

FEBRUARY 2022 COVID-19 CODE OF CONDUCT, DECLARATION, RELEASE AND ASSUMPTION OF RISK

Preliminary Statement of the Board Amendment to February 2022 Application

On June 1, 2021, the National Conference of Bar Examiners (“NCBE”) announced that February 2022 Uniform Bar Exam (“UBE”) materials would be made available to jurisdictions for in-person testing only, unless public health restrictions prohibit such plans (“NCBE Announcement”). The Oregon State Board of Bar Examiners (“Board”) published the February 2022 Bar Examination Application (“February 2022 Bar Exam Application”) on October 1, 2021. Referencing the NCBE Announcement, the Board stated that it would administer an in-person bar examination on February 22 and 23, 2022 (“February 2022 Oregon UBE”).

The Board has worked with the Oregon State Bar, local venues, and the Oregon Health Authority to develop its February examination plan. It announced initial exam plan policies on November 17, 2021 relating to seating capacity, face masks, and social distancing. It also stated that all examinees must submit proof of being fully vaccinated or results from an approved test taken at an approved site showing the applicant is negative for COVID-19.

The Board’s exam plan intends to ensure that each applicant submitting a February 2022 Bar Exam Application (“February Applicant”) can earn a valid UBE score. The plan includes exam rules and procedures proven effective by prior in-person exam administrations, but modified to address projected February weather conditions, and adjustments required by the Oregon Health Authority’s guidance. The exam plan requires and includes sufficient flexibility to adapt to subsequent changes to conditions of the COVID-19 pandemic, and if applicable to the bar exam, the public health orders issued in response to such changes.

Conducting an exam during the COVID-19 pandemic requires all attendees at an exam site to comply with strictly enforced policies, procedures and exam rules (“Exam Rules”). Starting with the July 2020 in-person examination, and each subsequent remote or in-person examination, the Board has required that applicants execute a code of conduct wherein the applicant affirms that they will comply with all Exam Rules. The February 2022 Bar Exam Application required each February Applicant to execute a Declaration, Release and Authorization that indicated that the February Applicant would agree to sign and comply with a code of conduct established by the Board.

Pursuant to Rules for Admission (“RFA”) 4.05(1), 5.15(1)(b), and the affirmations contained in the Declaration, Release and Authorization of the February 2022 Bar Exam Application, the Board hereby amends the February 2022 Bar Exam Application, including those previously submitted to the Board to include the following requirement:

*Every February Applicant must fully execute the Code of Conduct, Declaration, Release and Assumption of Risk (“Code of Conduct”) provided by the Board, then scan it and upload it into the SmartSheet form located at the following link on or before **February 1, 2022**: [SmartSheet for Submission of Code of Conduct](#) . The Code of Conduct is a required addendum to the application. Any February Applicant who does not submit the required Code of Conduct by February 1, 2022, will have an incomplete application and, as a result, the application will be rejected and void by the Board. The non-compliant applicant will be entitled to a full credit of any monies paid to the Board for the February 2022 Oregon UBE, toward any fees owing for the July 2022 Oregon Bar Exam (if the applicant completes and submits an application for the July exam). If an applicant wishes to receive a partial-refund under Rules for Admission 4.10(1)(g) rather than a credit toward the July 2022 bar exam, the applicant must request the partial refund in writing (via email to admissions@osbar.org) no later than February 8, 2022.*

Execution and Submission Instructions for Compliance with Amended February 2022 Application

- A. Write or type your name in the blank space directly above Section 1 on page 3 of the Code of Conduct.
- B. Read and understand each section of the Code of Conduct and the consequences for non-compliance.
- C. After reading and understanding the Code of Conduct, sign and date the Code of Conduct on the line under Section 12.
- D. Fully executed means that the applicants has also reviewed, signed and dated the Release and Assumption of Risk (page 6 below). The Board will consider a Code of Conduct incomplete without a signed Release and Assumption of Risk, so make sure you read, understand, and sign this document as well.
- E. Scan all six pages of the signed Code of Conduct, making sure that your signature is verifiable on the scan, and save it as a PDF file. JPEG and other photo files will not be accepted.
- F. Click the SmartSheet link here [SmartSheet for Submission of Code of Conduct](#) . Fill out the SmartSheet form, making sure that you have provided accurate information in each answer box of the SmartSheet. Then drag the PDF version of the fully executed Code of Conduct into the drag and drop box located in the SmartSheet, and click the submit button at the bottom of the SmartSheet form.
- G. If you have difficulties or need additional help, contact admissions staff at admissions@osbar.org

**COVID-19 CODE OF CONDUCT DECLARATION AND
RELEASE OF INFORMATION FOR COVID-19 CONTACT TRACING**

I, _____ hereby affirm that:
(Applicant name)

- 1) I understand the Oregon State Bar (“OSB” or “Bar”) must take reasonable steps to provide a safe environment for the February 2022 Oregon UBE, including the establishment and enforcement of examination policies, procedures and rules (“Exam Rules”) requiring all examinees to either be fully vaccinated against COVID-19 or submit to COVID-19 testing. I confirm that I will be fully vaccinated (as defined below) and submit proof of such vaccination by presenting my original CDC vaccination card to my assigned proctor in the morning session on the first day of the exam. In the alternative I may submit one of the approved COVID-19 test (listed below), from an approved test site (defined below) taken no earlier than February 19, 2022, showing that I do not have COVID-19. I understand that different tests and test sites provide results at different times, and it is my responsibility to select a test and test site that will provide the results in time for the exam. If I fail to bring my CDC vaccination card or approved COVID-19 test results to the morning session on day one, or the documents I provide show that my vaccination or test results are out of date, then I agree that I will forfeit my seat for the February 2022 UBE, and I will be required to immediately leave the exam site. In such case, I agree to immediately leave the exam site without causing any disruption to the exam or distraction to staff, proctors, volunteers or other examinees. I understand that for this Section 1, the following terms apply:
 - a) The term “fully vaccinated” means that the person has taken all necessary injections for a COVID-19 vaccine to achieve its maximum efficacy; at least two-weeks before the first day of the bar exam, including any recommended booster shot. **Applicants who received their last vaccination on or before August 23, 2021 must receive a booster to sit for the exam, and the booster must have been received no later than February 8, 2022.**
 - b) The term “approved COVID-19 test” includes the following list of tests exclusively: Polymerase chain reaction (PCR); Reverse transcription polymerase chain reaction (RT-PCR); Nicking endonuclease amplification reaction (NEAR); Transcription mediated amplification (TMA); Loop-mediated isothermal amplification (LAMP); Helicase-dependent amplification (HDA); Clustered regularly interspaced short palindromic repeats (CRISPR); and Strand displacement amplification (SDA). The Board will accept no results from any other test.
 - c) The term “approved test site” means the approved COVID-19 test was administered in a laboratory or point-of-care setting. **Home tests will not be accepted in lieu of proof of vaccination.** Here is a link to find vaccination and valid testing sites: <https://govstatus.egov.com/or-oha-covid-19-testing>
- 2) Regardless of my vaccination status, I hereby agree that I will not attend the February 2022 Oregon UBE if I have any reason to believe I have COVID-19. For purposes of this declaration, an applicant has “reason to believe” the applicant has COVID-19 if:
 - a) On or after February 7, 2022, the applicant is exposed to an individual with a confirmed case of COVID-19, *unless the applicant is fully vaccinated by February 7, 2022*. If the applicant is fully vaccinated, the applicant does NOT have “reason to believe” they have COVID-19 unless they have one of the symptoms or tests identified in (b) and (c) below.
 - b) On or after February 11, 2022, the applicant has tested positive for COVID-19, unless the applicant received an approved COVID-19 test result on or after February 19, 2022 showing that the applicant is negative for COVID-19.
 - c) On or after February 11, 2022, the applicant has a symptom of COVID-19. The “symptoms of COVID-19” means symptoms of COVID-19 identified by the United States Center for Disease Control, including:

- i) Fever or chills,
- ii) Cough,
- iii) Shortness of breath or difficulty breathing,
- iv) Fatigue,
- v) Muscle or body aches,
- vi) Headache,
- vii) New loss of taste or smell,
- viii) Sore throat,
- ix) Congestion or runny nose,
- x) Nausea or vomiting; and
- xi) Diarrhea.

- 3) If I have reason to believe I have COVID-19, I acknowledge and agree I will not be seated at the February 2022 Oregon UBE. I will be offered the opportunity to accept a credit toward the July 2022 Oregon Bar Exam, or to withdraw from the exam and receive a partial refund pursuant to RFA 4.10(1)(g).
- 4) If I am exhibiting symptoms of COVID-19 during the February 2022 Oregon UBE, I agree OSB staff may immediately end my exam and I will be directed to immediately leave the exam site. If directed to leave, I agree to immediately leave the exam site without causing any disruption to the exam or distraction to staff, proctors, volunteers or other examinees.
- 5) I agree to wear an appropriate face covering during the entire time that I am at a February 2022 Oregon UBE testing site while the exam is in session, unless an exception applies. I agree that appropriate face covering means a cloth, polypropylene, paper, or other covering that covers the nose and the mouth and that rests snugly above the nose, below the mouth, and on the sides of the face. Coverings that incorporate a valve that is designed to facilitate easy exhalation or a vent; mesh masks, lace masks or other covers with openings, holes, visible gaps in the design or material; or face shields are not appropriate face coverings. I agree the only exceptions to wearing my face covering at all times while the exam is in session includes (a) if I am asked to remove my face covering at the request of Bar staff or a Bar Exam Proctor for identification purposes; (b) if I am located more than six (6) feet away from any other person and actively engaged in the act of eating or drinking; or (c) I am outside of any building included within the exam site. I understand that the term “while an exam is in session” means that period of time within one-hour prior to registration for any session and one-hour and 30-minutes after my exam room has been excused for the day. I understand that it is my responsibility to bring my own face covering to the exam site.
- 6) I understand and agree that I must sign, scan and upload a scanned copy of this Code of Conduct into the SmartSheet provided by the Board at [SmartSheet for Submission of Code of Conduct](#) on or before February 1, 2022 (“Filing Deadline”). I acknowledge and agree that should I fail to upload this signed Code of Conduct into the aforementioned SmartSheet on or before the Filing Deadline, that my February 2022 Application will be incomplete and automatically rejected for being incomplete. I acknowledge and agree that because my application was incomplete, my application for the February 2022 Oregon UBE will be void. As a result of my application being void, I will automatically be given a credit toward the July 2022 Oregon Bar Exam or I may elect to receive a partial refund of one-half the application fee, so long as I make this election via email to admissions@osbar.org on or before February 8, 2022. I acknowledge and agree that such credit or partial refund is an equitable and complete remedy making me whole for not being seated in the February 2022 Oregon UBE.
- 7) In order to ensure that I am the person taking the Bar Exam, I agree to bring to each exam session my original government issued photo ID. If I fail to bring my government issued photo ID to any session, I

agree that my exam will end, I will be required to immediately leave the exam site and no part of my exam will be graded. In such case, I agree to immediately leave the exam site without causing any disruption to the exam or distraction to staff, proctors, volunteers or other test takers.

- 8) I agree that, upon request by any federal, state or local public health official engaged in contact tracing related to the spread of COVID-19, the OSB may disclose my attendance at any portion of the February 2022 Oregon UBE (including name, seat location and testing site), together with any email address, phone number, and physical and mailing address I have provided.
- 9) I acknowledge that the Board's Exam Rules for the February 2022 Oregon UBE, including this Code of Conduct and any subsequent announcement related to the February 2022 Oregon UBE posted on the Admission webpage, subsequent exam day instructions and subsequent exam day schedules, are intended to reduce the risk of transmission of COVID-19. I recognize that, in order to ensure the safest testing environment possible, absent accommodation under the Americans with Disabilities Act, the Board must require all examinees to completely comply with these Exam Rules. I understand that any violation of an Exam Rule related to COVID-19 demonstrates a disregard for the rights, safety, and welfare of others in violation of the RFA 1.25(c)(iv) and 1.30(f), and the recency of this conduct would be an aggravating factor in determining my present good moral character under RFA 1.35. Should I violate any Exam Rule related to COVID-19 or any of the Sections in this Code of Conduct, the Board may review my actions in a character and fitness proceeding.
- 10) If I am asked to leave the testing site because I exhibit symptoms of COVID-19 or fail to comply with any part of this Code of Conduct or Exam Rules related to COVID-19, I understand that my February 2022 Oregon UBE will be void, and will be treated as though I never sat for the exam. If my exam is void, I will receive a full credit toward the July 2022 Oregon Bar Examination. I acknowledge and agree that such credit is an equitable and complete remedy making me whole for having my February 2022 Oregon UBE exam voided.
- 11) On each day of the February 2022 Oregon UBE I will be asked to reaffirm that all statements in this declaration remain true. If any statement in this declaration is no longer true, I agree to immediately inform Bar staff or proctors of that fact and follow all of instructions to reduce the risk of COVID-19 transmission, including leaving the exam without disrupting the exam or distracting Bar staff, proctors, volunteers or other test takers of the exam. I agree that my failure to disclose any statement in this declaration is no longer true would be a material misstatement of fact and the Board may consider my actions in a future character and fitness proceeding.
- 12) I agree that, to the extent the Board has granted me any express accommodation pursuant to RFA 5.10 that modifies the method in which I will take the Bar Exam, I agree to comply with the conditions of the accommodation provided.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND I UNDERSTAND THAT ANY FALSE STATEMENT IN MY APPLICATION OR ON THE DAY OF THE OREGON BAR EXAM MAY RESULT IN THE DENIAL OF MY ADMISSION, UNDER ORS 9.220(2)(a).

Applicant Signature

Date

**RELEASE AND ASSUMPTION OF RISK
FOR EXPOSURE TO OR INFECTION WITH
COVID-19 AT OREGON BAR EXAM**

I acknowledge that in spite of all of the Exam Rules in place to protect test-takers, attending any bar examination could lead to my exposure to or infection with COVID-19. COVID-19, also known as Coronavirus, is a highly contagious virus and can result in serious illness, debilitating injury, or death.

I have evaluated my decision to sit for the February 2022 exam, in light of the risks of exposure to and infection with COVID-19, and I have consulted with my health providers about my individual risks as necessary. I understand that I could opt to withdraw from the exam and receive full credit toward the next Oregon UBE or a partial refund at any time.

I have decided to sit for the exam despite the risk of exposure to or infection with COVID-19. I acknowledge that the Oregon State Bar, the Oregon State Board of Bar Examiners, and their directors, officers, agents, employees and volunteers (the "Oregon State Bar Parties") are absolutely immune from any liability related to administering the February 2022 Oregon UBE under ORS 9.537.

I KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS, BOTH KNOWN AND UNKNOWN, EVEN IF ARISING FROM THE NEGLIGENCE OF THE OREGON STATE BAR PARTIES, TO THE FULLEST EXTENT PERMITTED BY LAW. I ASSUME FULL RESPONSIBILITY FOR MY PARTICIPATION IN THIS BAR EXAM.

I, FOR MYSELF AND ON BEHALF OF MY PARENTS, MY HEIRS, ASSIGNS, PERSONAL REPRESENTATIVES AND ESTATE HEREBY RELEASE, INDEMNIFY, AND HOLD HARMLESS THE OREGON STATE BAR PARTIES WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH, OR LOSS OR DAMAGE TO PERSON OR PROPERTY, WHETHER ARISING FROM THE NEGLIGENCE OF THE OREGON STATE BAR PARTIES OR OTHERWISE, TO THE FULLEST EXTENT PERMITTED BY LAW.

I have read the contents of this release and I sign this voluntarily and with full understanding of its contents.

Applicant Name (please print)

Signature

Date