

ADMISSION TO THE BAR IN ILLINOIS: A HISTORICAL PERSPECTIVE FOR THE LAST HALF CENTURY AND BEYOND

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I. INTRODUCTION

Admission to the Bar in Illinois is governed by Supreme Court Rules 701-716.¹ The Supreme Court is given authority to promulgate such rules under the provisions of the Illinois Constitution.² Rule 704(c) requires the Board of Admission to the Bar (Board) to conduct separate examinations on academic qualification and professional responsibility.³ The Board is also permitted to designate the Multistate Professional Responsibility Examination of the National Conference of Bar Examiners (MPRE) as the Illinois professional responsibility examination, and the Board has done so.⁴ Rule 704(d) lists a number of subject matters for the academic qualification

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1. ILL. SUP. CT. RS. 701-16.
2. ILL. CONST. art. VI, § 1 (“The judicial power is vested in a Supreme Court, an Appellate Court and Circuit Courts”); ILL. CONST. art. VI, § 16 (“General administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised...in accordance with its rules.”); *In re Day*, 181 Ill. 73 (1899) (acknowledging that the power to admit attorneys to the practice of law is an inherent judicial power).
3. ILL. SUP. CT. R. 704(c).
4. *Id.* (“The board may designate the Multistate Professional Responsibility Examination of the National Conference of Bar Examiners as the Illinois professional responsibility examination.”); *Bar Exam Application Instructions*, ILL. BD. OF ADMISSIONS TO THE BAR, <https://www.ilbaradmissions.org/barexam-application-instructions> (last visited Sep. 5, 2011) (“No applicant on examination may be admitted to the bar of Illinois unless he or she has satisfactorily completed the Multistate Professional Responsibility Examination (MPRE)”).

examination.⁵ That rule also permits the Board to include the Multistate Bar Examination (MBE), the Multistate Essay Examination (MEE), and the Multistate Performance Test (MPT) of the National Conference of Bar Examiners as components of the examination.⁶

While the Illinois bar exam and the admissions procedures have undergone a variety of changes over the past fifty years, very little has been written on the examination process. For the most part, former Justice Robert A. Sprecher's 1952 article entitled "Admission To Practice in Illinois"⁷ remains the predominant historical reference on this subject. The Illinois State Bar Association has also produced a publication providing students with a "Guide to Admission to the Illinois Bar."⁸

In August 2010, the American Bar Association's Council of the Section of Legal Education and Admissions to the Bar passed a resolution urging bar admission authorities in each state and territory to consider participating in the development and implementation of a uniform bar examination (UBE).⁹ The Conference of Chief Justices adopted a similar resolution.¹⁰ In fact, Illinois' neighboring state of Missouri became the first state to adopt the UBE¹¹ and, subsequently, the UBE has been adopted by Alabama, Idaho, North Dakota, and Washington.¹² While the ABA resolution only applies to the bar examination itself and not to the balance of the admissions process,¹³ it is a significant development in this country and could also open the door to uniform licensing requirements for multistate practice.

Given the increased reliance on multistate exams for testing and the promulgation of the UBE, coupled with the overall increase in multistate practice, it would seem appropriate for those interested practitioners to understand fully the process of admission to the bar in Illinois, the changes that have occurred over the last fifty years, and to give some consideration

5. ILL. SUP. CT. R. 704(d).

6. *Id.*

7. Robert A. Sprecher, *Admission to Practice Law in Illinois*, 46 NW. U. L. REV. 811 (1952).

8. *From Diploma To License: ISBA Guide to Admission to the Illinois Bar and the Federal Courts in Illinois*, ILL. ST. BAR ASS'N (2008), <http://www.isba.org/sites/default/files/teachers/fromdiplomatolicence.pdf>.

9. Martha Neil, *ABA Group Backs Uniform Bar Exam*, ABA JOURNAL LAW NEWS NOW (Sep. 15, 2010), http://www.abajournal.com/news/article/aba_group_backs_uniform_bar_exam.

10. *Id.*

11. *Id.*

12. *Uniform Bar Examination: Jurisdiction News*, NAT'L CONF. OF BAR EXAMINERS, <http://www.ncbex.org/single-news-item/article/58/27/> (last updated Mar. 2011).

13. *See Council Resolution Endorsing Consideration of a Uniform Bar Examination*, SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR (Aug. 6, 2010), http://www.abajournal.com/files/Uniform_Bar_Exam_2010_Council_%289-14%29_v2.pdf.

and forethought to whether Illinois should adopt the UBE as its academic qualification examination.

The sections of this Article cover the following: Part 1 – General qualifications and educational requirements for admission; Part 2 – Role of the Character and Fitness Committee and character and fitness requirements; Part 3 – Role of the Board of Admissions to the Bar and the bar examination; Part 4 – Special Admission; Part 5 – Statistics on Admission; and Part 6 - Conclusion.

II. GENERAL QUALIFICATIONS AND EDUCATIONAL REQUIREMENTS

Rule 701 lists the following general qualifications for persons seeking admission to practice law in Illinois:

Be at least 21 years of age,

Be of good moral character and general fitness to practice law, and

Have satisfactorily completed examinations on academic qualification and professional responsibility.¹⁴

The educational requirements for admission are set forth in Rule 703.¹⁵ In addition to completing at least ninety hours of acceptable college work and graduating from an ABA approved law school,¹⁶ every applicant must:

Have graduated from a four-year high school or other preparatory school whose graduates are admitted on diploma to the freshman class of any college or university having admission requirements equivalent to those of the University of Illinois or shall have otherwise become eligible for admission to such freshman class.¹⁷

For the most part, the general qualifications have not changed significantly over the years. United States citizenship was a requirement until the rules were amended in 1972,¹⁸ shortly before the United States Supreme Court in *Application of Griffiths* held that the equal protection

14. ILL. SUP. CT. R. 701(a).

15. ILL. SUP. CT. R. 703.

16. ILL. SUP. CT. R. 703(b).

17. ILL. SUP. CT. R. 703(a).

18. ILL. SUP. CT. R. 701 (1969) (amended 1972).

clause of the Fourteenth Amendment required that aliens be eligible to practice law.¹⁹ Then in 1985, the Supreme Court held that under the privileges and immunities clause, a state could not discriminate against a non-resident lawyer.²⁰ From that date on, residency requirements were also struck down. Illinois does ask about citizenship status and verifies information with the Department of Homeland Security for all applicants who are not United States citizens,²¹ but lack of citizenship is not a bar to admission.

Although Illinois and other states require an applicant to be at least 21 years of age to be admitted,²² as a practical matter, the rigid educational requirements reduce the effect of the age requirement to a nullity.

It may be interesting to note that prior to the mid 1900's, law office study or combined law school and law office study could qualify to meet the legal education requirements.²³ In addition, pre-legal examinations given by the University of Illinois were also used to satisfy preliminary or college work, but those were eliminated in 1960.²⁴ The requirement that an applicant have graduated from an ABA approved law school was added in 1977.²⁵

In addition, prior to 1980 the rules only referred to "an examination conducted by the Board of Law Examiners" and not to any separate ethics or professional responsibility examination.²⁶ The rules were changed on April 8, 1980, effective May 15, 1980, to include "an examination on

19. Application of Griffiths, 413 U.S. 717 (1973).

20. Sup. Ct. of N.H. v. Piper, 470 U.S. 274 (1985). In 1989, the Illinois Supreme Court formally revised Rule 705, which allows lawyers from other U.S. States or territories to be admitted without taking an academic qualification examination, to no longer require an applicant to establish Illinois residency. ILL. SUP. CT. R. 705 (as amended 1989).

21. ILL. SUP. CT. R. 712(c)(3) (allowing the Illinois Supreme Court to license a lawyer from a foreign country to practice as a foreign legal consultant without examination if he or she provides, among other things, evidence of his or her citizenship in such foreign country).

22. ILL. SUP. CT. R. 701(a).

23. ILL. SUP. CT. R. 58 § III(2) (as amended in 1952) (current version at ILL. SUP. CT. R. 703(b)). Before 1952, an applicant could satisfy the legal education requirement by providing proof that he engaged in a course of study equivalent to law school while working as a law clerk for one or more actively practicing Illinois attorneys for 36 weeks a year during a period of 4 years. The applicant must have actually been studying law during that time, and was expected to pass monthly oral or written exams, administered by the tutoring attorney or attorneys, in each subject. An applicant who completed 4 years of study partly in a law office and partly in law school could also satisfy the legal education requirement. *Id.*

24. ILL. SUP. CT. R. 58 § III(1) (as amended in 1960) (current version at ILL. SUP. CT. R. 703(b)).

25. ILL. SUP. CT. R. 703(b) (as amended in 1977). Before 1977, an applicant had to have graduated from a law school approved by the Board of Examiners. ILL. SUP. CT. R. 703(b) (1975).

26. ILL. SUP. CT. R. 704(c) (1972) (current version at ILL. SUP. CT. R. 704(c) (2009)).

professional responsibility”²⁷ and to allow the Board to designate the MPRE as the professional responsibility exam.²⁸

References to the use of the MBE, MEE and MPT were specifically added in 2001, although the MBE was implemented in 1974.²⁹

III. CHARACTER AND FITNESS

Candidates for admission are also evaluated based on their character and fitness. This section discusses the various rules governing these requirements.

A. General

As stated above, the general qualifications require an applicant to have good moral character and general fitness to practice law. Rule 706 requires students who intend to take the Illinois bar examination to file a character and fitness application no later than the first day of March following the student’s commencement of law school with certain exceptions.³⁰ Accordingly, this is due on or before March 1 of the first year in law school or July 1 if the law school admission is in January or February.³¹ This early registration is strongly recommended but, if omitted, can be done up to the point of applying to take the bar exam, but with a greater application fee.³² Also, applicants with serious issues relating to character and fitness have the opportunity to ask for an expeditious determination from the Character and Fitness Committee, although this may not be forthcoming.³³

In Illinois, the supreme court appoints a committee on character and fitness in each of the judicial districts of the state comprised of Illinois lawyers.³⁴ In the First Judicial District, the Committee consists of no fewer than thirty members of the Bar and in the Second, Third, Fourth, and Fifth

27. ILL. SUP. CT. R. 704(c) (as amended in 1980) (“The Board of Law Examiners shall conduct separate examinations on academic qualification and professional responsibility.”).

28. ILL. SUP. CT. R. 704(f) (as amended in 1980) (current version at ILL. SUP. CT. R. 704(f) (2007)).

29. ILL. SUP. CT. R. 704(d) (as amended in 2000) (“The Board may include the Multistate Bar Examination, the Multistate Essay Examination and the Multistate Performance Test of the National Conference of Bar Examiners as components of the examination.”).

30. ILL. SUP. CT. R. 706(a).

31. *Id.*

32. *Id.* (“Timely applications shall be accompanied by a registration fee of \$100. All character and fitness registration applications filed after the foregoing deadlines shall be accompanied by a registration fee of \$450.”).

33. *From Diploma To License, supra* note 8, at 2-3.

34. ILL. SUP. CT. R. 708(a).

Districts, no fewer than fifteen members of the Bar.³⁵ All members are appointed for staggered three-year terms and serve until their successors are appointed and qualified.³⁶ No member may serve for more than three consecutive terms.³⁷

The supreme court also adopts rules of procedure for these committees. Under Rule 708(b), an applicant may be recommended for admission if the committee determines that his or her record of conduct demonstrates that he or she meets the essential eligibility requirements for the practice of law and justifies the trust of clients, adversaries, courts, and others with respect to the professional duties owed to them.³⁸ “A record manifesting a failure to meet the essential eligibility requirements, including a deficiency in the honesty, trustworthiness, diligence, or reliability of an applicant, may constitute a basis for denial of admission.”³⁹ The essential eligibility requirements certainly include, among other things, the applicant’s ability to conduct oneself with respect for, and in accordance with, the law and the Illinois rules of professional conduct.⁴⁰

The questionnaire that the applicant submits with the application is very comprehensive and includes educational background, places of residence for the preceding ten years, work records, any criminal record (including traffic violations), and the names and addresses of a specific number of unrelated persons known by the applicant.⁴¹ The Board of Admissions conducts an investigation of each applicant and includes items such as verification of school attendance and degrees, verification and evaluation of employment and employment records, reference inquiries, credit checks, police inquiries, et cetera.⁴² Any matter of concern is forwarded to a member of the Committee on Character and Fitness for review and evaluation. Some of these files require further consideration by an inquiry panel, and a small percentage proceed to a due process hearing.⁴³

For the most part, under Rule 708(d),⁴⁴ an applicant can be required to appear in person before a member of the Character and Fitness Committee.

35. *Id.*

36. *Id.*

37. *Id.*

38. ILL. SUP. CT. R. 708(b).

39. *Id.*

40. ILL. SUP. CT. R. 708(c).

41. Information derived from personal knowledge of the author or from conversations with or information provided by staff of the Illinois Board of Admissions to the Bar.

42. *Id.*

43. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 8.2, available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

44. ILL. SUP. CT. R. 708(d).

Applicants in the First District are not generally subject to such interviews unless their file is assigned to a Committee member for review, whereas interviews in other districts where there are fewer people are more prevalent.⁴⁵ Pursuant to Rule 704(b), certain applicants must receive approval from the Character and Fitness Committee pursuant to Rule 708 *prior to* sitting for the Illinois bar examination.⁴⁶ These are:

- (1) Applicants previously convicted of a felony;
- (2) Applicants against whom are pending indictments, criminal informations, or criminal complaints charging felonies;
- (3) Applicants who have been rejected, or as to whom hearings are pending, in another jurisdiction on a ground related to character and fitness;
- (4) Applicants admitted to practice in another jurisdiction who have been reprimanded, censured, disciplined, suspended, or disbarred in such other jurisdiction; or
- (5) Applicants against whom there are pending disciplinary charges or proceedings in another jurisdiction.⁴⁷

B. Rules of Procedure

The rules of procedure for the Character and Fitness Committees⁴⁸ state that the revelation or discovery of any of the following should be treated as a cause for further detailed inquiry before the Committee before it is determined that the applicant possesses the requisite character and fitness to practice law.

- A. Unlawful conduct;
- B. Academic misconduct;
- C. Making false statements, including omissions;

45. Information derived from personal knowledge or the Board, *supra* note 41.

46. ILL. SUP. CT. R. 704(b).

47. *Id.*

48. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 6.4, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

- D. Misconduct in employment;
- E. Acts involving dishonesty, fraud, deceit or misrepresentation;
- F. Abuse of legal process;
- G. Neglect of financial responsibilities;
- H. Neglect of professional obligations;
- I. Violation of an order of a court;
- J. Evidence of conduct indicating instability or impaired judgment;
- K. Denial of admission to the Bar in another jurisdiction on character and fitness grounds;
- L. Discipline action by a lawyer, disciplinary agency, or other professional disciplinary agency of any jurisdiction;
- M. Acts constituting the unauthorized practice of law;
- N. Failure to comply with the continuing duty of full disclosure to the Board and the Committee subsequent to the date of registration or application.⁴⁹

In assigning weight and significance to any prior misconduct, the rules also require that the Committee consider the following factors as mitigating circumstances:

- A. Age at the time of the conduct;
- B. Recency of the conduct;
- C. Reliability of the information concerning the conduct;
- D. Seriousness of the conduct;
- E. Factors underlying the conduct;
- F. Cumulative effect of the conduct;

49. *Id.*

- G. Ability and willingness to accept responsibility for the conduct;
- H. Candor in the admissions process;
- I. Materiality of any omissions or misrepresentations;
- J. Evidence of rehabilitation; and
- K. Positive social contributions since the conduct.⁵⁰

C. Other Rules

If a member of the Committee is not prepared to recommend the interim certification of a law student registrant or the certification of an applicant, then the application is assigned to an inquiry panel for further review and examination.⁵¹ The inquiry panel consists of the member to whom the matter was originally assigned as panel chair and two additional members of the Committee appointed by the Chair.⁵² The inquiry panel conducts a review and the applicant appears before all members of the panel to discuss the application and the materials submitted.⁵³ If the panel declines to certify, a report is prepared and submitted to the director.⁵⁴ If the panel recommends certification, the report is delivered to the full Committee which then affirms or denies the recommendation of the inquiry panel.⁵⁵ If there is a denial, the applicant receives a notice and is entitled to submit a written request for a hearing within twenty-one days of the date of the mailing of the notice.⁵⁶

If a hearing is requested, the applicant is also required to complete an additional questionnaire.⁵⁷ A hearing is then set before a hearing panel.⁵⁸ The hearing is scheduled no earlier than seventy-five days after receipt of the additional questionnaire.⁵⁹ Following the hearing, the hearing panel

50. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 6.5, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

51. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 9.2, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

prepares its findings and conclusions together with a recommendation.⁶⁰ The applicant is entitled to counsel⁶¹ and the hearing panel may also have counsel at the hearing.⁶² The hearing panel is not bound by formal rules of evidence,⁶³ and testimony from third parties is frequently heard. The committee also has subpoena power for requiring people to testify at hearings or to provide evidence depositions.⁶⁴ A hearing panel issues its report within forty-five days after conclusion of the hearing or forty-five days after the record of the hearing is closed, whichever is later.⁶⁵ If the recommendation is to certify, the report is delivered to the Committee.⁶⁶ If the hearing panel votes to not recommend certification, a report is prepared to the Committee and to the registrant.⁶⁷

It should be noted that each recommendation for certification on the basis of character and fitness is only a tentative recommendation pending whether or not the applicant passes the bar examination.⁶⁸

D. Conditional Admission

The rules also apply to conditional admission.⁶⁹ Conditional admission was first permitted in 2006.⁷⁰ Prior to that time conditional

60. *Id.*

61. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 9.3(a), *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf> (stating that the registrant or applicant shall be notified of his or her right to be represented by counsel in the hearing, at his or her own expense).

62. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 9.3(b), *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf> (“Subject to the approval of the Board, the Director shall appoint counsel from among the members of the bar to prepare and present the matters adverse to the law student registrant or applicant.”).

63. *Id.*

64. ILL. SUP. CT. R. 754 (empowering the hearing panel to request the clerk of the court to subpoena any persons who may have knowledge pertinent to a hearing).

65. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 9.3, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

66. *Id.*

67. *Id.*

68. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 10.1, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

69. ILL. SUP. CT. R. 701(a) (“Subject to the requirements contained in these rules, persons may be admitted or conditionally admitted”); *see also* BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.1, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>. (“[T]he Committee on Character and Fitness may recommend to the Board that an applicant be admitted to the bar on a conditional basis in accordance with these Rules.”).

70. ILL. ST. BAR ADMISSION R. 7 (2006) (amending ILL. ST. BAR ADMISSION R. 7 (2005)).

admission was not permitted.⁷¹ Under the Rules, if conditional admission is permitted, such conditional admission is set forth in a written consent agreement signed by the Committee, the applicant, and the Bar Admissions Director.⁷² The Committee has discretion as to whether or not to recommend conditional admission.⁷³ The limited purpose of conditional admission is to permit an applicant who currently satisfies character and fitness requirements to practice law while his or her continued participation in an ongoing course of treatment or remediation for previous misconduct or lack of fitness is monitored to protect the public.⁷⁴ Conditional admission may be employed only when an applicant has been engaged in a sustained and effective course of treatment or remediation for a period of time sufficient to demonstrate his or her commitment and progress but not yet sufficient to render unlikely a recurrence of the misconduct or unfitness.⁷⁵

Conditional admission is only allowed under limited circumstances.⁷⁶ The applicant must currently satisfy all requirements for admission to the Bar and possess the requisite good moral character and fitness for admission, except that he or she is engaged in a sustained and effective course of treatment for or remediation of:

- A. A substance abuse or dependence;
- B. A diagnosed mental or physical impairment, that should it reoccur, would likely impair the applicant's ability to practice law or pose a threat to the public; or
- C. Neglect of financial affairs, that previously rendered him or her unfit for admission to the bar.⁷⁷

Also, the applicant must have been engaged in such course of treatment or remediation for no fewer than six continuous months if the

71. ILL. ST. BAR ADMISSION R. 7 (2005) (amended 2006) (lacking rules for conditional admission).

72. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.1, available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

73. *Id.*

74. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.2, available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

75. *Id.*

76. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.3, available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

77. *Id.*

subject of treatment is substance abuse or dependence or mental or physical impairment, and no fewer than three continuous months if the subject of remediation is neglect of financial affairs.⁷⁸ Absent recent lapses, recent failures, or evidence that a lapse or failure is presently likely to occur, an applicant who is engaged in such sustained and effective course of treatment or remediation for a period beyond twenty-four continuous months may not be conditionally admitted.⁷⁹

Moreover, a recommendation that an applicant be admitted conditionally can be made only after the applicant has personally met with all members of a three-person inquiry panel.⁸⁰ A recommendation for conditional admission may also be made by members of a hearing panel provided that the applicant did not decline to consider or consent to a conditional admission at the inquiry panel level.⁸¹ Once an inquiry panel makes a recommendation, the full Committee then determines whether the recommendation should be affirmed or denied.⁸² If the recommendation of the inquiry panel is affirmed, then the panel reports to the director.⁸³ If the recommendation is denied, a report is submitted giving the reasons for the denial.⁸⁴

The period of conditional admission is not to exceed twenty-four months unless the court orders otherwise.⁸⁵ The applicant may file a petition to extend the period or the Committee may file a petition to revoke admission, and any such petitions extend the period of conditional

78. *Id.*

79. *Id.* If an applicant has been sober, mentally healthy, or financially remediated beyond 24 months, that applicant will be evaluated for general bar admission as conditional admission is no longer deemed appropriate. *Id.*

80. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.4(a), available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

81. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.4(b), available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

82. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.5, available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

83. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.6(a), available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

84. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.4(c), available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

85. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.9, available at <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

admission until the court enters a final order on the petition.⁸⁶ Once the report is made and a copy of the executed consent agreement is finalized, it is mailed to the applicant and is delivered to the supreme court.⁸⁷ If the court determines that the applicant qualifies for admission, the court enters an order to that effect.⁸⁸ If the court denies the recommendation, six months after the date of denial the applicant may file with the Board a supplement to his previous questionnaire indicating to what extent the applicant has engaged in a course of treatment that was the basis for the recommendation.⁸⁹ The application can then be further considered by the inquiry panel or hearing panel.⁹⁰

If an applicant is conditionally admitted, the administrator of the ARDC monitors compliance with the consent agreement.⁹¹ If the administrator identifies a change in circumstances, the administrator may report the change to the court and petition the court to modify the terms or conditions affected by the changed circumstances.⁹² If the conditionally admitted lawyer fails to comply with the consent agreement, the administrator is required to file with the court a report of noncompliance and may petition the court for revocation, modification, or extension of conditional admission.⁹³ An applicant whose conditional admission license has been revoked may reapply for admission but not within two years of the order revoking the conditional admission license unless the court orders otherwise.⁹⁴ All costs of a conditional admission are to be paid by the

86. *Id.*

87. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.10, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

88. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.11(a), *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

89. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.11(b), *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

90. *Id.*

91. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.12, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

92. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.13(a), *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

93. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.13(b), *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

94. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.14, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

applicant but the Board may agree to postpone reimbursement on the basis of compelling evidence of inability to pay.⁹⁵ All information relating to the conditional admission of the applicant is to be held confidential.⁹⁶

Since its adoption in 2006 through 2010, conditional admission has been afforded to ten applicants.⁹⁷ About half of the applicants were undergoing treatment for substance abuse or alcohol dependence and about half remediation for neglect of financial affairs.⁹⁸ The numbers, however, are still too low to reveal a pattern.

III. THE BAR EXAMINATION

Under Rule 702, the Illinois Board of Admissions to the Bar was established by the Illinois Supreme Court to oversee the administration of all aspects of bar admission and primarily to monitor and administer the Illinois bar examination.⁹⁹ This includes the processing of exam applications, the collection of exam fees,¹⁰⁰ the administration of the examination, and the supervision of exam grading.¹⁰¹ In addition, the Board has the responsibility of processing applications for foreign licenses and collecting the related license fees.¹⁰² At the present time, the Board consists of seven members of the bar who serve staggered terms of three years.¹⁰³ No member may be appointed to more than three full terms.¹⁰⁴

95. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.15, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

96. BD. OF ADMISSIONS TO THE BAR & THE COMM. ON CHARACTER & FITNESS OF THE SUP. CT. OF ILL. R. OF PROC., R. 7.16, *available at* <https://www.ilbaradmissions.org/static/RulesofProcedure.pdf>.

97. Information derived from personal knowledge or the Board, *supra* note 41.

98. *Id.*

99. ILL. SUP. CT. R. 702(a).

100. ILL. SUP. CT. R. 704(a) (“Every applicant for the Illinois Bar examination shall file with the Board of Admissions to the Bar . . . [an] application to take the bar examination. The applications shall be in such form as the board shall prescribe and shall be subject to the fees and filing deadlines set forth in Rule 706.”).

101. ILL. SUP. CT. R. 704(d) (“The academic qualification examination shall be conducted under the supervision of the board.”).

102. ILL. SUP. CT. R. 715 (allowing a lawyer licensed to practice law in a foreign country to apply to the Illinois bar if, among other things, the Board determines that the applicant's preliminary, college and legal education is acceptable, the Board determines that the applicant achieved a passing grade on the academic qualification exam and the MPRE, and that the applicant submitted his application materials and the requisite fees to the treasurer of the Board in accordance with 706).

103. ILL. SUP. CT. R. 702(a).

104. *Id.*

A. History

Historically, the Board consisted of five members until 1992 when the number was reduced to four¹⁰⁵ as a result of the death of one of the members.¹⁰⁶ At that time and throughout the other earlier period, the Board members received a small salary for serving on the Board.¹⁰⁷ In 1994, the Board was increased to seven members to serve staggered terms of three years¹⁰⁸ and compensation was eliminated for all Board members.¹⁰⁹ Term limits were also established so that no Board member could serve longer than three full terms.¹¹⁰

Pursuant to Rule 704(c), the Board is to conduct at least two academic qualification examinations – one in February and the other July of each year or at such other times as the Board may determine.¹¹¹ In addition, it must conduct three professional responsibility examinations – one in March, another in August, and another in November.¹¹² As stated previously, the Board is given the authority to establish and has adopted the Multistate Professional Responsibility Examination (MPRE) as the Illinois professional responsibility examination.¹¹³ The Board also determines the passing score.¹¹⁴ The passing score on the MPRE is a scaled score of eighty.¹¹⁵ With respect to the bar examination itself, Illinois Supreme Court Rule 704(d) lists the following subjects as potential subject matter for bar examination questions: Administrative Law, Agency and Partnership, Business Organizations including Corporations and Limited Liability Companies, Commercial Paper, Conflict of Laws, Contracts, Criminal Law and Procedure, Family Law, Equity, Evidence, Federal and State Constitutional Law, Federal Jurisdiction and Procedure, Federal Taxation, Illinois Procedure, Personal Property including Sales and Bailments, Real Property, Secured Transactions, Suretyship, Torts, Trusts and Future

105. *Id.* (as amended in 1992) (current version at ILL. SUP. CT. R. 702(a) (1994)).

106. Information derived from personal knowledge of the Board, *supra* note 41.

107. ILL. SUP. CT. R. 702(c) (1992) (“The members of the board and the officers thereof shall receive such salaries as the court may provide and such further sum for necessary disbursements as may be approved by the court, all payable out of moneys received from applicants for admission to the bar as fees for examination and admission.”).

108. ILL. SUP. CT. R. 702(a) (as amended in 1993).

109. ILL. SUP. CT. R. 702 (as amended in 1993) (omitting any reference to compensation for board members).

110. ILL. SUP. CT. R. 702(a) (as amended in 1993).

111. ILL. SUP. CT. R. 704(c).

112. *Id.*

113. *Id.*

114. *Id.*

115. *Bar Exam Application Instructions*, ILL. BD. OF ADMISSIONS TO THE BAR, <https://www.ilbaradmissions.org/barexam-application-instructions> (last visited Sep. 20, 2011).

Interests, and Wills and Decedent's Estates.¹¹⁶ The bar examination may also include a performance test.¹¹⁷

Prior to 1974, the Illinois examination consisted only of essay questions written by the Illinois bar examiners.¹¹⁸ In 1960, the exam consisted of fifty short essay questions completed over the course of two-and-a-half days.¹¹⁹ By 1970, applicants selected eight of nine prepared questions, arranged in five sections, and wrote a total of forty short essay answers.¹²⁰ Beginning in 1974, the exam was shortened to two days. The Multistate Bar Examination (MBE) was administered on one day of the exam and the essay questions, reduced to sixteen in number, were administered on the other day.¹²¹ In July 1993, the Multistate Essay Examination (MEE) was used for the first time as one-half of the essay examination.¹²² The Board administered six thirty-minute MEE questions, leaving time for six thirty-minute essay questions related to Illinois law.¹²³ In February 1998, the time devoted to Illinois essay questions was again reduced when the Board began administering the ninety-minute Multistate Performance Test (MPT), which left only ninety minutes for three thirty-minute Illinois essay questions.¹²⁴ The MBE, MEE and MPT all are bar examination components prepared by the National Conference of Bar Examiners (NCBE).¹²⁵

B. Today's Bar Exam

Today's bar exam consists of a combination of written essay and multiple choice questions.¹²⁶ It is a two day exam at various assigned Chicago locations with three hour sessions on both mornings and afternoons.¹²⁷ In July 1996 and July 1997, examinations were also conducted in Springfield, but the number of examinees did not justify the cost, so the location was eliminated.¹²⁸

116. ILL. SUP. CT. R. 704(d).

117. *Id.* ("The Board may include . . . the Multistate Performance Test of the National Conference of Bar Examiners . . .").

118. Information derived from personal knowledge or the Board, *supra* note 41.

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

125. *Id.*

126. *From Diploma To License*, *supra* note 8, at 5.

127. *Id.*

128. Information derived from personal knowledge or the Board, *supra* note 41.

Testing on laptop computer began in February 2005, but only approximately forty applicants registered.¹²⁹ However, interest in usage has steadily climbed.¹³⁰ The software product that is used to administer the test is called ExamSoft, and it has been used successfully.¹³¹ Applicants are not permitted to create backup copies of answer files on USB memory sticks or in any other manner.¹³² Applicants who do not take the time to become familiar with their laptop computer or the exam software features are advised to hand-write their exams.¹³³ The applicant is also responsible for hardware or software problems and no administrative relief will be granted.¹³⁴ Currently, approximately 65% of bar applicants use their laptop computers to type their essay answers.¹³⁵

Also notable, applicants are not allowed to bring cell phones, iPods, and other electronic devices (except as the instructions specifically permit) into the test room or possess any such items at the test site during the administration of the examination.¹³⁶

The essay portion is given on the first day.¹³⁷ It consists of one-and-a-half hours for three Illinois Essay Examination (IEE) questions coming from the list noted above and then one-and-a-half hours for the MPT.¹³⁸ While in the past the IEE questions have consistently tested applicants on Illinois procedure, equity, and contracts, the Board recently has been making an effort to broaden the essay topics to include more of the subject matters specified in Rule 704(d).¹³⁹ The questions are drafted by examiners, law professors from out of state, and other lawyers.¹⁴⁰ The three hour afternoon session consists of the six MEE questions.¹⁴¹ The Board selects the six MEE questions from the nine prepared by NCBE for each exam.¹⁴² The question topics cover the following subjects: Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Family Law, Federal Civil Procedure, Real Property, Torts, Trusts and Estates, Uniform

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

136. *Id.*

137. *From Diploma To License, supra* note 8, at 5.

138. *Id.*

139. Information derived from personal knowledge or the Board, *supra* note 41.

140. *From Diploma To License, supra* note 8, at 5; Information derived from personal knowledge or the Board, *supra* note 41.

141. Information derived from personal knowledge or the Board, *supra* note 41.

142. *Id.*

Commercial Code, Business Associations, and Conflict of Laws.¹⁴³ The first six subjects overlap with the traditional MBE subject areas.¹⁴⁴ The 2011 MEE Information Booklet published by the NCBE states:

Three of the questions on each test form will be taken from the traditional MBE subject areas (Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Real Property, and Torts) and six will be drawn from the traditional MEE subject areas (Business Associations, Conflict of Laws, Family Law, Federal Civil Procedure, Trusts and Estates, and Uniform Commercial Code). Some questions may require analysis of more than one subject area. The particular areas covered will vary from exam to exam.¹⁴⁵

Each of the IEE and MEE answer booklets contains two pages bearing lines on both sides.¹⁴⁶ The MPT answer booklet contains four pages bearing lines on both sides.¹⁴⁷ Applicants are instructed to write answers on the lines printed.¹⁴⁸

Further, applicants are instructed as follows:

Read and analyze each question carefully. Type or write clearly and concisely and organize your answer. Confine your answer to a discussion of the particular issues raised by the question, but give a complete answer to those issues. If you present arguments for different possible views, be certain that you decide the issue.

The Illinois Essay Examination (IEE), Multistate Performance Test (MPT) and Multistate Essay Examination (MEE) are the written components of the Illinois bar examination. Quality of writing counts. Answers typed or written in a form other than paragraphed essay form on the IEE and MEE will not receive full credit. Answers to the MPT must be in the form called for by the MPT question to receive full credit. Excessive use of abbreviations, such as symbols, acronyms and text-talk, may result in score reduction.

Your answer should demonstrate an understanding of the facts and a recognition of the issue(s) involved; it should also include a statement of the principles of law applicable and the reasoning employed to reach the

143. The MEE: 2011 Information Booklet, NAT'L CONF. OF BAR EXAMINERS 6 (2010), available at http://www.ncbex.org/uploads/user_docrepos/mee_ib_2011_101110.pdf.

144. *Id.*

145. *Id.*

146. Information derived from person knowledge or the Board, *supra* note 41.

147. *Id.*

148. *Id.*

conclusions. Questions are intended to be inquiries on fundamental points of law. Do not search for hidden meanings or remote exceptions, since none are intended. Let your answer represent your best judgment in each instance on the plain meaning of the question.¹⁴⁹

The MBE is given on the second day of the bar exam and consists of two hundred multiple choice questions with one hundred each in the morning and afternoon.¹⁵⁰ The six subjects are as listed above as the first six subjects for the MEE.¹⁵¹

The essay portion is graded under the supervision of the Board of Admissions.¹⁵² The Board hires graders who initially start the process at a grading conference at a convenient location the weekend following the exam.¹⁵³ The purpose of the grading conference is to require the graders to calibrate the scores as there are frequently more than one grader for each question.¹⁵⁴ The grading is usually accomplished within a four-week period for grading and regrading.¹⁵⁵ The graders also have a supervising grader who supervises the grading process for each question.¹⁵⁶ The graders are compensated a nominal amount for grading.¹⁵⁷ Neither the Illinois Board nor the graders know the name of or anything about the applicant whose exam is being graded.¹⁵⁸

Two weeks before the exam, the Board posts to each eligible applicant's home page on its website a confidential link to the applicant's individual voucher.¹⁵⁹ The voucher is individual to the applicant's situation (i.e., one day or two day, handwrite or laptop, or standard or nonstandard disability accommodations).¹⁶⁰ The voucher lists site, room, seat number, and special 5-digit applicant number.¹⁶¹ The applicant is directed to print the voucher and bring it to the examination.¹⁶² A link is also given for

149. *Bar Exam Application Instructions*, ILL. BD. OF ADMISSIONS TO THE BAR, <https://www.ilbaradmissions.org/appinfo.action?id=1> (last visited Sept. 20, 2011).

150. *From Diploma To License*, *supra* note 8, at 6.

151. *See id.* at 6-7.

152. Information derived from personal knowledge or the Board, *supra* note 41.

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.*

161. *Id.*

162. *Id.*

access to the page's long, actual exam instructions, which are also tailored to the applicant's category.¹⁶³

Results are announced on or soon after April 1st for the February exam and on or soon after October 1st for the July exam.¹⁶⁴ The results are posted individually and confidentially to each applicant via his or her bar exam user page.¹⁶⁵ Further, the results of the bar examination are final.¹⁶⁶ Appeals are not permitted, and the Board will not entertain requests for review, regrading, or other relief.¹⁶⁷ However, if one fails the bar examination, he or she will have an opportunity to inspect his or her answers to the essay examinations, along with a sample passing answer to each question.¹⁶⁸

While there are no appeals, the essay and MPT answers of applicants who fail the bar examination by four or fewer points are automatically regraded before examination results are announced.¹⁶⁹ This is the only regrade available to applicants within four scaled points of passing, and applicants who fail the examination by more than four points are not subject to regrade.¹⁷⁰

The Board believes its decision to adopt a four-point regrade band is generous by industry standards.¹⁷¹ Many admitting authorities with comparable grading procedures limit regrading to applicants whose scores fall no more than two points short of passing, while others narrow the margin to a single point, and some do not regrade at all.¹⁷² The reason for limiting regrading to applicants who come within a point or two of passing is that, as a matter of statistical probability, applicants who fail by larger margins are exceedingly unlikely to succeed on regrade.¹⁷³

During the regrading process, all of the essay and MPT answers of eligible applicants are rescored by calibrated partners of the original graders. The graders on regrade do not know the scores that were originally assigned.¹⁷⁴ As may be expected, many scores given to individual answers

163. *Id.*

164. *Bar Exam Application Instructions*, ILL. BD. OF ADMISSIONS TO THE BAR, <https://www.ilbaradmissions.org/appinfo.action?id=1> (last visited Sept. 5, 2011).

165. *See id.*

166. Information derived from personal knowledge or the Board, *supra* note 41.

167. *Id.*

168. *Bar Exam Application Instructions*, ILL. BD. OF ADMISSIONS TO THE BAR, <https://www.ilbaradmissions.org/appinfo.action?id=1> (last visited Sept. 20, 2011).

169. Information derived from personal knowledge or the Board, *supra* note 41.

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

174. *Id.*

on regrade are the same as those originally assigned.¹⁷⁵ Sometimes a particular answer will receive an additional point or more on regrade, while other answers will frequently lose a corresponding point or so.¹⁷⁶

If an applicant's raw essay and MPT scores on regrade differ from the raw essay and MPT scores originally earned, then the applicant receives the average of the original and regraded essay and MPT scores.¹⁷⁷ In computing overall total scaled scores after regrade, decimal numbers are rounded up to the next whole number.¹⁷⁸

According to the Board, using the average of two independent readings of an answer provides a more accurate assessment of the quality of that answer than does the higher or lower score assigned. Further, additional regrading does not appreciably increase the accuracy of the overall pass/fail decision.¹⁷⁹ Accordingly, Illinois and virtually every other jurisdiction in the country that employs a regrade process use the average of two, and only two, scores per answer.¹⁸⁰ The Board consulted psychometricians and other experts before adopting its present policies and procedures for grading and regrading the written portions of the examination.¹⁸¹

Beginning in February 1997, the Illinois essay examination scores were scaled to the MBE.¹⁸² Scaling the essay scores to the MBE adjusts for variation and difficulty among essay examinations because the MBE is an equated examination.¹⁸³ Under this method, the raw essay scores are converted to a score distribution that has the same mean and standard deviation as the MBE scale scores on that exam.¹⁸⁴ Thus, with respect to the impact of graders on the essay examination, grading papers stringently or leniently will not affect the number of examinees who pass or fail since the scores are scaled to the MBE.¹⁸⁵ The scaling is done by the National Conference of Bar Examiners.¹⁸⁶

Prior to 1974, the Illinois bar examination was comprised entirely of essay questions that were graded on a ten point scale.¹⁸⁷ At that time, a

175. *Id.*

176. *Id.*

177. *Id.*

178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.*

182. *Id.*

183. *Id.*

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.*

passing score was deemed to be 70% of the total.¹⁸⁸ When the MBE was adopted in 1974, that exam was comprised of two hundred questions.¹⁸⁹ Each question was worth one point with two hundred points constituting a perfect score.¹⁹⁰ Along with the MBE were sixteen, twenty-two minute essay examination questions graded on a ten-point scale with 160 points constituting a perfect score.¹⁹¹ The MBE and essay scores were added together to obtain an applicant's final score.¹⁹² Until the Board adopted a statistical scaling procedure, it set a variable passing score.¹⁹³

In 1997, the Board determined that the essay and MBE portions of the bar examination should be equally weighted.¹⁹⁴ Psychometricians assisted the Board in converting the essay scores to a two hundred-point scale and then scaling the scores to the MBE.¹⁹⁵ The Board set a scaled score of 125 as the MBE "cut" score and by equally weighting the essay score, arrived at a passing score of 250.¹⁹⁶ As it developed over the years, the MBE cut score of 125 was one of the lowest in the nation, and in 1995 the Board raised the Illinois cut score to 132 in order to reflect a more realistic measure of minimum professional competence.¹⁹⁷ Currently, Illinois requires a combined MBE and essay score of 264 (132 x 2) to pass the Illinois bar examination.¹⁹⁸ Since 1995, the average national MBE score has risen to over 140 points.¹⁹⁹

After California and New York, Florida, Illinois, New Jersey, and Texas have the largest number of applicants in the country.²⁰⁰ In 2010, Illinois had 1,079 applicants for the February exam and 2,724 applicants for the July exam.²⁰¹

IV. OTHER ADMISSIONS

This section will discuss some of the rules that govern alternative opportunities for admission to the bar in Illinois.

188. *Id.*

189. *Id.*

190. *Id.*

191. *Id.*

192. *Id.*

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

197. *Id.*

198. *Id.*

199. *Id.*

200. *Id.*

201. *Id.* Not all applicants took the exam. For statistics and bar exam passage rates, *see* discussion *infra* Part V.

A. Admission on Foreign License

The Supreme Court Rules have always contained provisions for admission of attorneys who have been licensed to practice law in other states or the District of Columbia.²⁰² Rule 705, prior to 2011, provided that such persons may make application to the Board for admission to the Bar without the academic qualification examination upon meeting the following conditions:²⁰³

- A. The educational requirements of Rule 703;²⁰⁴
- B. The applicant is licensed in a jurisdiction that grants reciprocal admission to Illinois attorneys on the basis of Illinois practice;²⁰⁵
- C. The applicant has been actively and continuously engaged in the qualified practice of law for at least five of the seven years immediately prior to making application;²⁰⁶
- D. Except for certain practices such as working for the federal government or state government, employment as a judge, magistrate, referee or similar official, or legal service in the armed forces, or employment as a full time teacher of law during the requisite period,²⁰⁷ the applicant must have practiced either in or the law of the reciprocal jurisdiction from which the applicant is applying;²⁰⁸

202. *See generally* ILL. SUP. CT. R. 705 (2004) (amended 2011), *and* ILL. SUP. CT. R. 705 (1989) (current version at ILL. SUP. CT. R. 705 (2011)), *and* ILL. SUP. CT. R. 705 (1967) (current version at ILL. SUP. CT. R. 705 (2011)), *and* ILL. SUP. CT. R. 58 § V (1937) (current version at ILL. SUP. CT. R. 705 (2011)), *and* ILL. SUP. CT. R. 58 (1934) (current version at ILL. SUP. CT. R. 705 (2011)) (“Attorneys from Other States, How Admitted.”).

203. ILL. SUP. CT. R. 705 (2004) (amended 2010).

204. ILL. SUP. CT. R. 705(a) (2004) (amended 2010).

205. ILL. SUP. CT. R. 705(b) (2004) (amended 2010).

206. *Id.*

207. *See id.* (“[E]xcept for practice described in paragraphs (g)(3), (g)(4), (g)(5) or (g)(6)”); ILL. SUP. CT. R. 705(g) (2004) (amended 2010) (“For the purposes of this rule, the term “practice of law” shall mean: . . . (3) practice as an attorney for the Federal government or for a state government with the same primary duties as described in paragraph (g)(2) above; (4) employment as a judge, magistrate, referee, or similar official for the Federal or a state government, provided that such employment is available only to licensed attorneys; (5) legal service in the armed forces of the United States; (6) employment as a full-time teacher of law at a law school approved by the American Bar Association”).

208. ILL. SUP. CT. R. 705(b) (2004) (amended 2010).

E. The applicant has passed the Multistate Professional Responsibility Examination in Illinois or in any jurisdiction in which it was administered;²⁰⁹

F. The applicant meets the character and fitness standards established in Illinois;²¹⁰ and

G. The applicant has paid the fee for admission.²¹¹

Applicants who took and failed to pass the written examination in Illinois were not eligible to apply for admission on motion under this rule.²¹² For purposes of the rule, the practice of law as set forth in paragraph C above means:

1. Private practice as a sole practitioner;
2. Practice as an attorney for an individual, corporation, partnership, trust, or other entity;
3. Practice as an attorney for the federal government or state government;
4. Employment as a judge, magistrate, referee or similar official;
5. Legal service in the armed forces;
6. Employment as a full time teacher; or
7. Any combination of the above.²¹³

In addition to the foregoing, the applicant had to establish to the satisfaction of the Board that he or she would engage in the active and continuous practice of law in Illinois.²¹⁴

209. ILL. SUP. CT. R. 705(c) (2004) (amended 2010).

210. ILL. SUP. CT. R. 705(d) (2004) (amended 2010).

211. ILL. SUP. CT. R. 705(e) (2004) (amended 2010).

212. ILL. SUP. CT. R. 705(f) (2004) (amended 2010).

213. ILL. SUP. CT. R. 705(g) (2004) (amended 2010).

214. ILL. SUP. CT. R. 705(h) (2004) (amended 2010).

B. House Counsel

On February 11, 2004, the Illinois Supreme Court adopted a rule providing for the limited admission of house counsel.²¹⁵ This was designed to permit lawyers who had a license to practice law in another state or the District of Columbia to practice law in Illinois when the lawyer was employed as house counsel for a corporation, partnership, association, or other legal entity whose lawful activities consisted of a business other than the practice of law or the provision of legal services.²¹⁶ This was a limited license.²¹⁷ To qualify for the license, the applicant provided an application to the Board and certificates from his jurisdiction of admission.²¹⁸ The Board also had the discretion to require the applicant to receive certification from the Character and Fitness Committee.²¹⁹ The services that can be provided under this limited license are limited to giving advice to the directors, officers, employees, and agents of the employer with respect to its business and affairs and negotiating documents and consummating transactions to which the employer is a party, but do not include appearances as counsel in any court, administrative tribunal, agency, or commission unless the rules governing such court or body otherwise authorize such appearances, or the lawyer is specially admitted by such court or body in a particular case.²²⁰ Under this license, such lawyers are not to offer legal services or advice to the public or in any manner hold themselves out to be so engaged or authorized.²²¹ The license terminates upon the earlier of:

- A. The lawyer's admission to the general practice of law under any other rule, or
- B. The lawyer ceases to be employed as house counsel, or
- C. The lawyer's employer withdraws its certification, or
- D. Upon further order of the court.²²²

215. ILL. SUP. CT. R. 716 (2004) (amended 2010).

216. ILL. SUP. CT. R. 716(a) (2004) (amended 2010).

217. *Id.*

218. ILL. SUP. CT. R. 716(b) (2004) (amended 2010).

219. ILL. SUP. CT. R. 716(c) (2004) (amended 2010).

220. ILL. SUP. CT. R. 716(e) (2004) (amended 2010).

221. *Id.*

222. ILL. SUP. CT. R. 716(f) (2004) (amended 2010).

House counsel is required to register with ARDC annually so long as he or she is acting under that license.²²³ The provisions further indicate that the period of time a lawyer practices law while licensed under this rule are not counted toward his or her eligibility for admission on motion under Rule 705.²²⁴

C. New Revisions

In June 2010, the Board of Admissions submitted to the Supreme Court significant revisions of Rule 705 relating to admission on foreign license and Rule 716 governing admission of house counsel.²²⁵ These revisions were adopted by the Supreme Court and became effective January 1, 2011.²²⁶ The new Rule 705 clarifies and broadens the requirements for licensure and changes the requirements for the extent and location of prior qualifying practice. It goes beyond the traditional notions of reciprocity in that it does not require the applicant to be admitted in a jurisdiction that grants reciprocal admission to Illinois attorneys.²²⁷ The new rule instead requires that an applicant be licensed for no fewer than five years in any state, territory, or the District of Columbia.²²⁸ The Board notes that the District of Columbia, Ohio, Texas, Wisconsin, and Iowa have adopted similarly inclusive rules for admission on motion.²²⁹

Under the old Rule 705, the applicant must have been actively and continuously engaged in the qualified practice of law for at least five of the immediately preceding seven years.²³⁰ Historically, the Board has defined active and continuous as involving approximately forty hours per month and no fewer than five hundred hours per year.²³¹ The new rule defines active and continuous as meaning a minimum of eighty hours per month and 1,000 hours per year to the practice of law during sixty of the eighty-four months immediately preceding the application.²³² The requirement is intended to increase the likelihood that each active motion applicant has

223. ILL. SUP. CT. R. 716(g) (2004) (amended 2010).

224. ILL. SUP. CT. R. 716(i) (2004) (amended 2010).

225. Information derived from personal knowledge or the Board, *supra* note 41.

226. *See* ILL. SUP. CT. R. 705 (“[A]mended October 1, 2010, effective January 1, 2011.”), and ILL. SUP. CT. R. 716 (“[A]mended October 1, 2010, effective January 1, 2011.”).

227. *See* ILL. SUP. CT. R. 705(b) (omitting the previous requirement that an applicant for admission on motion be licensed in a jurisdiction that grants reciprocal admission to Illinois attorneys on the basis of Illinois practice).

228. *See* ILL. SUP. CT. R. 705(a).

229. Information derived from personal knowledge or the Board, *supra* note 41.

230. *See* ILL. SUP. CT. R. 716(b) (2004) (amended 2011).

231. Information derived from personal knowledge or the Board, *supra* note 41.

232. *See* ILL. SUP. CT. R. 705(h).

actually been engaged in practice sufficient in recentness, intensity, and duration to establish continuing minimum competence to practice law.²³³

With specified exceptions, the rule requires lawful practice instead of requiring that the applicant practiced either the law of or within the reciprocal jurisdiction.²³⁴ The lawful practice must have been performed physically outside Illinois and either physically within a jurisdiction in which the applicant was licensed, or physically within a jurisdiction in which a lawyer not admitted to the Bar is permitted to engage in such practice.²³⁵

With respect to plans for future practice, the Board has in the past required evidence of plans to spend a minimum of five hundred hours per year practicing law while physically present in Illinois.²³⁶ Most applicants have had no problem fulfilling this requirement and the Board has had no mechanism for policing implementation of an applicant's stated plans.²³⁷ Accordingly, the new rule eliminates this requirement.²³⁸

Significant revisions to Rule 716 governing admission of house counsel were also made.²³⁹ The new rule requires applicants to meet the educational requirements of Rule 703.²⁴⁰ The same is required for applicants being admitted on a foreign license.²⁴¹ Likewise, the rule requires applicants to meet all character and fitness requirements and be certified by the Character and Fitness Committee.²⁴² Therefore, a character and fitness investigation will be done for all house counsel applicants.²⁴³ A new section adds the requirement that all applicants have passed the MPRE.²⁴⁴ Under the old rule, there is no such requirement.²⁴⁵ The rule also would allow a lawyer licensed under the rule to represent his or her employer for all purposes as if fully licensed to practice in Illinois.²⁴⁶ There is also a requirement for annual registration and compliance with MCLE.²⁴⁷

233. Information derived from personal knowledge or the Board, *supra* note 41.

234. *See* ILL. SUP. CT. R. 705(i).

235. *Id.*

236. Information derived from personal knowledge or the Board, *supra* note 41.

237. *Id.*

238. *Id.*

239. ILL. SUP. CT. R. 716.

240. ILL. SUP. CT. R. 716(a).

241. ILL. SUP. CT. R. 705(a).

242. ILL. SUP. CT. R. 716(b).

243. Information derived from personal knowledge or the Board, *supra* note 41.

244. ILL. SUP. CT. R. 716(c).

245. *See* ILL. SUP. CT. R. 716 (2004) (amended 2010).

246. ILL. SUP. CT. R. 716(g).

247. ILL. SUP. CT. R. 716(i).

D. Statistics

Bar admission percentages and number of applicants in Illinois have varied over the years. Below is a list of passing percentages for the February and July exams from 1990 to the present.²⁴⁸

<u>YEAR</u>	<u>FEBRUARY</u>		<u>JULY</u>	
	<u>No. of Takers</u>	<u>% Passing</u>	<u>No. of Takers</u>	<u>% Passing</u>
1990	972	80	2,272	83
1991	994	81	2,420	85
1992	941	81	2,445	89
1993	903	87	2,217	92
1994	791	91	2,311	95
1995	815	91	2,294	86
1996	944	78	2,280	83
1997	938	77	2,259	82
1998	939	72	2,275	78
1999	1,052	72	2,269	79
2000	1,027	69	2,282	79
2001	963	67	2,341	80
2002	997	61	2,454	76
2003	1,046	65	2,385	80
2004	1,052	65	2,574	80
2005	1,059	69	2,813	81
2006	1,195	71	2,860	83
2007	1,153	71	2,837	86
2008	1,093	76	2,729	88
2009	963	69	2,710	89
2010	959	76	2,559	87

VI. CONCLUSION

The foregoing historical perspective outlines the changes in the Illinois bar admissions process over the last fifty years and demonstrates the continuing need to update the process to recognize advances in technology, exam development, law school curricula, and multistate practice. Through its revisions to Rules 705, Admission on Motion, and 716, Admission of

248. Table provided by staff of the Illinois Board of Admissions to the Bar (copy on file with the author).

House Counsel, Illinois has recognized the continued growth of multistate practice and the commercial need for attorneys licensed in other states to be eligible for admission in Illinois. Moreover, like other states, Illinois has developed a bar examination which has, as its components, the MEE, MPT, MBE, and MPRE, all examinations developed under rigid testing standards by the National Conference of Bar Examiners and used by most states and the District of Columbia. With the urging of the ABA²⁴⁹ and Conference of Chief Justices,²⁵⁰ Illinois is now faced with the question of adoption of the UBE. States that adopt the UBE still designate their own passing score.²⁵¹ While Illinois still uses three Illinois essay questions (IEE), it would not diminish the Illinois bar examination if those questions were eliminated. Alternatively, Illinois could still test on those subjects by expanding the length of the examination or could simply require additional continuing legal education courses covering those subjects. As one of the largest states in the Union, Illinois has always been a leader in bar examination developments and should move forward to consider the adoption of the UBE.

249. *Council Resolution Endorsing Consideration of a Uniform Bar Examination*, SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR (Aug. 6, 2010), http://www.abajournal.com/files/Uniform_Bar_Exam_2010_Council_%289-14%29_v2.pdf.

250. *Resolution 4 – Endorsing Consideration of a Uniform Bar Examination*, CONF. OF CHIEF JUSTICES (July 28, 2010), <http://ccj.ncsc.dni.us/BarResols/resol4UniformBar.html>.

251. *Exploring the Uniform Bar Examination*, NAT'L CONF. OF BAR EXAMINERS (June 28, 2010) http://www.abajournal.com/files/Exploring_the_UBE_-_Email.pdf.

