



TENNESSEE BOARD OF LAW EXAMINERS

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May 21, 2020

Re: Impact of Pandemic on Tennessee Bar Exam

Dear Tennessee Attorney:

This letter updates you concerning the Tennessee bar exam. The COVID-19 pandemic has brought about many unavoidable changes, including how the July 2020 bar exam will be administered. Many states have suspended or postponed the July exam. Although in Tennessee we remain committed to administering the July bar exam, so that the exam may be administered as safely as possible it will have limited seating and cannot accommodate all applicants. For this reason, the Board of Law Examiners (BLE) has taken the unprecedented step of adding a third 2020 exam, in September, to accommodate those who registered to take the July exam but did not get a seat. In the meantime, please be aware that applicants may register to practice law immediately for up to 16 months under attorney supervision. See Tenn. Sup. Ct. R. 7, §§ 10.04 and 10.07. The BLE has worked hard to minimize the impact of these changes on new lawyers and law firms. For transparency, you are receiving this letter to explain why the changes are necessary, what the changes mean for exam applicants and their employers, and how you can work with your new associates in light of potential admission delays.

The Supreme Court and the BLE recognize the toll the ongoing pandemic is taking on lawyers, law firms and bar applicants, and are committed to administering a meaningful assessment to prospective Tennessee attorneys.

- The BLE administers the exam as part of its mission to protect the public by ensuring that applicants for admission meet minimum competency standards.
- To achieve its mission, the BLE administers a professional licensing exam in a secure testing environment that includes test items that can be “equated” to prior exams as a measure of standard competency.
- Equating is accomplished through the use of the Multistate Bar Exam.¹

¹ The Multistate Bar Exam, or “MBE,” a 200 question multiple choice test developed and graded by the National Conference of Bar Examiners, is statistically equated each exam period to prior MBE administrations to standardize the measure of competency. The MBE has been used as part of the bar exam in Tennessee for at least 30 years.

The ongoing public health crisis has resulted in state and local orders limiting the size of public gatherings and vendor services.

- The number of available seats for the July exam had to be reduced to comply with limited gathering requirements while continuing to provide applicants with a secure and valid exam score. The administration of the exam will comply with CDC and OSHA recommendations, with the goal being to protect the health of the test-takers.
- Implementing stringent public health and safety protocols related to registration, material handling, ingress/egress, and rest room usage combine to limit seating for the July exam.
- Limited seating required the adoption of seating priorities for the July exam. After carefully considering many options, the BLE decided to give first priority seating to 2019-2020 Tennessee law school graduates who are first-time exam takers.

The Tennessee Supreme Court and the BLE are committed to providing an opportunity for all July exam applicants to take the bar exam by the fall of 2020. Even though the BLE made best efforts to find as many available seats as possible for the July exam, it is probable that only first-time exam takers from Tennessee law schools will be seated for the July exam. To minimize the impact on applicants who are not in the first priority seating, the BLE for the first time will give another exam only two months after the July exam.

- An exam will be administered in Tennessee on September 30 and October 1, 2020.
- Both the July and September exams will result in a score that will be valid for admission in Tennessee and more than 30 other U.S. jurisdictions.
- Any applicant who cannot sit for the July exam due to limited seating can take the September 2020 or the February 2021 exam.
- Tennessee is one of only 6 states offering an extra exam in 2020.
- Grades for the exam given in September will be released on December 7, only 59 days after the July exam scores are released.

COVID-19 is a national public health emergency that requires a measured and thoughtful approach.

- No other professional licensing boards are modifying the way exams are delivered or the content of the exams. Other boards are postponing exams to undetermined dates.
- Some changes are unavoidable, as in limited seating for the July exam, but the effects of the change to the July exam have been minimized with the addition of the September exam and the extension of the time for supervised practice.

- It would neither be wise nor helpful to make wholesale changes to the exam due to this public health emergency. It is important for the applicants and the public that competency be properly measured through equating with previous exams.

Tennessee Supreme Court Rule 7 includes some of the most extensive practice pending admission provisions in the country. The Court previously extended the options for practice under supervision² and practice pending admission³ through November 15, 2021.

- Recent law school graduates who register to practice under supervision (Sec. 10.04) may engage in supervised practice for up to 16 months after graduation.
 - Services permitted under supervision of a Tennessee attorney and with consent of the client are broad. They include appearances in trial courts, courts of review and administrative tribunals; counseling clients; and preparation of legal documents.
- Applicants who are licensed and in good standing in another U.S. jurisdiction may register to practice pending admission.
 - The attorney-applicant must associate with a Tennessee attorney but need not be employed by the associated attorney and must provide notice to the Board of Professional Responsibility.
 - Once registered, the attorney-applicant may engage in the active practice of law in Tennessee for up to one year.
- The right to engage in supervised practice and practice pending admission has been extended for July 2020 exam applicants until November 15, 2021.
- New associates who have applied for admission in Tennessee can begin practicing under supervision after registering for practice under [Section 10.04](#).

We are all navigating new and difficult times in a rapidly changing landscape. Even with all of these changes, over 800 applicants will have the chance to take the Tennessee Bar exam, receive their grades, and be admitted to practice law before the end of 2020. And applicants need not wait until they are fully licensed to practice--your new associates can begin working today under the supervised practice provisions. For more information on the admission process and practice pending admission, please visit the Board website, https://www.tnble.org/?page_id=189.

TENNESSEE SUPREME COURT

BOARD OF LAW EXAMINERS

Attachment: Quick Guide to Practice Pending Admission

² Tennessee Supreme Court Rule 7, Section 10.04.

³ Tennessee Supreme Court Rule 7, Section 10.07.



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QUICK GUIDE TO PRACTICE PENDING ADMISSION IN TENNESSEE

Tennessee Supreme Court Rule 7 includes some of the most extensive practice pending admission provisions in the country. Many jurisdictions do not offer any type of practice pending admission while those that do tend to limit the practice to public service or pro bono work. In Tennessee, recent law school graduates and attorneys licensed in another state seeking admission in Tennessee may provide a broad range of services, both in the public and private sectors.

Recent law school graduates who have applied for admission in Tennessee may register to practice under supervision pursuant to Tenn. Sup. Ct. R. 7, Section 10.04.

- Services permitted under supervision of a Tennessee attorney and with consent of the client include, but are not limited to, appearances in trial courts, courts of review and administrative tribunals; counseling clients; and preparation of legal documents.
- The supervising attorney must be licensed and in good standing in Tennessee, have practiced a minimum of 3 years, and assume professional responsibility for the direct and immediate supervision for the professional work of the applicant.
- The Applicant cannot accept direct compensation from a client but can be a salaried employee if the salary is independent of compensation paid for representation.
- New associates who are recent law school graduates and who have applied for admission in Tennessee can begin practicing under supervision immediately after completing registration for practice under [Section 10.04](#).

Applicants who are licensed and in good standing in another U.S. jurisdiction who apply for admission in Tennessee may register to practice pending admission under Tenn. Sup. Ct. R. 7, Section 10.07.

- The attorney-applicant must have an active license, in good standing in at least one other U.S. jurisdiction and must associate with a lawyer who is admitted and in good standing in Tennessee.
- Within 30 days of establishing a presence for the practice of law in Tennessee, the attorney-applicant must notify the Board of Professional Responsibility in writing that the attorney has done so pursuant to Rule 7, Sec. 10.07.
- The attorney-applicant does not need to be employed by or working with the associated attorney and is not required to be supervised by the associated attorney.
- Once registered, the attorney-applicant may engage in the active practice of law in Tennessee under [Section 10.07](#).

The right to engage in supervised practice and practice pending admission has been extended for July 2020 exam applicants until November 15, 2021.

- Applicants who register for supervised practice under Rule 7, Sec. 10.04, who are not successful on the examination may re-register for supervised practice if they apply for re-examination within 10 days of grade release. Successful exam applicants may practice under supervision until admitted.