

In the Matter of Emergency)	CHIEF JUSTICE ORDER
Modifications to Bar Admissions and)	No. 20-009
Disciplinary System)	
)	ORDER AMENDING OREGON STATE BAR
)	RULES FOR ADMISSION AND RULES OF
)	PROCEDURE DURING COVID-19
)	OUTBREAK

WHEREAS, Governor Kate Brown’s emergency declaration, dated March 8, 2020, declares an emergency under ORS 401.165 *et seq.* due to the public health threat posed by the novel infectious coronavirus (COVID-19);

WHEREAS, Governor Kate Brown’s Executive Order 20-12, dated March 23, 2020, orders social distancing measures and requires Oregonians to stay at home except to participate in essential activities;

WHEREAS, the Chief Justice of the Oregon Supreme Court issued Chief Justice Order 20-006 directing Oregon courts to impose social distancing and comply with public health recommendations related to the COVID-19 outbreak;

WHEREAS, pursuant to the Oregon Constitution, Article VII (Amended), Section 1, the Oregon Supreme Court has inherent authority over the regulation of the practice of law in Oregon;

WHEREAS, pursuant to ORS 9.006 and ORS 9.529, the Oregon Supreme Court may adopt rules it deems necessary to regulate the practice of law;

WHEREAS, pursuant to ORS 1.002, the Chief Justice of the Oregon Supreme Court may adopt rules the Chief Justice deems necessary to exercise administrative authority and supervision over the courts of this state;

WHEREAS, the Oregon State Bar’s discipline, admissions, and reinstatement functions are necessary for the efficient administration of justice and protection of the public;

WHEREAS, certain Rules for Admission and Bar Rules of Procedure must be suspended or amended to eliminate the need for in-person gatherings and comply with public health orders related to the COVID-19 outbreak;

I HEREBY ORDER, pursuant to ORS 1.002, ORS 9.006, and ORS 9.529, that the following Rules for Admission and Bar Rules of Procedure are amended, as ordered below, effective immediately until further order of the Court:

I. Rules for Admission (RFA)

- A. Declarations May Replace Affidavits.** All requirements in the Rules for Admission that documents be notarized are amended to allow applicants, as an alternative to notarization, to include the following declaration on application materials submitted to the Board:

“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 MAY RESULT IN THE DENIAL OF MY ADMISSION, UNDER ORS 9.220(2)(a).”

B. Application Filing Process. RFA 4.05, Filing of Application, is amended and superseded to provide:

- “(1) Applications for admission by examination shall be in the form prescribed by the chair of the Board and shall be filed with the Board by the dates set by the chair of the Board for each examination. Once the dates are established by the chair of the Board, notice of the dates shall be placed on the webpage of the Oregon State Bar’s Admissions Department.
- (2) Applicants who took but did not pass a bar examination, and desire to take the next subsequent examination, shall file an application not later than the late filing deadline for the next subsequent examination as set by the chair of the Board pursuant to Rule 4.05(3).
- (3) Applications for admission by examination may be filed late, subject to the fee prescribed by Rule 4.10(3), but such late applications, with all appropriate fees, must be received by the Board by the late filing deadline set by the chair of the Board for such examination.
- (4) Other applications for admission shall be in the form prescribed by the chair of the Board. They may be filed at any time.
- (5) If the chair of the Board finds that the late filing deadline set by Rule 4.05(3) places an undue hardship on the Board, Oregon State Bar or the testing population as a whole, then the chair of the Board may extend the deadline by up to fifteen (15) business days. If the chair of the Board extends any deadlines, notice shall be placed on the webpage of the Oregon State Bar’s Admissions Department.
- (6) Applications received after the deadlines set forth in Rule 4.05 will not be accepted, regardless of cause.”

C. Exam Fee Credits. RFA 4.10, Application and Investigation Fees, is amended to include the following additional provision:

- “(9) If the Oregon Bar Exam is cancelled or postponed, regardless of any provision to the contrary, any monies paid by an applicant toward the fees described in Rules 4.10(1) and 4.10(2) will be applied as a credit toward one of the next two Oregon Bar Exams should the applicant apply to take one such exam. This credit may be applied toward only one of the next two exams. No other fees related to a bar examination shall be eligible for a credit or refund.”

D. Exam Administration. RFA 5.15, Examination, is amended and superseded to provide:

- “(1) The examination shall be:

- (a) Given by the Board no fewer than two times each year at appropriate times and places in the State of Oregon approved by the Court on recommendation of the Board, unless otherwise ordered by the Court.
 - (b) Conducted in the manner and according to the method prescribed by the Board and consistent with any policies pertaining to administration of the UBE.
- (2) Each applicant shall be examined as to requisite general learning in subjects tested in the UBE as published by NCBE.
- (3) The UBE is comprised of six Multistate Essay Examination (MEE) questions, two Multistate Performance Test (MPT) questions, and the Multistate Bar Examination (MBE).
- (4) At the conclusion of an examination or within a reasonable time thereafter, the Board shall furnish to each unsuccessful applicant a printed or typewritten copy of the MEE and MPT examination questions, to the extent permission to reproduce copyrighted materials is granted by NCBE, except that no copies will be furnished of any part of the MBE.
- (5) The chair of the Board may limit the number of bar applicants allowed to take the Oregon Bar Exam on any exam date to comply with any local, state, or national public health order or recommendation that imposes limits on gatherings of persons in one location, as follows:
 - (a) If the chair of the Board imposes a limit on the number of Oregon Bar Exam takers, the Admissions Director shall assign available seats based on the date and time on which an individual's bar application was received by the Oregon State Bar, starting with the first application received.
 - (b) Any applicants who are otherwise qualified to sit for an exam, but are excluded from a test date due to a limit imposed under this rule, shall be entitled to a credit for any monies paid toward the fees described in in Rules 4.10(1) and 4.10(2), which may be applied toward one of the next two Oregon Bar Exams."

E. Testing Accommodations by Board Chair. The following subsections of RFA 5.10, Special Testing Accommodations, are amended and superseded to provide:

- "(3) Consistent with the requirements of the ADA, the chair of the Board shall evaluate all timely and complete accommodation requests and determine the extent, if any, to which they will be granted. In fashioning an accommodation, the chair of the Board shall strive for an accommodation that is reasonable, not unduly burdensome, consistent with the nature and purpose of the examination and which does not fundamentally alter the nature of the examination as necessitated by the applicant's disability.

- (4) Applicants must file timely and complete accommodation requests using the forms prescribed by the chair of the Board. The filing deadlines for requests shall be set by the chair of the Board. Incomplete or untimely requests will be rejected except where: (a) disability occurs after the application filing deadline; or, (b) good cause exists for the failure to file timely request.
- (5) An applicant requesting accommodations must fully complete the forms approved by the chair of the Board and submit:
 - (a) Medical and/or psychological verification completed by a qualified professional. The medical and/or psychological verification shall, at a minimum, describe:
 - (i) The basis of the assessment, including all tests used to diagnose the disability and the results of those tests;
 - (ii) The effect of the disability on the applicant's ability to take the examination under regular testing conditions; and
 - (iii) The recommended accommodation.
 - (b) A letter from the applicant's law school setting forth any accommodations that were provided to the applicant for examinations taken at the law school.
 - (c) A letter from each jurisdiction in which the applicant has applied to practice law setting forth any accommodations that were provided to the applicant for taking the bar exam.”

F. Remote Participation in Character Review Proceeding. RFA 9.45, The Proceeding, is amended to provide the following additional subsection:

“(5)(f) The Presiding Member may order that any Character Review Proceeding take place by videoconference, or such other means that allows for remote participation of all parties, if the Presiding Member determines that remote participation is necessary to comply with local, state, or national public health orders or recommendations.”

G. No Documents Accepted in Person. RFA 1.10(1), Filing, is amended to remove the requirement that the Oregon Board of Bar Examiners accept documents in person. Any document required to be filed with the Board under the Rules for Admission shall be mailed to the Board, P.O. Box 231935, Tigard, Oregon 97281-1935.

II. Bar Rules of Procedure (BR)

A. Declarations May Replace Affidavits. With the exception of the requirement contained in BR 13.7, Form B Resignation, all Bar Rules of Procedure that require documents or pleadings be supported by a notarized affidavit are

amended to allow parties, as an alternative to notarization, to support the documents or pleadings with a declaration that includes the following language:

“I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.”

B. Electronic Service Allowed. BR 1.8, Service Methods, is amended and superseded to provide:

“Rule 1.8 Service Methods.

- (a) Except as provided in Rule 4.2 and Rule 8.9, any pleading or document required under these rules to be served on a respondent, applicant, or attorney shall be:
 - (1) Sent to the respondent, applicant, or attorney, or his or her attorney if the respondent, applicant, or attorney is represented, by first class mail addressed to the intended recipient at the recipient’s last designated business or residence address on file with the Bar, or
 - (2) Sent to the respondent, applicant, or attorney, or his or her attorney if the respondent, applicant, or attorney is represented, by email addressed to the intended recipient at the recipient’s last designated email address on file with the Bar.
- (b) Any pleading or document required under these rules to be served on the Bar shall be sent by first class mail addressed to Disciplinary Counsel at the Bar’s business address or sent by email addressed to the intended recipient at the recipient’s last designated email address on file with the Bar.
- (c) A copy of any pleading or document served on Bar Disciplinary Counsel shall also be provided to Bar Counsel, if one has been appointed, by first class mail addressed to his or her last designated business address on file with the Bar or by email addressed to the intended recipient at the recipient’s last designated email address on file with the Bar.
- (d) Service by mail shall be complete on deposit in the mail except as provided in BR 1.12.”

C. Electronic Filing Allowed. BR 1.10, Filing, is amended and superseded, as follows, to provide:

“Rule 1.10 Filing.

- (a) Any pleading or document to be filed with the Disciplinary Board Clerk shall be delivered by mail to the Disciplinary Board Clerk, Oregon State Bar, P.O. Box 231935, Tigard, Oregon 97281-1935 or by email to

dbclerk@osbar.org. Any pleading or document to be filed with the Supreme Court shall be delivered to the State Court Administrator, Appellate Courts Records Section, 1163 State Street, Salem, Oregon 97301-2563, consistently with the requirements of the Oregon Rules of Appellate Procedure, including Chapter 16 (filing and service by electronic means). Any pleading or document to be filed with the Adjudicator or a regional chair shall be delivered to the intended recipient at his or her last designated business or residence address, or email address on file with the Bar.

- (b) Filing by mail is complete on deposit in the mail in the following circumstances: All pleadings or documents, including requests for review, required to be filed within a prescribed time, if mailed on or before the due date by first class mail through the United States Postal Service.
- (c) If filing is not done as provided in subsections (b) of this rule, the filing is not timely unless the pleading or document is actually received by the intended recipient within the time fixed for filing.
- (d) A copy of any pleading or document filed under these Rules must also be served by the party or attorney delivering it on other parties to the case by first class mail through the United States Postal Service or by email to the address on file with the Bar. All service copies must include a certificate showing the date of filing. "Parties" for the purposes of this rule shall be the respondent or applicant, or his or her attorney if represented; Disciplinary Counsel; and Bar Counsel, if any.
- (e) Proof of service shall appear on or be affixed to any pleading or document filed. Such proof shall be either an acknowledgement of service by the person served or be in the form of a statement of the date of deposit in the mail or email, and the names and addresses of the persons served, certified by the person who has made service."

D. No Complaints Accepted in Person. BR 2.5 is amended to remove the requirement that the Oregon State Bar Client Assistance Office accept inquiries in person. The Client Assistance Office shall continue to accept complaints by mail, email, and through electronic submission to its webpage.

E. Remote Participation in Disciplinary Proceedings. BR 2.4(e), Duties of Adjudicator, is amended to include the following additional provision:

- "(15) Notwithstanding requirements for in-person proceedings contained in BR 3.1, 3.2, 3.4, 3.5, 5.3, and 8.8, the Adjudicator may order that any disciplinary hearings or proceedings take place by videoconference, or such other means that allow for remote participation of all parties, if the Adjudicator determines remote participation is necessary to comply with local, state, or national public health orders or recommendations."

F. Continuances for Good Cause. BR 5.4 is amended to provide that the Adjudicator may grant continuances, in excess of 56 days in the aggregate, for good cause.

This order takes effect immediately and shall remain in effect until it is amended or terminated by further order.

Dated this 27th day of March, 2020.



Martha L. Walters
Chief Justice