the Board shall be five years. The Supreme Court will appoint a new member to fill a vacancy on the Board occurring during a term. A new member appointed to fill a vacancy serves the unexpired term of the previous member. No member may serve more than two consecutive five-year terms, except that a member initially appointed to serve an unexpired term may serve two consecutive five-year terms thereafter.

- (b) The Supreme Court shall designate one member as chairman and another as vice chairman. ~~The Clerk of the Appellate Courts shall serve as secretary but shall not be a member of the Board.~~
- (c) The Board shall act only with the concurrence of a majority of those present and eligible to vote. Seven members shall constitute a quorum.
- (d) No individual member of the Board shall communicate with applicants regarding completion of applications for admission or character and fitness investigations. Neither the Board nor any member thereof shall conduct post-examination interviews with applicants pertaining to questions asked on the written examination or answers given, grading procedures, or an applicant's performance.
- (e) The Board may employ or otherwise obtain the services of other persons to assist in carrying out its duties herein. Compensation for any person so employed shall be that agreed upon between such person and the Board, subject to prior approval of the Supreme Court.
- (f) Each member of the Board shall receive, as compensation for his or her services, an amount set by order of the Supreme Court. All compensation due under this rule shall be paid monthly or in such other manner as shall be provided by law. In addition, each

member of the Board shall be paid all actual and necessary expenses incurred in the performance of services.

- (g) All compensation and expenses of the Board shall be paid out of the bar admission fee fund.
- (h) The Board may adopt such rules and procedures not inconsistent with these rules, which it shall deem necessary to facilitate the performance of its duties.

Rule 701A

ADMISSIONS ATTORNEY

- (a) The ~~D~~isciplinary ~~A~~administrator shall appoint an attorney on the ~~D~~isciplinary ~~A~~administrator's staff to serve as the Admissions Attorney for the Board.
- (b) The duties of the Admissions Attorney include:
 - (1) conducting character and fitness investigations of all applicants for admissions to the Kansas bar;
 - (2) approving an application when the applicant meets character and fitness qualifications under Rule 707;
 - (3) referring to the Review Committee applications that present character and fitness issues; and
 - (4) prosecuting hearings before the Board when recommended by the Review Committee.

Rule 701B

ADMISSIONS REVIEW COMMITTEE

- (a) The Supreme Court shall appoint an Admissions Review Committee (Review Committee) consisting of three active attorneys in good standing and engaged in the practice of law in Kansas who are not members of the Board. The Supreme Court shall designate one member as chair.
- (b) The initial terms for each of the three members shall be for one, two, or three years. Subsequent terms shall be for three years, except an appointment to fill an unexpired

term. The Supreme Court shall appoint a new member to fill a vacancy occurring during a term. No member may serve more than three consecutive three-year terms, except that a member whose initial term is less than three years may serve three consecutive three-year terms thereafter. Temporary appointments may be made by the Supreme Court for a particular application if a Review Committee member has a conflict or for a period of time if a Review Committee member is unable to act.

- (c) The Review Committee shall meet on call of the Admissions Attorney who shall designate the time, date, and place of the meeting. Meetings may be conducted by telephone conference.
- (d) Individual members of the Review Committee may review written materials, interview bar applicants referred by the Admissions Attorney, and report to the full committee. The Review Committee may approve an applicant or request additional investigation or materials from the Admissions Attorney or an applicant. On a finding of probable cause that an applicant has failed to meet the applicant's burden to establish by clear and convincing evidence the requisite character and fitness qualifications under Rule 707, the Review Committee shall refer the applicant to the Board for a hearing, subject to Rule 721(f). The Review Committee shall take final action only on a majority vote of the members.
- (e) The chair shall maintain records reflecting each action of the Review Committee and shall distribute copies of the records to members of the Review Committee, the Admissions Attorney, and the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration.
- (f) The Review Committee may employ or otherwise obtain the services of other persons to assist in carrying out its duties herein. Compensation for any person so employed shall be that agreed upon between such person and the Review Committee, subject to prior approval of the Supreme Court.
- (g) Each member of the Review Committee shall be paid all actual and necessary expenses incurred in the performance of services. All expenses of the Review Committee shall be paid out of the bar admission fee fund.

Rule 702

CONFIDENTIALITY

- (a) The Board and the Review Committee shall maintain such records as are generated in the course of accepting and processing applications for admission to the bar and results of

taking the bar examination. The following records, and no others, shall be maintained as public records:

- (1) With respect to application for admission to the bar, the name, address, and educational achievement of each applicant.
- (2) With respect to each written examination required for admission to the bar:
 - (i) The names and addresses of persons who passed the examination and have met all the requirements for admission to the bar.
 - (ii) Such statistical summaries as may be specifically authorized by the Supreme Court.
- (b) Except as otherwise specifically provided herein, all other information provided by or obtained with respect to an applicant, including examination results, shall be deemed confidential and privileged communications, and as such shall not be released to any person or agency.
- (c) Notwithstanding the foregoing restrictions, applications and other information required incident to an application for admission to the bar may be released to:
 - (1) the National Conference of Bar Examiners and to the bar admissions authority of any United States jurisdiction where the applicant has applied for admission to the practice of law, provided the applicant shall have made written request for such release and the receiving authority has agreed not to give the information to the applicant;
 - (2) the Attorney General of Kansas, the ~~e~~Office of the Disciplinary Administrator, the Review Committee, and the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration, for purposes of investigations and hearings as to moral and educational qualifications, for disciplinary purposes, or for administrations of bar examinations; and
 - (3) such other parties and in such instances as shall be provided by order of the Supreme Court.

Rule 703

IMMUNITY

- (a) Applications for admission, reports, decisions, Board proceedings, and documents obtained, or testimony received in the course thereof pursuant to these Rules shall be deemed to be made in the course of judicial proceedings. The ~~o~~Office of the Disciplinary Administrator, Review Committee members, and Board members shall be entitled to all rights, privileges and immunities afforded public officials in the performance of their duties; and the ~~office~~Office of the Disciplinary Administrator, Review Committee members, Board members, and other participants shall be entitled to the immunity afforded public officials in actions filed in the courts of this state, whether in providing testimony in such actions, or as parties thereto with respect to the performance of their duties or the testimony rendered.
- (b) Any person who communicates information concerning a person applying for admission to the bar to any member of the Review Committee or the Board or to any attorney, employee or agent of the Board, or to any employee of the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration, or to any investigator acting on behalf of the Review Committee or the Board is immune from all civil liability that, except for this rule, might result from any such communication. The grant of immunity provided by this rule applies only to those communications made by such person as a part or for the purpose of the investigation of character and fitness.

Rule 704

APPLICATION FEES

- (a) Each applicant shall pay application processing fees for each of the following, which fees may not be waived and shall not be refunded, except as provided in section (d) below:
- (1) Legal intern under Rule 719: \$50.
 - (2) Temporary permit to practice law under Rule 710: \$100.
 - (3) Admission to the bar upon written examination under Rule 709: \$700.
 - (4) Admission to the bar by transfer of Uniform Bar Examination score under Rule 709A: \$1250.
 - (5) Admission to the bar without written examination under Rule 708: \$1250.

- (6) Restricted license to practice law under Rule 712: \$1250.
 - (7) Temporary Restricted license to practice law under Rule 712A: \$1250.
 - (8) Reapplication for an individual whose application to take the bar examination has been previously denied for failure to establish good moral character or mental and emotional fitness: \$1250.
- (b) The amount of the fee for each of the foregoing categories shall be that established by order of the Supreme Court and may be changed from time to time. Applicants shall be advised as to the amount of the fees then applicable upon inquiry to the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration.
 - (c) Applicant fees shall constitute a fund to be known as the bar admission fee fund. Disbursements for compensation and expenses in connection with the duties of the Review Committee or the Board shall be from this fund. By order of the Supreme Court any unused balance in the bar admission fee fund may be applied to such appropriate usage as shall be determined by the Supreme Court.
 - (d) Any applicant who is unable to take a bar examination due to active military service may receive a refund of the application processing fee, on request.

Rule 705

ELIGIBILITY

- (a) The practice of law is a licensed privilege, not a right, and the burden of establishing eligibility for licensure by clear and convincing evidence shall rest upon the applicant.
- (b) In order for an applicant to establish eligibility to sit for the bar examination in the State of Kansas, the applicant must comply with the educational requirements and prove that the applicant possesses the requisite good moral character and current mental and emotional fitness to engage in the active and continuous practice of law.

Rule 706

EDUCATIONAL QUALIFICATIONS FOR ADMISSION TO THE BAR

- (a) Each applicant seeking admission to the bar of Kansas shall satisfy the Board that he or she:

- (1) has been granted and holds a baccalaureate degree based upon a full course of study in a college, university or other institution of higher learning accredited by a regional accreditation body recognized by the United States Department of Education; and
 - (2) has been granted and holds a Juris Doctor degree or Bachelor of Laws degree from a law school approved by the American Bar Association at the time of the applicant's graduation.
- (b) If regional accreditation is not available, the standard for determining the sufficiency of undergraduate degrees earned or of the courses leading thereto shall be that recognized by the University of Kansas.
 - (c) Proof that an applicant has been granted and holds the requisite degrees shall be provided to the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration by certified copies of transcripts issued by the registrar or equivalent officer of each institution granting such degrees and shall be mailed directly by said issuing authority to the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration. Official transcripts must be received by the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration no later than January 15 for the February examination and June 15 for the July examination.
 - (d) The Board may allow to sit for the bar examination, on a conditional basis, an applicant who presents to the Board a certification from the law school attended that the applicant is currently enrolled in a course of study which, if satisfactorily completed, will result in graduation within thirty days following administration of the bar examination. Failure to provide an official transcript establishing law school graduation within thirty days following the administration of the bar examination will result in the bar examination scores being voided.

Rule 707

CHARACTER AND FITNESS QUALIFICATIONS FOR ADMISSION TO THE BAR

- (a) Before an applicant shall receive a license to practice law pursuant to Rules 708, 709, 709A, 712, or 712A or a temporary permit pursuant to Rule 710, the applicant must establish by clear and convincing evidence that the applicant possesses the requisite good moral character and current mental and emotional fitness to engage in the active and continuous practice of law.
- (b) Good moral character includes, but is not limited to, the qualities of honesty, fairness, responsibility, trustworthiness, integrity, respect for and obedience to the laws of the state and nation, and respect for the rights of others and for the judicial process.

- (c) In determining whether an applicant possesses good moral character, the ~~office~~Office of the Disciplinary Administrator, the Review Committee, and the Board shall consider evidence of the following:
- (1) unlawful conduct;
 - (2) academic misconduct;
 - (3) misconduct in employment;
 - (4) acts involving dishonesty, fraud, deceit, or misrepresentation;
 - (5) acts which demonstrate disregard for the rights or welfare of others;
 - (6) abuse of legal process, including the filing of vexatious or frivolous lawsuits;
 - (7) neglect of financial responsibilities;
 - (8) violation of a court order, including child support orders;
 - (9) the making of false or misleading statements or omission of relevant information, including any false or misleading statement or omission on law school or bar applications in this state or any jurisdiction;
 - (10) denial of admission to the bar in another jurisdiction on character grounds;
 - (11) disciplinary action by any professional disciplinary agency of any jurisdiction;
 - (12) any other conduct which reflects adversely on the character of the applicant.
- (d) Current mental and emotional fitness to engage in the active and continuous practice of law involves an assessment of conduct that affects the applicant's competence to practice law and carry out duties to clients, courts, and the profession. An applicant may be of good moral character but unable to discharge his or her duties as an attorney as evidenced by conduct arising from a mental or emotional illness or condition.
- (e) In determining whether an applicant is currently mentally and emotionally fit to engage in the active and continuous practice of law, the ~~office~~Office of the Disciplinary Administrator, the Review Committee, and the Board shall consider:
- (1) evidence of conduct that exhibits mental or emotional instability that may impair the applicant's ability to practice law; and

- (2) evidence of drug or alcohol dependency or abuse or other addictive behaviors that may impair the applicant's ability to practice law.
- (f) In determining whether an applicant possesses good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the ~~office~~Office of the Disciplinary Administrator, the Review Committee, and the Board shall also consider:
- (1) the applicant's age at the time of the conduct;
 - (2) the recency of the conduct;
 - (3) the reliability of the information concerning the conduct;
 - (4) the seriousness of the conduct;
 - (5) the factors underlying the conduct;
 - (6) the cumulative effect of the conduct or information;
 - (7) evidence of rehabilitation;
 - (8) the applicant's social contributions since the conduct;
 - (9) candor in the admissions process; and
 - (10) materiality of any omissions or misrepresentations.

Rule 708

ADMISSION TO THE BAR WITHOUT WRITTEN EXAMINATION

- (a) Any applicant for admission to the bar of Kansas who was duly admitted to the practice of law upon written examination by the highest court of another state or in the District of Columbia may be admitted to practice in this state without written examination, upon showing that the applicant:
- (1) has an active license in at least one jurisdiction that permits mutuality of admission without examination for members of the Kansas bar;
 - (2) has never failed a written Kansas bar examination;

- (3) presently meets the requirements of Rules 706 and 707 to take the Kansas bar examination;
- (4) has never received professional discipline of suspension, disbarment, or loss of license in any other jurisdiction;
- (5) is not currently the subject of a pending disciplinary investigation in any other jurisdiction;
- (6) is a person of good moral character and mentally and emotionally fit to engage in the active and continuous practice of law; and
- (7) has been lawfully engaged in the active practice of law outside the State of Kansas, or in Kansas under Rule 712 or 712A, for five of the seven years immediately preceding the date of his or her application. For purposes of this rule, the "active practice of law" shall include the following activities:
 - (i) Representation of one or more clients in the practice of law;
 - (ii) Service as a lawyer with a local, state or federal agency, including military service, with the primary duties of furnishing legal counsel, drafting legal documents and pleadings, interpreting and giving advice regarding the law or preparing, trying or presenting cases before courts, departments of government or administrative agencies;
 - (iii) Service as corporate counsel with the same primary duties as described in subsection (7)(ii) above;
 - (iv) Employment as a teacher of law at a law school approved by the American Bar Association throughout the applicant's employment;
 - (v) Service as a judge in a federal, state or local court, provided that such employment is available only to licensed attorneys;
 - (vi) Service as a judicial law clerk; or
 - (vii) Any combination of the above.
- (8) has not previously engaged in the unauthorized practice of law in Kansas or any other jurisdiction.

Applicants shall furnish such proof of practice as may be required by the Board of Law Examiners.

- (b) Each applicant to the bar without written examination shall pay an application fee as provided in Rule 704 and shall ~~file~~ submit in duplicate on forms approved by the Supreme Court and procured from the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration:
- (1) a verified application for admission,
 - (2) such other and further information as the ~~office~~ Office of the Disciplinary Administrator, the Review Committee, or the Board may require in the consideration of his or her application, and
 - (3) a designation of the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration for service of process.
- (c) The provisions of Rule 721 apply to applicants under this rule.
- (d) When the Board recommends denial of an application under this rule without hearing, its recommendation shall be submitted to the Supreme Court and a copy thereof shall be ~~filed submitted with to~~ the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration, ~~who shall which will thereupon~~ mail or otherwise furnish a copy to the applicant. The applicant may, within twenty days of service thereof, ~~file submit with to~~ the ~~Clerk~~ Office of Judicial Administration exceptions to the Board's recommendation. The Board shall ~~file submit~~ a response to any such exceptions within twenty days following service of the exceptions. The Supreme Court will then make a final determination based upon the record, exceptions and response, if any, and enter its final order, subject to the provisions of Rule 722(g) and (h).
- (e) When an application under this rule is granted by the Supreme Court, the applicant shall take an oath pursuant to Rule 720. The ~~Clerk~~ judicial administrator shall thereafter issue the applicant a certificate of authority to practice law in this State.

Rule 709

ADMISSION TO THE BAR UPON WRITTEN EXAMINATION

- (a) The Board shall conduct written bar examinations on the last Tuesday and Wednesday in February and the last Tuesday and Wednesday in July.

- (b) Only those applicants whose applications have been considered and approved by the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board will be permitted to take the bar examination.
- (c) Each applicant for admission to the bar upon written examination shall ~~file~~ submit a completed application for admission to be received in the ~~Office of the Clerk of the Appellate Courts~~ Office of Judicial Administration on or before October 1 (for the February examination) and on or before March 1 (for the July examination) on forms approved by the Court and procured from the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration. The completed application shall consist of:
- (1) a verified application for admission;
 - (2) not less than three affidavits, on forms to be supplied by the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration, from responsible persons attesting that the applicant is a person of good moral character, or such other evidence of character as shall be satisfactory to the Board; and
 - (3) any other and further information as the Board then or thereafter may require for its consideration of the application.
- (d) Any applicant who wishes to ~~file~~ submit a completed application for admission after the filing deadline, but on or before November 1 (for the February examination) and on or before April 1 (for the July examination), shall pay a late penalty fee in the amount of \$200 in addition to the application fee.
- (e) Notwithstanding the deadlines set out above, any applicant who is unsuccessful on the February Kansas Bar Examination will be given 30 days from the date of the letter announcing results to make reapplication for the following July examination without imposition of a late penalty fee. Reapplication for the following July examination will not be accepted after that 30-day period.
- (f) Any application returned to the applicant due to deficiencies, pursuant to Rule 713, will not be considered as timely ~~filed~~ submitted.
- (g) Any application received after November 1 (for the February examination) and April 1 (for the July examination) shall be considered as an application for the next ensuing bar examination.
- (h) If the applicant does not take the examination for which application is made, the original application shall remain valid for the next ensuing examination; however, the applicant must, by the filing deadline, ~~file~~ submit an updated application or an affidavit verifying that the application on file remains current. The current application fee and late penalty

fee, if applicable, shall be paid on or before the filing date. If the failure of an applicant to take the bar examination for which application is made is the result of delay attendant to investigation of the applicant's fitness and/or character, the need for a hearing thereon, or actions of the ~~office~~Office of the Disciplinary Administrator, the Review Committee, the Board, or the Supreme Court, the period for taking the examination and the viability of the application fee shall be extended for such additional time as shall be determined by the Board.

- (i) An applicant who is retaking the examination shall ~~file~~ submit a completed application with the current application fee and late penalty fee, if applicable, on or before the filing date.
- (j) Upon the filing of an application, the name and address of the applicant shall be posted in a conspicuous place in the ~~office of the Clerk of the Appellate Courts~~ Office of Judicial Administration for not less than forty-five days prior to the date of the bar examination.
- (k) The Board shall conduct examinations of applicants for admission to the bar as to their learning in the law and educational qualifications for admission to the practice of law. The Board shall test applicants by administering the Uniform Bar Examination prepared by the National Conference of Bar Examiners which consists of six Multistate Essay Examination questions; two Multistate Performance Test questions; and the Multistate Bar Examination.
- (l) At every bar examination each applicant may be required to provide evidence of identification satisfactory to the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration. Each applicant shall place his or her name on the form furnished by the ~~Clerk~~ Office of Judicial Administration and deposit it in a sealed envelope with the ~~Clerk~~ Office of Judicial Administration. When the applicant shall have finished the examination, he or she shall mark it with his or her examination number only, as directed by the Board. Any other mark of identification placed upon the examination paper shall disqualify it, and the Board may refuse to read or consider it.
- (m) In lieu of taking the Multistate Bar Examination portion of the first Kansas bar examination taken by the applicant, the Board may, if requested by the applicant, accept any Multistate Bar Examination score achieved in another jurisdiction in a concurrent examination or in a prior examination conducted within thirteen months of the current examination, provided the applicant successfully passed the entire bar examination in the other jurisdiction in one sitting and achieved a minimum scaled score of 125 on the Multistate Bar Examination. An applicant desiring to use the Multistate Bar Examination score from a concurrent bar examination in another state will not be eligible for admission to the practice of law in Kansas until it is shown that the applicant successfully passed the entire bar examination of the other state in one sitting, regardless of the score obtained on the Multistate Essay Examination and the Multistate Performance Test

portions of the Kansas examination. Applicants transferring a Multistate Bar Examination score to Kansas will not receive a Uniform Bar Examination score. In the event the applicant fails the bar examination in the other jurisdiction, the Multistate Bar Examination score may not be used in Kansas in the current or any succeeding examination. If the applicant fails the Kansas examination, the Multistate Bar Examination score so transferred may not be used in any succeeding Kansas Bar Examination. All applicants shall notify the Clerk Office of Judicial Administration of their intention to use Multistate Bar Examination scores achieved in another jurisdiction at the time their application is ~~filed~~ submitted. It shall be the responsibility of the applicant to cause his or her Multistate Bar Examination scores to be certified to the Clerk Office of Judicial Administration by the National Conference of Bar Examiners or by the appropriate bar examination authority where the prior Multistate Bar Examination was taken. The Clerk Office of Judicial Administration shall adopt such procedures as are necessary to report such scores to the Board without divulging the identity of the applicant to the Board members.

- (n) To be eligible to sit for the Uniform Bar Examination in Kansas, an applicant must:
- (1) complete the Multistate Professional Responsibility Examination;
 - (2) request the official score to be reported to the Clerk of the Appellate Courts Office of Judicial Administration; and
 - (3) receive a passing score as determined by the Board.

An official score report must be sent by the National Conference of Bar Examiners and received by the Clerk of the Appellate Courts Office of Judicial Administration no later than January 15 for the February examination and June 15 for the July examination.

- (o) As soon as practicable after the completion of a bar examination, the Board shall ~~file~~ submit a report ~~with to~~ the Clerk of the Appellate Courts Office of Judicial Administration recommending granting or denying admission of the applicant. When such report recommends granting admission, unless some reason appears to the contrary, the Supreme Court will make an order admitting the applicant to practice in all the courts of the state, which order shall become effective upon taking an oath pursuant to Rule 720.
- (p) When the Board recommends denying admission by reason of an applicant's failure to make a satisfactory grade on the bar examination, its report shall be final and shall be ~~filed submitted with to~~ the Clerk of the Appellate Courts Office of Judicial Administration.
- (q) An applicant who has failed the examination four times shall no longer be eligible to apply for admission.

- (r) Any applicant whose admission is denied because of failure to make a satisfactory grade on the bar examination shall have the right to receive a copy of his or her Multistate Essay Examination and Multistate Performance Test papers if such request is made in writing no later than the ninetieth day after the mailing by the ~~Clerk~~ Office of Judicial Administration of the notice of denial of admission. Because of the need for confidentiality to protect the integrity of the examination, no review or inspection of questions asked or answers given on the Multistate Bar Examination is permitted. No examination papers of an applicant who successfully passes the examination shall be retained beyond the administration date of the next succeeding examination.

Rule 709A

ADMISSION TO THE BAR BY UNIFORM BAR EXAMINATION SCORE

- (a) Any applicant for admission to the bar of Kansas who has taken the Uniform Bar Examination (UBE) in another jurisdiction may be admitted to practice in this state by acceptance of a UBE score, upon showing that the applicant:
- (1) has achieved a minimum UBE score of 266 on a 400 point scale from an examination that occurred within 36 months of the date the application for admission to the bar of Kansas is ~~filed~~ submitted;
 - (2) has requested transfer of the score from the jurisdiction where the score was achieved or from the National Conference of Bar Examiners directly to the Kansas Board of Law Examiners;
 - (3) has never failed a written Kansas bar examination;
 - (4) presently meets the requirements of Rules 706 and 707 to take the Kansas bar examination;
 - (5) has never received professional discipline of suspension, disbarment, or loss of license in any other jurisdiction;
 - (6) is not currently the subject of a pending disciplinary investigation in any other jurisdiction;
 - (7) is a person of good moral character and mentally and emotionally fit to engage in the active and continuous practice of law; and

- (8) has not previously engaged in the unauthorized practice of law in Kansas or any other jurisdiction.
- (b) Each applicant to the bar by transfer of UBE score shall pay an application fee as provided in Rule 704 and shall ~~file~~ submit in duplicate on forms approved by the Supreme Court and procured from the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration:
- (1) a verified application for admission and
 - (2) such other and further information as the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board may require in the consideration of his or her application.
- (c) An applicant may ~~file~~ submit a verified application for admission under this rule any time after the applicant has ~~filed~~ submitted an application to sit for the next administration of the UBE in another UBE jurisdiction.
- (d) To be eligible to ~~file~~ submit a verified application for admission to the bar of Kansas, an applicant must:
- (1) request the official Multistate Professional Responsibility Exam score report from the National Conference of Bar Examiners to be reported to the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration; and
 - (2) receive a passing score as determined by the Board.
- (e) The provisions of Rules 715, 716, 717, 718 and 721 apply to applicants under this rule.
- (f) Any application returned to the applicant due to deficiencies, pursuant to Rule 713, will not be considered as timely ~~filed~~ submitted.
- (g) When an application under this rule has been considered and approved by the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board, the applicant after providing proof of education as required in Rule 706, shall take an oath pursuant to Rule 720. The ~~Clerk~~ judicial administrator shall thereafter issue the applicant a certificate of authority to practice law in this State.

Rule 710

TEMPORARY PERMIT TO PRACTICE

- (a) **Application for Temporary Permit to Practice.** An applicant for admission to the bar may ~~file submit with to~~ the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration an application for a temporary permit to practice law if the applicant has:
- (1) satisfied the educational requirements;
 - (2) achieved the required Kansas score on the Multistate Professional Responsibility Examination; and
 - (3) met the character and fitness requirements under Rule 707 and been certified by the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board, under Rule 721.
- (b) **Certificate from the Supervising Attorney.** The application must include a written certificate from an attorney in good standing who is actively engaged in the practice of law in Kansas that such attorney will supervise and be responsible for the acts of the applicant during the period covered by the temporary permit.
- (c) **Issuing a Temporary Permit to Practice.** If the Supreme Court shall find that the circumstances are such to justify it, a temporary permit may be issued.
- (d) **Effective Date of a Temporary Permit to Practice.** The temporary permit shall be effective upon the applicant's taking an oath to support the Constitution of the United States and the Constitution of the State of Kansas, in conformity with the oath prescribed by Rule 720.
- (e) **Expiration of Temporary Permit to Practice.**
- (1) For applicants seeking admission to the bar upon written examination, the temporary permit will expire on the date the results of the examination are announced, if unsuccessful, or, if successful, on the last Friday in April or September following the bar examination. If the applicant withdraws the application, the temporary permit expires on the date the application is withdrawn. If the applicant does not take the bar examination, the temporary permit expires on the first day of administration of the bar examination. If the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board re-opens the investigation into the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous

practice of law, the temporary permit is revoked on the date the applicant is informed that the investigation has been re-opened.

- (2) For applicants seeking admission to the bar by Uniform Bar Examination score, the temporary permit will expire at the time the applicant takes the oath and signs the roll of attorneys or 90 days after the applicant's UBE score is released, whichever date is earlier. If the applicant withdraws the application, the temporary permit expires on the date the application is withdrawn. If the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board re-opens the investigation into the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the temporary permit is revoked on the date the applicant is informed that the investigation has been re-opened.
 - (3) For applicants seeking admission to the bar by Uniform Bar Examination score who have not yet taken the UBE in another jurisdiction, the applicants must, within 7 days of official notification of the Uniform Bar Examination score, request that the National Conference of Bar Examiners transfer the Uniform Bar Examination score to ~~attorney admissions~~ the Office of Judicial Administration. Failure to timely report a minimum passing score on the Uniform Bar Examination will result in expiration of the temporary permit to practice.
 - (4) For applicants seeking admission to the bar without written examination, the temporary permit will expire at the time the applicant takes the oath and signs the roll of attorneys or 90 days after issuance. If the applicant withdraws the application, the temporary permit expires on the date the application is withdrawn. If the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board re-opens the investigation into the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the temporary permit is revoked on the date the applicant is informed that the investigation has been re-opened.
- (f) **Eligibility to Receive a Temporary Permit to Practice.** An applicant who, within 10 years prior to filing an application in Kansas, has failed a bar examination in Kansas or any other state or jurisdiction will not thereafter be eligible for a temporary permit.

Rule 711

NON-STANDARD TESTING ACCOMMODATIONS

- (a) The bar examination shall be administered by the Board to all eligible applicants in a manner that is fair.

- (b) Applicants needing non-standard testing accommodations on the examination shall ~~file~~ submit a non-standard testing application and all supporting documentation ~~with~~ to the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration by November 1 for the February examination and April 1 for the July examination.
- (c) The Board may, upon favorable review of the non-standard testing application, modify the manner in which the examination is administered to an applicant while maintaining the security and integrity of the examination.

Rule 712

RESTRICTED LICENSURE OF ATTORNEYS PERFORMING LEGAL SERVICES FOR SINGLE EMPLOYERS

- (a) Any applicant for admission to the Bar of Kansas who was duly admitted to and continuously licensed for the practice of law upon written examination by the highest Court of another state's judicial system or that of the District of Columbia, and who has accepted or intends to accept or continue employment by a person, firm, association, corporation, or accredited law school engaged in business in Kansas other than the practice of law, and whose full time is, or will be, limited to the business of such employer, and who receives, or will receive, his or her entire compensation from such employer for the rendering of services, which include legal services, may be granted a restricted license to practice law in Kansas and the courts of this state, without examination, upon showing that the applicant:
 - (1) has ~~filed~~ submitted a completed application pursuant to subsection (b) of this rule within ninety (90) days of the beginning of employment;
 - (2) would be fully qualified to take the written bar examination in Kansas under the Rules of the Supreme Court;
 - (3) has satisfied any applicable continuing legal education requirements specified by the rules of the jurisdictions in which the applicant has been admitted prior to making application in Kansas;
 - (4) is now and has been a person of good moral character, is currently mentally and emotionally fit to engage in the active and continuous practice of law, and in all respects is a proper person to be granted a restricted license to practice law in this state; and
 - (5) has never failed a Kansas bar examination.

- (b) Subsequent to filing the completed application and pending issuance of the restricted license, an applicant may engage in the business of his or her employer, including legal services, if an attorney actively engaged in the practice of law in Kansas agrees, in writing, to supervise and be responsible for the acts of the applicant during that interim period. A restricted license granted under the provisions of this rule shall remain in effect for so long as such person remains in the employ of, and devotes his or her full time to the business of, and receives compensation for legal services from no source other than such employer. Upon the termination of such employment, the right of such person to practice law in Kansas shall terminate unless he or she shall have accepted like employment with another Kansas employer. Persons granted a restricted license under this rule shall be subject to all of the rules for practice in this state, including the requirements for continuing legal education.
- (c) Each applicant for a restricted license under this rule shall ~~file~~ submit in duplicate on forms approved by the Court and procured from the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration:
- (1) a verified application for admission;
 - (2) a written certificate from the authority charged with the administration of discipline in each jurisdiction in which the applicant holds a license to practice law, certifying that the applicant is in good standing, has not been disciplined by such jurisdiction for violations of the Code of Professional Responsibility, Kansas Rules of Professional Conduct or any other ethical standards therein applicable, and that there are no complaints of such violations then pending against the applicant;
 - (3) where required by the rules of such jurisdictions, a written certificate from the authority charged with the administration of continuing legal education in the jurisdictions in which the applicant has been admitted to practice, certifying that the applicant has satisfied the continuing legal education requirements of such jurisdictions for any required years prior to making application in Kansas;
 - (4) a written certificate from the employer of such applicant evidencing the applicant's employment by such employer and that his or her full-time employment will be by such employer in Kansas; and
 - (5) not less than three affidavits, on forms to be supplied by the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration, from responsible persons attesting that the applicant is a person of good moral character, or such other evidence of character as shall be satisfactory to the ~~office~~ Office of the Disciplinary Administrator, the Review Committee, or the Board; and

- (6) such other and further information as the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board may require in the consideration of the application.
- (d) The provisions of Rules 706, 707, and 721 apply to applicants under this rule.
- (e) When the Board recommends denial of an application under this rule, its recommendation shall be submitted to the Supreme Court and a copy thereof shall be ~~filed submitted with to the Clerk of the Appellate Courts~~ Office of Judicial Administration, ~~who which shall thereupon will~~ mail or otherwise furnish a copy to the applicant. The applicant may, within twenty days of service thereof, ~~file submit to with the Clerk~~ Office of Judicial Administration exceptions to the Board's recommendation. The Board shall ~~file submit~~ a response to any such exceptions within twenty days following service of the exceptions. The Supreme Court will then make a final determination based upon the record, exceptions and response, if any, and enter its final order, subject to the provisions of Rule 722(g) and (h).
- (f) When an application under this rule is granted by the Supreme Court, the applicant shall take an oath pursuant to Rule 720. The ~~Clerk~~ judicial administrator shall thereafter issue the applicant a restricted license to practice law in this State. The restricted license shall recite that it is issued under this rule and shall limit the licensee to perform only legal services for the employer's business. Such restricted license shall expire upon (i) termination of the applicant's employment by his full-time employer, or (ii) admission of the applicant to practice in Kansas under the terms of Rule 708, 709, 709A or, if the applicant shall fail the bar examination, on the date the results of the examination are announced.
- (g) Time in practice under a restricted license issued pursuant to this rule may not be used to satisfy requirements of any statute or regulation of the State of Kansas.
- (h) Any applicant for admission under this rule who withdraws or fails to pursue his or her application within one year of the date of filing thereof, shall thereafter be required to ~~file submit~~ a new application and pay the same fee required for the initial application. However, if the failure of an applicant to pursue said application during such period is the result of delay attendant to investigation of the applicant's fitness and/or character, the need for a hearing thereon, or actions of the ~~office~~Office of the Disciplinary Administrator, the Review Committee, the Board, or the Supreme Court, such period shall be extended for such additional time as shall be determined by the Board.
- (i) An attorney licensed under this rule is authorized to practice as provided in Rule 712B.

Rule 712A

TEMPORARY RESTRICTED ADMISSION TO THE BAR FOR ATTORNEY SPOUSES OF ACTIVE UNITED STATES MILITARY SERVICE MEMBERS

- (a) An applicant for admission to the Kansas bar who is currently married to a military service member stationed in Kansas and has been duly admitted to the practice of law upon written examination by the highest court of another state or in the District of Columbia may be admitted to practice in Kansas without written examination upon showing that the applicant:
- (1) has an active license in at least one United States jurisdiction or territory;
 - (2) currently meets the requirements of Rules 706 and 707 to take the Kansas bar examination;
 - (3) has never been suspended, disbarred, or otherwise lost or surrendered a license to practice law as a result of disciplinary action in any other jurisdiction;
 - (4) is not the subject of a pending disciplinary investigation in any other jurisdiction;
 - (5) is a person of good moral character and mentally and emotionally fit to engage in the active and continuous practice of law;
 - (6) is residing in Kansas as a spouse of a member of the United States Uniformed Services currently stationed in Kansas;
 - (7) will be employed as an attorney in Kansas by or with an active attorney in good standing in Kansas who will have ultimate responsibility for clients; and
 - (8) has not previously engaged in the unauthorized practice of law in Kansas or any other jurisdiction.
- (b) An applicant to the bar by temporary restricted admission must pay an application fee under Rule 704 and must ~~file~~ submit in duplicate on forms approved by the Supreme Court and procured from the ~~clerk of the appellate courts~~ Office of Judicial Administration:
- (1) a verified application for admission;
 - (2) any further information requested by the ~~office~~ Office of the ~~d~~ Disciplinary ~~a~~ Administrator, the review committee, or the Board for use in consideration of the application;

- (3) a form completed by the applicant designating the ~~clerk of the appellate courts~~ Office of Judicial Administration for service of process; and
- (4) a written certificate signed by the attorney referenced in (a)(7) evidencing that the attorney:
 - (A) is in good standing in Kansas;
 - (B) is engaged in the active practice of law;
 - (C) is the applicant's employer or is employed by or with the same employer as the applicant; and
 - (D) agrees to have ultimate responsibility for clients.
- (c) The provisions of Rules 714, 715, 716, 717, 718 and 721 apply to applicants under this rule.
- (d) When the Board recommends denial of an application under this rule, the recommendation will be submitted to the Supreme Court and a copy of the recommendation must be ~~filed~~ submitted with to the ~~clerk of the appellate courts~~ Office of Judicial Administration, ~~who~~ which must mail or otherwise furnish a copy to the applicant. The applicant may, no later than twenty days after service of the Board's recommendation, ~~file~~ submit with to the ~~clerk of the appellate courts~~ Office of Judicial Administration exceptions to the recommendation. The Board must ~~file~~ submit a response to any exceptions no later than twenty days after service of the exceptions. The Supreme Court will then make a final determination based upon the record, exceptions, and response, if any, and enter its final order, subject to the provisions of Rule 722(g) and (h).
- (e) When an application under this rule is granted by the Supreme Court, the applicant must take the oath pursuant to Rule 720. The ~~clerk of the appellate courts~~ judicial administrator must thereafter issue the applicant a certificate of authority to practice in Kansas.
- (f) All of the rules for practice in this state, including the requirements for continuing legal education, apply to a person granted a temporary restricted license under this rule.
- (g) A temporary restricted license granted under this rule remains in effect for so long as the licensee: remains married to a member of the United States Uniformed Services; the service member remains stationed at a military installation in Kansas; the licensee resides in Kansas; and the licensee remains employed as an attorney by or with an active Kansas attorney in good standing who has ultimate responsibility for clients. If the employment required under this rule is terminated, the right of the licensee to practice law in Kansas

terminates unless the licensee has accepted employment qualified under subsection (a)(7) and provides written documentation of that acceptance of employment to the ~~clerk of the appellate courts~~ Office of Judicial Administration.

Rule 712B

PRO BONO OR LOW-COST LEGAL SERVICES PROVIDED BY RETIRED, INACTIVE, OR SINGLE-EMPLOYER ATTORNEYS

(a) **Definitions.** For purposes of this rule:

- (1) "Accredited law school clinic" means a clinic established by an accredited law school whose primary mission is to provide pro bono or low-cost legal services to low-income Kansas residents or not-for-profit entities.
- (2) "Not-for-profit provider of legal services" means an organization whose primary mission is to provide pro bono or low-cost legal services to low-income Kansas residents or not-for-profit entities.
- (3) "Pro bono or low-cost legal services" means civil, criminal, and administrative legal advice or representation provided free of charge or at a low cost.

(b) **Applicability.** This rule applies to:

- (1) An attorney who is registered under Rule 208 as retired or inactive or admitted under Rule 712 and who seeks to provide pro bono or low-cost legal services through a not-for-profit provider of legal services or an accredited law school clinic.
- (2) A not-for-profit provider of legal services or an accredited law school clinic that seeks to have an attorney who is registered under Rule 208 as retired or inactive or admitted under Rule 712 provide pro bono or low-cost legal services.

(c) **Attorneys.** An attorney to whom this rule applies:

- (1) must be in good standing in Kansas and in other jurisdictions where licensed to practice law;
- (2) must have no docketed complaint pending before the Kansas Board for Discipline of Attorneys and the Kansas Supreme Court, and no disciplinary complaint pending in any other jurisdiction;

- (3) is subject to the jurisdiction of the Supreme Court for disciplinary purposes under Rule 201 et seq.;
- (4) may provide only pro bono or low-cost legal services under this rule;
- (5) may not ask for or receive personal compensation for any pro bono or low-cost legal services provided under this rule, except for reimbursement of costs and expenses as described in subsection (g); and
- (6) must be authorized to provide pro bono or low-cost legal services under subsection (e).

(d) **Application for Approval of Provider or Clinic.**

- (1) **Form.** A not-for-profit provider of legal services or an accredited law school clinic seeking approval under this rule must submit an application available from the Office of Judicial Administration that requires the following information:
 - (A) the primary mission of the provider or clinic;
 - (B) the fee structure of the provider or clinic;
 - (C) the sources of funds received by the provider or clinic during the last fiscal year and the percentage of total funds from each source;
 - (D) the criteria to be used to determine a potential client's eligibility for pro bono or low-cost legal services;
 - (E) the type of pro bono or low-cost legal services to be provided;
 - (F) a certification that an active Kansas licensed attorney will supervise and be responsible for the acts of any attorney providing pro bono or low-cost legal services under this rule;
 - (G) a certification that the provider or clinic has professional liability insurance that covers an attorney providing pro bono or low-cost legal services; and
 - (H) a certification that any low-income Kansas resident or not-for-profit entity who receives pro bono or low-cost legal services under this rule will receive those services free of charge or at a low cost.
- (2) **Process.** After submission of an application under paragraph (1):

- (A) The Office of Judicial Administration will review and may verify the contents of the application. If the application is incomplete, the Office of Judicial Administration will request additional information. If the application is complete, the Office of Judicial Administration will present the application to the Supreme Court.
 - (B) The Supreme Court will approve or deny the application.
- (3) **Amendments to Application.** If information submitted under paragraph (1) changes, the provider or clinic must give written notice of the change to the Office of Judicial Administration no later than 14 days after the change occurs. No later than 30 days after the notice is given, the provider or clinic must submit a new application.
- (e) **Application for Authorization for Attorney.** Before an attorney may provide pro bono or low-cost legal services under this rule, a not-for-profit provider of legal services or an accredited law school clinic must receive authorization for the attorney.
- (1) **Form.** A provider or clinic seeking authorization for an attorney under this rule must submit an affidavit from the attorney on a form available from the Office of Judicial Administration that affirms the attorney:
 - (A) is in good standing in Kansas and in other jurisdictions where licensed to practice law;
 - (B) has no docketed complaint pending before the Kansas Board for Discipline of Attorneys and the Kansas Supreme Court, and no disciplinary complaint pending in any other jurisdiction;
 - (C) is subject to the jurisdiction of the Supreme Court for disciplinary purposes under Rule 201 et seq.;
 - (D) may provide only pro bono or low-cost legal services under this rule;
 - (E) may not ask for or receive personal compensation for any pro bono or low-cost legal services provided under this rule, except for reimbursement of costs and expenses as described in subsection (g); and
 - (F) authorizes the Office of Judicial Administration to verify the contents of the affidavit.
 - (2) **Process.** After submission of an application under paragraph (1):

- (A) The Office of Judicial Administration will review and may verify the contents of the application. If the application is incomplete, the Office of Judicial Administration will request additional information. If the application is complete, the Office of Judicial Administration will present the application to the Supreme Court.
 - (B) The Supreme Court will approve or deny the application.
- (3) **Amendments to Application.** If information under paragraph (1) changes, the provider or clinic must give written notice of the change to the Office of Judicial Administration no later than 14 days after the change occurs. No later than 30 days after the notice is given, the provider or clinic must submit a new application.
- (f) **Continuing Legal Education.** A retired or inactive attorney providing pro bono or low-cost legal services under this rule is exempt from the requirements of Rule 803.
- (g) **Fees, Costs, and Expenses.** An attorney who provides pro bono or low-cost legal services under this rule may not receive compensation from the not-for-profit provider of legal services or accredited law school clinic or any client of the provider or clinic, except for reimbursement of costs and expenses. This prohibition does not prevent the attorney from seeking costs and expenses from an opposing party on behalf of the provider or clinic.
- (h) **Renewal.** No later than June 1 of each year, a not-for-profit provider of legal services or an accredited law school clinic approved by the Supreme Court under this rule must submit an application for renewal available from the Office of Judicial Administration. The approval period is a period of one year from July 1 through June 30.
- (1) **Application for Renewal.** The application must include:
- (A) a statement that the provider or clinic remains in compliance with this rule;
 - (B) a list of the names of all attorneys providing pro bono or low-cost legal services under this rule for the provider or clinic;
 - (C) a general summary of the types of pro bono or low-cost legal services provided under this rule;
 - (D) the total number of hours of pro bono or low-cost legal services provided by the provider or clinic under this rule; and

- (E) for each attorney authorized to provide pro bono or low-cost legal services for the provider or clinic under this rule either:
 - (i) an affidavit that the information contained in the attorney's application for authorization remains accurate, or
 - (ii) a new application for authorization under subsection (e).
- (2) **Process.** After submission of an application for renewal under paragraph (1):
 - (A) The Office of Judicial Administration will review and may verify the contents of the application. If the application is incomplete, the Office of Judicial Administration will request additional information. If the application is complete, the Office of Judicial Administration will present the application to the Supreme Court.
 - (B) The Supreme Court will approve or deny the application.
- (i) **Termination of Authorization.**
 - (1) **Grounds.** An attorney's authorization to provide pro bono or low-cost legal services under this rule terminates if the attorney:
 - (A) accepts personal compensation for pro bono or low-cost legal services provided under this rule, except as provided for in subsection (g);
 - (B) ceases to provide pro bono or low-cost legal services under this rule with the not-for-profit provider of legal services or accredited law school clinic;
 - (C) is disciplined in Kansas under Rule 203(a) or another jurisdiction for professional misconduct;
 - (D) registers as disabled due to mental or physical disability under Rule 208;
 - (E) is transferred to disability inactive status under Rule 220; or
 - (F) engages in any other conduct that adversely reflects on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.
 - (2) **Notice.** No later than 14 days after the provider or clinic becomes aware that an attorney's authorization to provide pro bono or low-cost legal services has terminated under paragraph (1), the provider or clinic must give written notice to

the Supreme Court on a form available from the Office of Judicial Administration.

- (j) **Filing User.** Attorneys authorized under this rule are considered filing users under Rule 122 for the limited purpose of providing pro bono or low-cost legal services.
- (k) **Previously Approved Providers and Clinics.** A not-for-profit provider of legal services or accredited law school clinic previously approved by the Supreme Court under Rule 208 must comply with this rule no later than 45 days after its effective date.

Rule 713

DEFECTIVE APPLICATIONS

Applications for admission to the bar of the State of Kansas initially ~~filed~~ submitted in a defective condition, e.g., without notarization, without supporting documents, or having blank or incomplete items, shall not be accepted and shall be returned to the applicant. An application which is not accompanied by the applicable fee will be returned.

Rule 714

ACCURACY AND HONESTY IN COMPLETING BAR APPLICATIONS

- (a) Each applicant for admission to the bar has a duty to be candid and to respond carefully and accurately to questions in all phases of the application and admission process. Each applicant must respond fully to all inquiries.
- (b) Failure to accurately and completely answer all questions on the application, failure to disclose requested information, lack of candor in any answer or falsification of any answer may result in denial of an application for admission to practice law in Kansas and may constitute grounds for revocation of the license to practice law granted to any person based thereon.

Rule 715

EFFECT OF COMMISSION OF FELONY CRIME

- (a) Any person who, as an adult or juvenile, has been found guilty by plea or by trial of any felony crime, whether sentence was imposed or not, or who participated in a pretrial diversion or similar program for a felony crime is not eligible to apply for admission to

the bar of the State of Kansas until five years after the date of successful completion of any sentence, period of probation or parole, or term of pretrial diversion. A felony crime includes any crime which is punishable by incarceration for more than one year or any crime which is designated as a felony by the State of Kansas, the United States of America, any state, or any United States territory.

- (b) Any person who, as an adult or juvenile, has been found guilty, by plea or by trial of any felony crime, or who has participated in a pretrial diversion or similar program for a felony crime, shall show affirmatively, in addition to the other requirements of the application, that:
 - (1) Any sentence, period of probation, or term of pre-trial diversion was completed at least five years prior to the date of the application;
 - (2) The circumstances which led to the commission of the offense have changed;
 - (3) Full restitution has been paid;
 - (4) All special conditions imposed have been fulfilled;
 - (5) The applicant's civil rights have been restored; and
 - (6) The applicant meets all qualifications for character and fitness pursuant to Rule 707.

Rule 716

EFFECT OF PENDING CRIMINAL ACTION

- (a) Any person who is charged in any criminal action is not eligible to apply for admission to the bar of the State of Kansas until after the charge is dismissed or after the date of successful completion of any sentence, period of probation or parole, or term of pretrial diversion, subject to the provisions of Rule 715.
- (b) Any person who is charged in a criminal action after applying for admission to the bar of the State of Kansas but before such person has taken the bar examination is not eligible to sit for the examination until after the dismissal of the charge or after the date of successful completion of any sentence, period of probation or parole, or term of pretrial diversion, subject to the provisions of Rule 715.
- (c) Any person who is charged in a criminal action after sitting for the bar examination but before becoming a member of the bar is not eligible to become a member of the bar until

after the dismissal of the charge or after the date of successful completion of any sentence, period of probation or parole, or term of pretrial diversion, subject to the provisions of Rule 715.

Rule 717

EFFECT OF DISCIPLINARY COMPLAINT IN ANOTHER JURISDICTION

- (a) Any person having an attorney disciplinary complaint pending before the licensing authority of any other jurisdiction is not eligible to apply for admission to the bar of the State of Kansas while such complaint is pending.
- (b) Any person who has been suspended or disbarred from the practice of law by the licensing authority of any other jurisdiction is not eligible to apply for admission to the bar of the State of Kansas until such time as the person has been fully reinstated in the other jurisdiction.
- (c) The underlying facts of an attorney disciplinary complaint in another jurisdiction may be considered by the ~~office~~Office of the Disciplinary Administrator, the Review Committee, or the Board in determining whether the person possesses the requisite good moral character and current mental and emotional fitness to engage in the active and continuous practice of law.

Rule 718

SUBSTANCE-ABUSE AND/OR PSYCHOLOGICAL REFERRALS AND EVALUATIONS

- (a) The ~~o~~Office of the Disciplinary Administrator, the Review Committee, or the Board may refer an applicant to the Kansas ~~Impaired~~-Lawyers Assistance Program if recommended by a qualified professional.
- (b) The ~~o~~Office of the Disciplinary Administrator, the Review Committee, or the Board may require an applicant to submit to a substance-abuse evaluation by a qualified professional of that entity's choosing.
- (c) The ~~o~~Office of the Disciplinary Administrator, the Review Committee, or the Board may require an applicant to submit to a psychological evaluation by a qualified professional of that entity's choosing.

- (d) The expense of an evaluation ordered by the Office of the Disciplinary Administrator, the Review Committee, or the Board shall be paid out of the bar admission fee fund.

Rule 719

LEGAL INTERN PERMIT

- (a) **Purpose.** The bench and bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. This rule provides a law student the opportunity to gain practical skills in a supervised environment by assisting a licensed attorney in providing competent legal services for all persons and entities, including those unable to pay for these services. Law schools are encouraged to provide clinical instruction for legal interns.
- (b) **Supervising Attorney Fully Responsible.** A legal intern with a legal intern permit may practice law only under the supervision of a licensed attorney. A supervising attorney must meet all of the requirements under subsection (d) and is fully responsible for all of the legal intern's activities performed under the attorney's supervision.
- (c) **Application for a Legal Intern Permit.** A law student wishing to obtain a legal intern permit must submit an application to the ~~clerk of the appellate courts~~ Office of Judicial Administration and:
- (1) be a student enrolled at a law school approved by the American Bar Association;
 - (2) have successfully completed, or be concurrently enrolled in, the professional responsibility course required by the law school's curriculum;
 - (3) have completed:
 - (A) at least 59 hours of legal studies; or
 - (B) at least 44 hours of legal studies, if the intern's work will be supervised by a licensed Kansas attorney who is regularly engaged in the teaching of law at a law school approved by the American Bar Association and whose duties include participation in a legal clinic operated as a regular part of the law school's educational program;
 - (4) submit to the ~~clerk of the appellate courts~~ Office of Judicial Administration certification by the dean of the law school where the intern is enrolled, or the dean's designee, that the student meets the required number of hours under (c)(3)

and is of good character, competent legal ability, and adequately trained to perform as a legal intern;

- (5) pay the fee required under Rule 704;
 - (6) submit to the ~~clerk of the appellate courts~~ Office of Judicial Administration certification that the intern has read and will abide by the rules relating to discipline of attorneys and subscribe to an oath to support the United States and Kansas Constitutions and faithfully perform the duties of a legal intern;
 - (7) secure a qualified supervising attorney under subsection (d); and
 - (8) provide an expected date of graduation.
- (d) **Supervising Attorney.** A legal intern must be supervised by a supervising attorney.
- (1) To qualify as a supervising attorney, an attorney must:
 - (A) be a Kansas attorney in good standing;
 - (B) not have received professional discipline of probation, suspension, disbarment, or loss of license;
 - (C) be regularly engaged in the practice of law in Kansas;
 - (D) provide written consent to the ~~clerk of the appellate courts~~ Office of Judicial Administration that includes the following:
 - (i) a statement that the supervising attorney is professionally responsible for guiding the legal intern's work and for supervising the quality of the intern's work; and
 - (ii) the dates the supervision of the intern begins and ends, which may extend no later than the intern's date of graduation.
 - (E) train and assist the legal intern to the extent necessary to assure proper performance of the duties entrusted to the intern; and
 - (F) immediately submit written notice to the ~~clerk of the appellate courts~~ Office of Judicial Administration and the intern when supervision of the intern ends or is terminated for any reason, at which time the intern's permit is considered inactive until a new supervising attorney provides

written consent under (d)(1)(D) and the permit is transferred under subsection (f).

- (2) The supervising attorney must not supervise more than two legal interns at the same time, but this limitation does not apply to the following:
 - (A) a full-time staff member of a state or local legal aid society;
 - (B) a county attorney, district attorney, municipal attorney, attorney general, or public defender; or
 - (C) a licensed Kansas attorney who is regularly engaged in the teaching of law at a law school approved by the American Bar Association and whose duties include participation in a legal clinic or field placement program operated as a regular part of the law school's educational program.
- (3) An intern may have more than one supervising attorney if each supervising attorney submits to the ~~clerk of the appellate courts~~ Office of Judicial Administration the written consent required under (d)(1)(D).

(e) **Permit Status.**

- (1) A legal intern permit terminates at the conclusion of the term of supervision stated in the consent provided under subsection (d)(1)(D)(ii), unless terminated early under this section. No permit will be valid after the date of the intern's graduation.
- (2) The law school dean, or the dean's designee, must immediately submit to the ~~clerk of the appellate courts~~ Office of Judicial Administration a notice of withdrawal of the certification provided under subsection (c)(4) if the intern:
 - (A) graduates earlier than provided in subsection (c)(8);
 - (B) withdraws from law school;
 - (C) fails to remain in good standing;
 - (D) engages in conduct that would prevent the law school from certifying the intern's character and fitness for any jurisdiction's board of bar examiners; or
 - (E) engages in conduct that demonstrates the intern is unfit for the duties and responsibilities of a legal intern.

- (3) If the law school dean, or the dean's designee, submits to the ~~clerk of the appellate courts~~ Office of Judicial Administration a notice of withdrawal of the certification provided under subsection (c)(4), the intern's permit is terminated immediately. The ~~clerk of the appellate courts~~ Office of Judicial Administration must send notice of the termination to the intern and the supervising attorney.
 - (4) The law school dean, or the dean's designee, need not provide the intern notice, a hearing, or any showing of cause prior to withdrawal of the certification provided under subsection (c)(4).
 - (5) When a supervising attorney provides notice to the ~~clerk of the appellate courts~~ Office of Judicial Administration that an intern's permit is terminated for any reason other than completion of the stated time period under subsection (d)(1)(D)(ii), the ~~clerk of the appellate courts~~ Office of Judicial Administration must send notice of the termination to the intern, the supervising attorney, and the law school dean.
 - (6) The Supreme Court may terminate a legal intern permit without notice, a hearing, or any showing of cause. The Supreme Court will submit notice of the termination to the ~~clerk of the appellate courts~~ Office of Judicial Administration. The ~~clerk of the appellate courts~~ Office of Judicial Administration must send notice of the termination to the intern, the supervising attorney, and the law school dean.
- (f) **Transfer of Permit.** If a legal intern obtains a new supervising attorney, the legal intern's permit may be transferred without submitting a new application or filing fee under subsection (c) as set forth below.
- (1) The new supervising attorney must provide the ~~clerk of the appellate courts~~ Office of Judicial Administration a written consent under subsection (d)(1)(D).
 - (2) Upon receipt of the new supervising attorney's consent, the ~~clerk~~ Office of Judicial Administration must provide notice to the legal intern that the permit has been transferred. A legal intern must not perform any service under this rule until receipt of the ~~clerk's~~ Office of Judicial Administration's notice that the permit has been transferred.
- (g) **Client's Written Consent.** Before a legal intern may represent a nongovernment client, the client must consent in writing to representation by the legal intern under the supervision of the supervising attorney. The client must specifically consent in writing to the legal intern appearing in court under subsection (i)(2) without a supervising attorney present.

(h) **Entry of Appearance.**

- (1) Subject to the requirements of this rule, a legal intern may appear in any court or before any administrative tribunal.
- (2) A supervising attorney admitted to practice in the court in which an intern is appearing must introduce the intern in the manner prescribed by the individual court.
- (3) An entry of appearance must be filed with the clerk of the court.
 - (A) In each case, the supervising attorney must:
 - (i) file with the clerk of the court an entry of appearance that states the intern's representation in the case; and
 - (ii) attach to the entry of appearance a copy of the client's written consent under subsection (g) that is countersigned by the supervising attorney.
 - (B) Notwithstanding paragraph (A), when the intern represents the government:
 - (i) the client's written consent is not required; and
 - (ii) the intern must file with the clerk of the court the type of notice required for appearance before the court.

(i) **In-Court Appearance.** A legal intern's appearance is subject to the following requirements.

- (1) The supervising attorney must be personally present for any in-court proceeding, except a proceeding under paragraph (2) ~~and~~ or (3).
- (2) With the client's consent under subsection (g), the supervising attorney's written consent, and the court's approval, a legal intern may appear in court without the personal presence of the supervising attorney in the following matters:
 - (A) a civil matter, other than a domestic matter, when the amount in controversy is less than \$1,000; and

- (B) a criminal matter when the intern is appearing on behalf of a defendant who does not have the right to counsel under any constitutional provision, statute, or court rule.
 - (3) With the supervising attorney's written consent and the court's approval, a legal intern may appear on behalf of the government in a criminal matter without the personal presence of the supervising attorney.
 - (4) A legal intern may not participate in oral argument in the Supreme Court or the Court of Appeals unless the court grants special permission after a motion is filed by the supervising attorney.
- (j) **Out-of-Court Practice.** A legal intern may perform any function of an attorney subject to the following guidelines.
- (1) With the supervising attorney's approval, a legal intern may engage in the out-of-court practice of law outside the personal presence of the supervising attorney.
 - (2) The supervising attorney must:
 - (A) sign all documents filed with a court or administrative body, unless the administrative body specifically allows intern-only signature; and
 - (B) approve any other legal document prepared on behalf of a client that affects the client's rights or interests.
- (k) **Compensation.** A client must not directly compensate a legal intern in any form. But an attorney, law firm, legal aid bureau, public defender agency, state, county, or municipality may:
- (1) compensate the legal intern and
 - (2) charge a client for the intern's services.
- (l) **Master of Law Student.** A student who is enrolled in a master of law program (LL.M.) at a law school approved by the American Bar Association and who has previously received a juris doctor degree from a law school approved by the American Bar Association is eligible to apply for a legal intern permit under this rule.
- (m) **Notice and Change of Contact Information.** When the ~~clerk of the appellate courts~~ Office of Judicial Administration is required by this rule to send notice to the legal intern, the ~~clerk~~ Office of Judicial Administration will send notice to the intern's address on file ~~in the clerk's office with the Office of Judicial Administration.~~ A legal intern must

immediately notify the ~~clerk of the appellate courts~~ Office of Judicial Administration after a change of legal name, residential address, or residential/personal telephone number if this information changes during the pendency of the legal intern permit.

Rule 720

OATH

- (a) Before becoming eligible to practice law in the State of Kansas, an applicant must take the following oath:

“You do solemnly swear or affirm that you will support and bear true allegiance to the Constitution of the United States and the Constitution of the State of Kansas; that you will neither delay nor deny the rights of any person through malice, for lucre, or from any unworthy desire; that you will not knowingly foster or promote, or give your assent to any fraudulent, groundless or unjust suit; that you will neither do, nor consent to the doing of any falsehood in court; and that you will discharge your duties as an attorney and counselor of the Supreme Court and all other courts of the State of Kansas with fidelity both to the Court and to your cause, and to the best of your knowledge and ability. So help you God.”

- (b) Unless otherwise permitted by the Supreme Court, an applicant shall take the oath of admission within one year after the date of the letter notifying an applicant that he or she has met the requirements under Rule 708, 709, 709A, 712, or 712A for admission to the Kansas Bar. Failure to take the oath in the prescribed period will result in revocation of the letter of licensure.
- (c) If the oath is administered by a judge of record in the United States or a United States territory, the applicant must also ~~file~~ submit a completed written oath on a form provided by the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration.
- (d) After taking the oath, an applicant shall sign his or her name upon the roll of attorneys of the Supreme Court, and the ~~Clerk of the Appellate Courts~~ judicial administrator shall ~~thereupon will~~ issue a certificate of such applicant’s authority to practice law in all courts of this state. For good cause shown, the ~~Clerk~~ judicial administrator may waive the personal signature of the applicant on the roll of attorneys, and the ~~Clerk~~ judicial administrator shall enter his or her name on the roll.

Rule 721

INVESTIGATION AND HEARING PROCEDURES

- (a) The Admissions Attorney shall review all applications; investigate matters that bear on the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law; direct applicants to submit to evaluations under Rule 718, if deemed necessary; and interview applicants, if deemed necessary.
- (b) The Office of the Disciplinary Administrator or the Review Committee may also call on any state or local bar association, or one or more members of the bar of the judicial district where the applicant resides, to make such investigation and report the results to the Office of the Disciplinary Administrator or the Review Committee.
- (c) Applicants are required to submit fingerprints for investigative purposes.
- (d) In no event will permission be granted to sit for the bar examination pursuant to Rule 709 or a license to practice law be issued pursuant to Rules 708, 709A, 712, or 712A until the investigation as to good moral character and current mental and emotional fitness to engage in the active and continuous practice of law has been satisfactorily completed.
- (e) Following the investigation, the Office of the Disciplinary Administrator shall approve and certify to the Board the names of those applicants who appear to be qualified for admission.
- (f) The applicants not certified by the Office of the Disciplinary Administrator shall be referred to the Review Committee. The Review Committee, or one of its members, may conduct additional investigation, including applicant interviews, if deemed necessary. If the Review Committee finds probable cause that an applicant has failed to meet the applicant's burden to establish by clear and convincing evidence the requisite character and fitness qualifications under Rule 707, the Review Committee may initiate remedial action on agreement with the applicant but shall refer the applicant to the Board for a formal hearing under Rule 721 if an agreement with the applicant cannot be reached.
- (g) The Chairman of the Board shall inform the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration that a hearing is to be scheduled. Thereafter, the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration shall inform the applicant of the date, time, and location of the hearing.
- (h) The applicant is entitled to retain counsel at any time. The applicant is also entitled to cross-examine witnesses and to present evidence at the hearing.

- (i) If an applicant who applied pursuant to Rule 709 is not allowed to take the bar examination for which the application was made due to an ongoing investigation into or because of a hearing regarding the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the application shall be considered for the bar examination following the completion of the investigation and/or the hearing.
- (j) During the investigation of the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the eOffice of the Disciplinary Administrator and the Review Committee may obtain information, take and hear testimony, administer oaths and affirmations, and, by subpoena issued at the request of either the eOffice of the Disciplinary Administrator or the Review Committee, compel the attendance of witnesses and the production of books, papers, and documents.
- (k) During the hearing on the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the Board may obtain information, take and hear testimony, administer oaths and affirmations, and, by subpoena issued at the request of either the applicant or the eOffice of the Disciplinary Administrator, compel the attendance of witnesses and the production of books, papers, and documents.
- (l) The eOffice of the Disciplinary Administrator shall ~~file~~ submit and serve a notice of hearing on the applicant not less than forty-five days prior to a formal hearing. The notice of hearing shall include factual allegations that generally inform the applicant of issues that appear to bear on the applicant's character and fitness. The notice must adequately inform the applicant of the nature of the evidence against the applicant, although the eOffice of the Disciplinary Administrator need not list every item and source of information to be presented at the hearing. A copy of the notice of hearing shall be served on the applicant. The original and fifteen copies of the notice of hearing shall be served on the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration, which ~~who~~ shall forward the notice of hearing to each member of the Board.
- (m) Within twenty days of service of the notice of hearing, the applicant shall ~~file~~ submit a response to the notice of hearing, admitting or denying each of the factual allegations contained in the notice of hearing. A copy of the response to the notice of hearing shall be served on the eOffice of the Disciplinary Administrator. The original and fifteen copies of the response to the notice of hearing shall be served on the ~~Clerk of the Appellate Courts~~ Office of Judicial Administration, which ~~who~~ shall forward the response to the notice of hearing to each member of the Board.
- (n) At the hearing, the applicant bears the burden of establishing, by clear and convincing evidence, that the applicant possesses the requisite good moral character and current mental and emotional fitness to engage in the active and continuous practice of law.

- (o) An applicant may not be required to testify or produce records over objection if to do so would be in violation of the applicant's constitutional privilege against self-incrimination.
- (p) A certified journal entry of conviction of an applicant for any crime shall be conclusive evidence of the commission of that crime. A diversion agreement or other similar document, for the purposes of any admissions proceeding, shall be deemed a conviction of the crimes originally charged.
- (q) A certified copy of a civil judgment based on clear and convincing evidence shall be conclusive evidence of the commission of that civil wrong.
- (r) All other civil judgments shall be prima facie evidence of the findings made therein and shall raise a presumption as to their validity. The burden shall be on the applicant to disprove the findings made in the civil judgment.
- (s) A final adjudication in another jurisdiction that an applicant has been guilty of misconduct in an attorney disciplinary proceeding shall establish conclusively the misconduct for purposes of an admissions proceeding in this state.
- (t) Anytime after an applicant is approved to sit for the written examination pursuant to Rule 709 or for licensure pursuant to Rules 708, 709A, 712, or 712A, but before the applicant receives a license to practice law in the State of Kansas, an investigation may be re-opened if additional information is received that bears on the applicant's good moral character or current mental and emotional fitness to engage in the active and continuous practice of law. In that event, the Board may hold a hearing pursuant to this rule.
- (u) If the Board has cause to believe that an applicant who applied pursuant to Rule 709 engaged in misconduct during the administration of the bar examination, the Board may re-open the investigation into the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law. In that event, the applicant's bar examination scores will not be released until the matter has been resolved. The Board may hold a hearing pursuant to this rule.
- (v) All hearings held before the Board shall be transcribed by a certified court reporter.
- (w) All investigations and hearings into an applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, and the records thereof, shall be confidential, and such records shall be subject to release only as provided in Rule 702. However, if the applicant requests the Board may hold any hearing, or any portion thereof, as an open hearing.

- (x) Following the hearing, the Board shall issue a written decision detailing its findings of fact, conclusions of law, and recommendation whether the applicant should be allowed to sit for the written examination or be approved for licensure pursuant to Rules 708, 709A, 712, or 712A. If the Board approves the applicant, the matter is concluded. If the Board does not recommend approval of the applicant, the matter shall be referred to the Supreme Court for review and decision.

Rule 722

PROCEEDINGS BEFORE THE SUPREME COURT FOLLOWING AN ADVERSE BOARD RULING

- (a) An original and ten copies of the Board's written decision following a character and fitness hearing shall be ~~filed submitted to with the Clerk of the Appellate Courts~~ Office of Judicial Administration, which who will shall mail a copy to the applicant.
- (b) Upon the filing of the written decision, the ~~Clerk~~ Office of Judicial Administration shall ~~forthwith~~ order a copy of the transcript of the hearing before the Board ~~that which~~ shall be mailed to the applicant; upon receipt in the ~~Clerk's Office~~ Office of Judicial Administration.
- (c) The applicant may, within twenty days of service of the transcript of the hearing, ~~file submit with~~to the ~~Clerk~~ Office of Judicial Administration exceptions to the written decision of the Board. Any part of the written decision which is not specifically excepted to shall be deemed admitted.
- (d) If exceptions are ~~filed submitted~~, the Board shall ~~file submit~~ a response to ~~with the Clerk~~ Office of Judicial Administration within twenty days after service of the exceptions.
- (e) If the applicant fails to ~~file submit~~ exceptions to the written decision of the Board within twenty days of service of the transcript on the applicant, the findings of fact and conclusions of law in the written decision shall be deemed submitted to the Supreme Court.
- (f) The notice of hearing, the response to the notice of hearing, the written decision of the Board, the applicant's exceptions and the Board's response, if any, the transcript of the hearing, and all other evidence admitted before the Board shall constitute the record before the Supreme Court.
- (g) The Board's factual findings will be accepted if a reasonable fact finder could have been persuaded that the factual finding was proved to be highly probable. The Supreme Court

shall make the final determination as to those persons who shall be admitted to practice law in the State of Kansas.

- (h) Oral argument will not be permitted. The Supreme Court will make a determination based upon the record before the Board and enter its final order.
- (i) Any applicant whose petition for admission to the practice of law in the State of Kansas is denied by the Supreme Court by reason of lack of good moral character or current mental and emotional fitness to engage in the active and continuous practice of law shall not be permitted to reapply in Kansas until three years shall have elapsed from the date the previous application was denied by the Court.
- (j) Any subsequent reapplication shall be heard by the Board, following a full investigation by the Office of the Disciplinary Administrator and consideration by the Review Committee. The applicant shall have the burden of establishing by clear and convincing evidence that the applicant possesses the requisite good moral character and current mental and emotional fitness to engage in the active and continuous practice of law. Additionally, the applicant shall have the burden of establishing by clear and convincing evidence that:
 - (1) The applicant has demonstrated consciousness and acknowledged the seriousness of any wrongful conduct to the extent that wrongful conduct gave rise to the denial of the previous application;
 - (2) The applicant has engaged in conduct since the denial of the previous application that ~~which~~ demonstrates that the applicant has been an active and productive citizen;
 - (3) The time elapsed since any misconduct, to the extent that wrongful conduct gave rise to the denial of the previous application, is sufficient;
 - (4) The applicant has not engaged in the unauthorized practice of law; and
 - (5) The applicant has received adequate treatment and rehabilitation and experienced a sustained period of rehabilitation from any substance abuse or mental or emotional illness or condition, to the extent that such conduct gave rise to the denial of the previous application.

Rule 723

ADDITIONAL RULES OF PROCEDURE

- (a) Except as otherwise provided in these Rules, time limitations are directory and not jurisdictional.
- (b) Except as otherwise provided, the Rules of Civil Procedure apply generally in admissions cases before the Board. The Board shall not be bound by the formal rules of evidence.
- (c) Any deviation from the rules and procedures set forth herein shall not be grounds for any relief absent a showing of actual prejudice. The burden of showing actual prejudice must be made by clear and convincing evidence.