

# **BOARD OF LAW EXAMINERS**

## **2017 Annual Report**



The Minnesota State Board of Law Examiners (BLE) is responsible for ensuring that those who are admitted to the bar in Minnesota have the necessary competence and character to justify the trust and confidence of clients, the public, and the legal profession. The Board investigates bar applicants' character and fitness and administers the Minnesota bar examination. The Board meets on a regular basis to review policy matters as well as to consider individual applicant files.

## Staff

BLE employs a staff of 8.9 full time exempt (FTE) positions. The Director, Managing Attorney, Staff Attorney, Director's Assistant, Office Manager, and Office Administrator also work for the Board of Continuing Legal Education, the Board of Legal Certification, and the Office of Lawyer Registration. The Board's staff includes one Attorney for Character and Fitness, two Paralegals, and four Office Assistants.

In April 2017, Margaret Fuller Corneille, a national expert in bar admissions, retired from the Director position after serving in the role for more than 30 years. Ms. Corneille served on the Board of Trustees for the National Conference of Bar Examiners, including as Chair in 2013-14, and participated in the ABA Section on Legal Education and made site visits to law schools for the purposes of ABA accreditation. In her role as Director, she oversaw 61 administrations of the bar exam and the admission of 28,514 lawyers to the Minnesota bar.

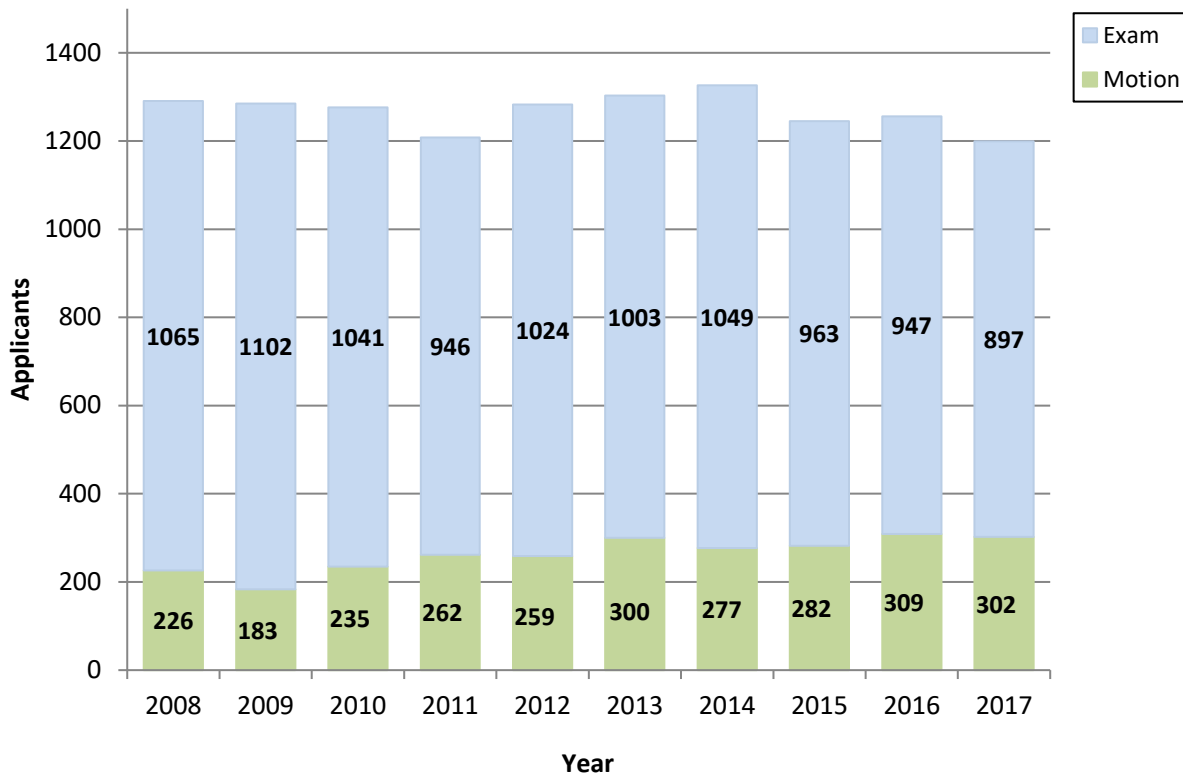
The Court appointed Emily Eschweiler as her successor, effective April 2017. Ms. Eschweiler began working for the Board in 2006 as a Staff Attorney and advanced to Assistant Director in 2011. She currently serves on the executive committee for the Conference of Bar Admissions Administrators (CBAA), and began her term as Chair in August 2017.

In June 2017, Natasha Karn joined the office as the Managing Attorney (previously the Assistant Director position). In addition to the retirement of Ms. Corneille, Terri Guertin, the Bar Exam Administrator for more than 20 years, retired in August 2017 following the administration of the July bar exam. Emily Corson replaced Ms. Guertin in this role. In October 2017, Erin Wacker joined the office as the Attorney for Character and Fitness.

# Applicants to the Minnesota Bar: All Applicants

New lawyers are admitted to the bar in Minnesota by taking and passing the Uniform Bar Examination or applying by motion. All applicants to the Minnesota bar must submit proof that they have received a scaled score of at least 85 or higher on the Multi-State Professional Responsibility Examination (MPRE). In 2017, the total number of exam applicants decreased by 50, or 5.3% compared to 2016; the total number of motion applicants decreased by 7, or 2.3%, compared to 2016. Overall, the total number of exam and motion applicants decreased by 57, or 4.5% compared to 2016. **Chart 1** shows the number and type of applicants.

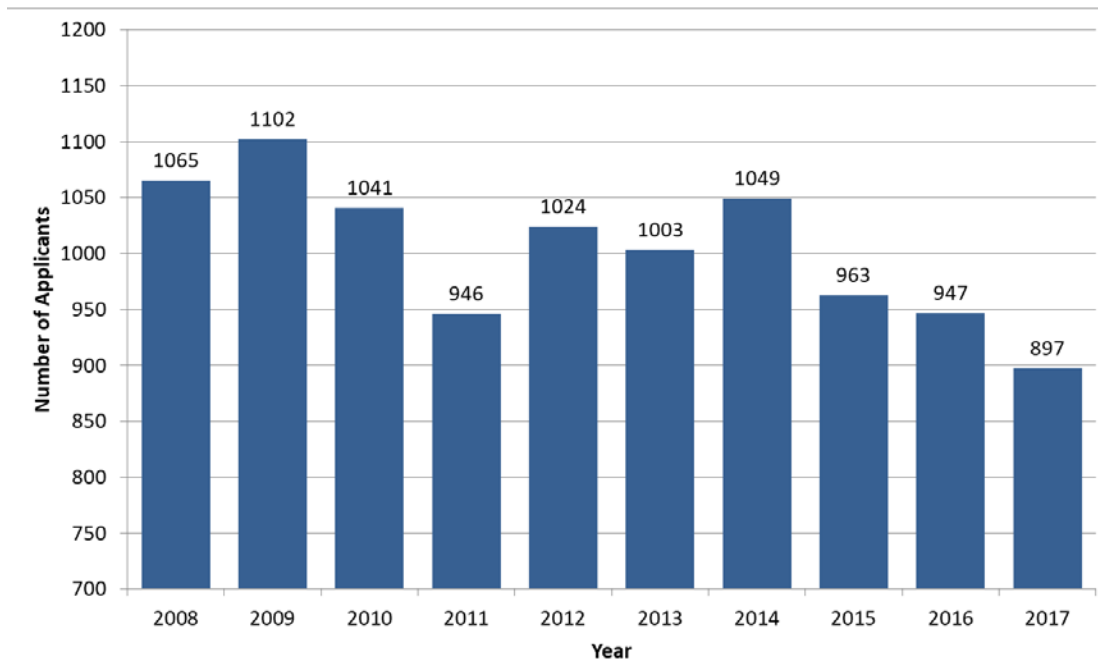
**Chart 1: Motion and Exam Applicants 2008 through 2017**



# Applicants to the Minnesota Bar: Bar Exam

Since 2014, Minnesota has administered the Uniform Bar Examination (UBE) for testing applicants for admission. Scores achieved in other UBE states may be used to seek admission in Minnesota or in any of the other UBE states. Each state sets its own cut score – the score required for admission in that state. The exams are offered twice a year in February and July. The number of exam applicants has been dropping, but 2017 saw the lowest number since 1997.

**Chart 2: Total Number of Bar Examination Applicants (February and July)**



**Charts 3, 4, and 5** show the number of examinees who took and passed the February and July bar examinations over the past three years, as well as the passage rates by examination and by law school.

**Chart 3: February Examination Law School Statistics**

	FEB 2015			FEB 2016			FEB 2017		
	SAT	PASSED		SAT	PASSED		SAT	PASSED	
University of MN	25	16	64.00%	33	23	69.70%	31	15	48.39%
William Mitchell	76	49	64.47%	80	49	61.25%	21	5	23.81%
Hamline	52	29	55.77%	32	21	65.63%	7	2	28.57%
St. Thomas	34	16	47.06%	28	13	46.43%	30	12	40.00%
Mitchell Hamline	0	0	0.00%	0	0	0.00%	75	44	58.67%
Total MN Schools	187	110	58.82%	173	106	61.27%	164	78	47.56%
Out-of-State Schools	45	30	66.67%	68	50	73.53%	58	38	65.52%
<b>TOTAL – All Schools</b>	<b>232</b>	<b>140</b>	<b>60.34%</b>	<b>241</b>	<b>156</b>	<b>64.73%</b>	<b>222</b>	<b>116</b>	<b>52.25%</b>

**Chart 4: July Examination Law School Statistics**

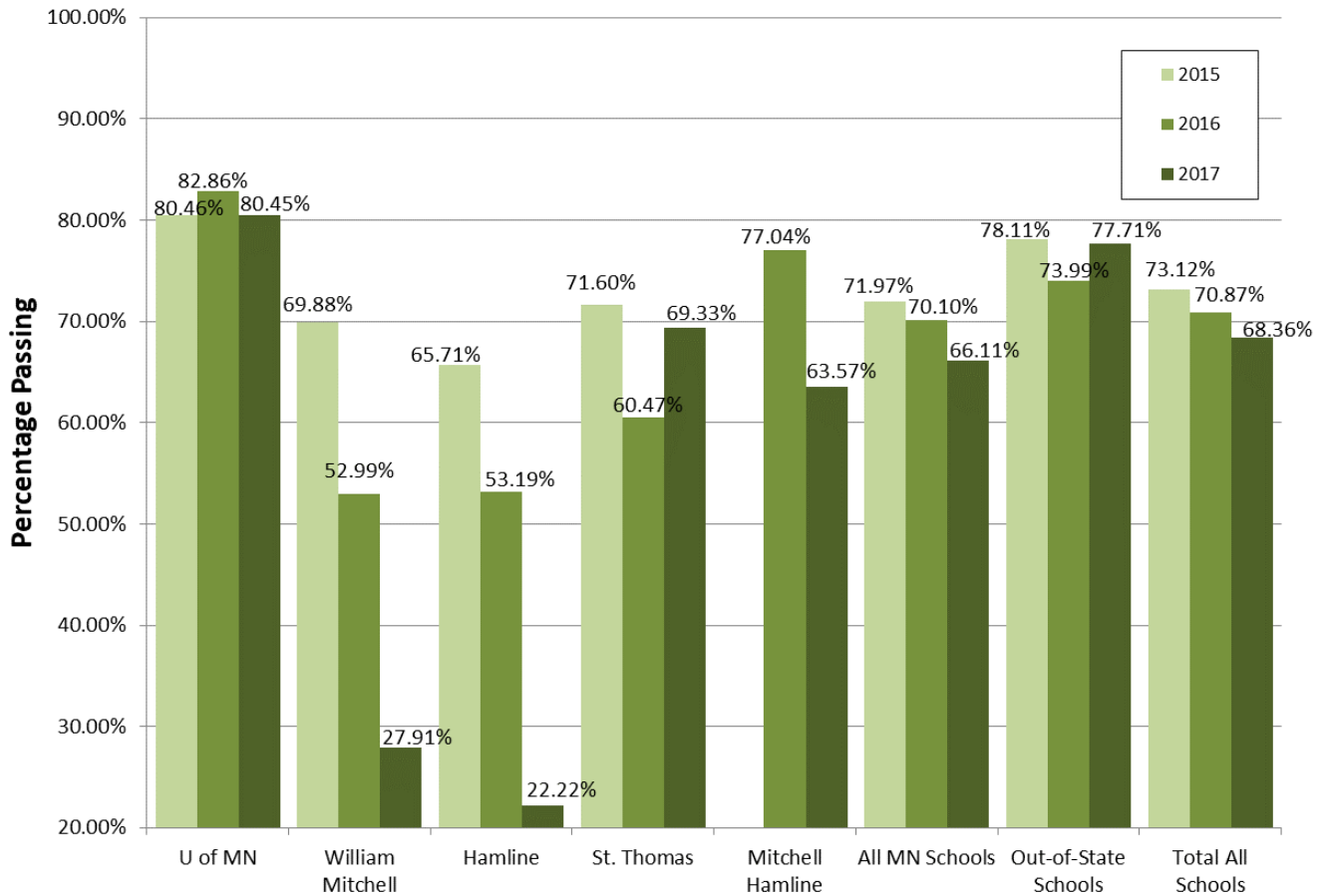
SCHOOL	JULY 2015			JULY 2016			JULY 2017		
	SAT	PASSED		SAT	PASSED		SAT	PASSED	
University of MN	149	124	83.22%	177	151	85.31%	148	129	87.16%
William Mitchell	183	132	72.13%	37	13	35.14%	22	7	31.82%
Hamline	88	63	71.59%	15	4	26.67%	11	2	18.18%
St. Thomas	128	100	78.13%	101	65	64.36%	120	92	76.67%
Mitchell Hamline	0	0	0.00%	196	151	77.04%	194	127	65.46%
Total MN Schools	548	419	76.46%	526	384	73.00%	494	357	72.27%
Out-of-State Schools	124	102	82.26%	105	78	74.29%	108	91	84.26%
<b>TOTAL – All Schools</b>	<b>672</b>	<b>521</b>	<b>77.53%</b>	<b>631</b>	<b>462</b>	<b>73.22%</b>	<b>603</b>	<b>448</b>	<b>74.30%</b>

**Chart 5: Totals for the February and July Examination Law School Statistics**

SCHOOL	2015			2016			2017		
	SAT	PASSED		SAT	PASSED		SAT	PASSED	
University of MN	174	140	80.46%	210	174	82.86%	179	144	80.45%
William Mitchell	259	181	69.88%	117	62	52.99%	43	12	27.91%
Hamline	140	92	65.71%	47	25	53.19%	18	4	22.22%
St. Thomas	162	116	71.60%	129	78	60.47%	150	104	69.33%
Mitchell Hamline	0	0	0.00%	196	151	77.04%	269	171	63.57%
Total MN Schools	735	529	71.97%	699	490	70.10%	658	435	66.11%
Out-of-State Schools	169	132	78.11%	173	128	73.99%	166	129	77.71%
<b>TOTAL – All Schools</b>	<b>904</b>	<b>661</b>	<b>73.12%</b>	<b>872</b>	<b>618</b>	<b>70.87%</b>	<b>825</b>	<b>564</b>	<b>68.36%</b>

**Chart 6** shows the annual bar examination passage rates by in-state law school graduates during the past three years, with a comparison to the passage rates of out-of-state law school graduates. Passage rates declined from 2015 to 2016, but started to see increases in July 2017.

**Chart 6: Annual Law School Statistics**



### 1. Applicants Receiving Test Accommodations

The Board grants test accommodations in accordance with the Americans with Disabilities Act, as amended, as well as with the Minnesota Human Rights Act. Accommodations are afforded to qualified applicants with disabilities who are otherwise eligible to take the Minnesota bar examination. Reasonable modifications are made in the administration of the examination provided that such modifications do not result in a fundamental alteration of the examination or other admission requirements, impose an undue burden, or jeopardize examination security.

An applicant seeking test accommodations must submit medical documentation of the disability and documentation of the applicant's history of accommodations in law school or on other standardized tests. The Board staff then engages in an interactive process with applicants who seek test accommodations and makes every effort to arrive at a test

accommodation that meets the needs of the applicant while preserving the integrity of the exam and adhering to reasonable standards of test administration.

Accommodations provided in 2017 included affording additional testing time, permitting testing in a private or semi-private room, and providing off the clock breaks. Requests for accommodations are considered and determined on a case-by-case basis after the staff consults with the examinee, reviews records submitted by the examinee, past accommodations, and in some cases, after referring the information for review by a medical expert.

Often requests for accommodations are referred to one or more of the Board’s expert medical evaluators. The evaluator prepares a written report detailing the applicant’s diagnosis, the nature and extent of impairment, and the reasonableness of the requested accommodation. The evaluator offers an opinion as to what he or she considers to be the appropriate accommodation. After reviewing the medical evaluator’s report and the information submitted by the applicant, the Director issues a written determination to grant, deny, or modify the applicant’s request for test accommodations.

An applicant whose request is modified or denied may appeal the decision by requesting an expedited hearing. The Board President or a designated Board member conducts the expedited hearing by telephone. The President considers the evidence in the record as well as the evidence presented at the hearing, and issues a brief written decision, usually within five days. An applicant who is not satisfied with the expedited hearing decision may request a Rule 15 hearing before the Board.

## 2. Laptop Testing

Since February of 2003, examinees have been permitted to write the essay portion of the examination using their own laptop computer. Examinees are required to download blocking software to their computers, which prevents the applicant from accessing any



**In 2017, 825 or 95.9% of all examinees took the Minnesota bar examination on a laptop.**

other program during the examination. An additional fee of \$100 is charged examinees to offset the increased costs associated with the use of laptops.

**Chart 7: Individuals Taking the Essay Examination by Laptop (Past 6 years)**

	2012	2013	2014	2015	2016	2017
<b>Laptop</b>	878	871	919	863	816	791
<b>Handwritten</b>	91	73	53	41	56	34
<b>Total</b>	969	944	972	904	872	825
<b>Percentage by Laptop</b>	90.6%	92.3%	94.5%	95.5%	93.6%	95.9%



# Applicants to the Minnesota Bar: Motion

## Motion Types

### Rule 7A –

Practiced law, as principal occupation, for 5 of the last 7 years in another jurisdiction and in good standing in each jurisdiction in which licensed.

**Rule 7B –** Transfer of a scaled Multistate Bar Examination (MBE) score of 145 or higher on an MBE taken within the last 2 years.

**Rule 7C –** Transfer of a Uniform Bar Examination (UBE) score taken in another jurisdiction within the last 3 years.

**Rule 8 –** Temporary Legal Services License

**Rule 9 –** Temporary House Counsel License

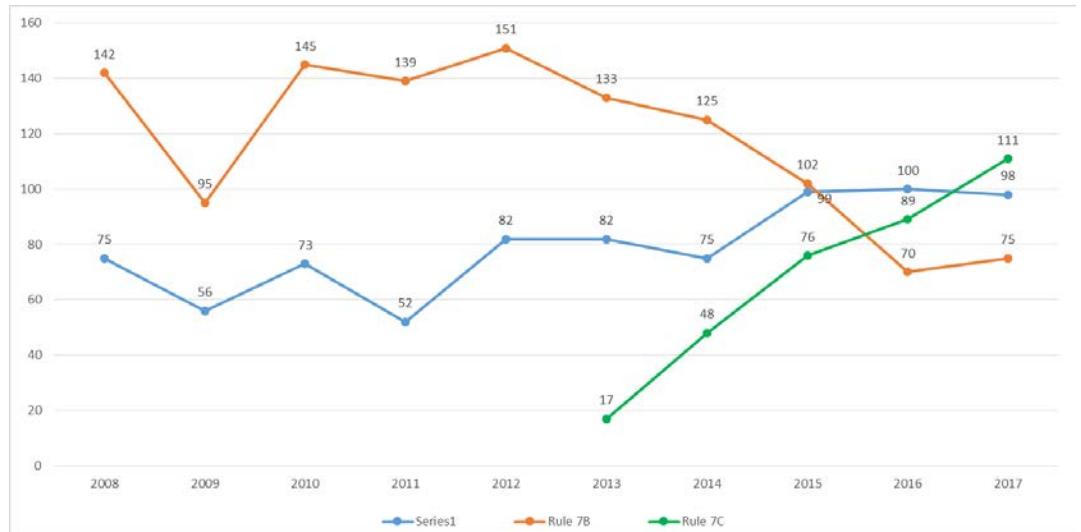
**Rule 10 –** Permanent House Counsel License

**Rule 11 –** Foreign Legal Consultant

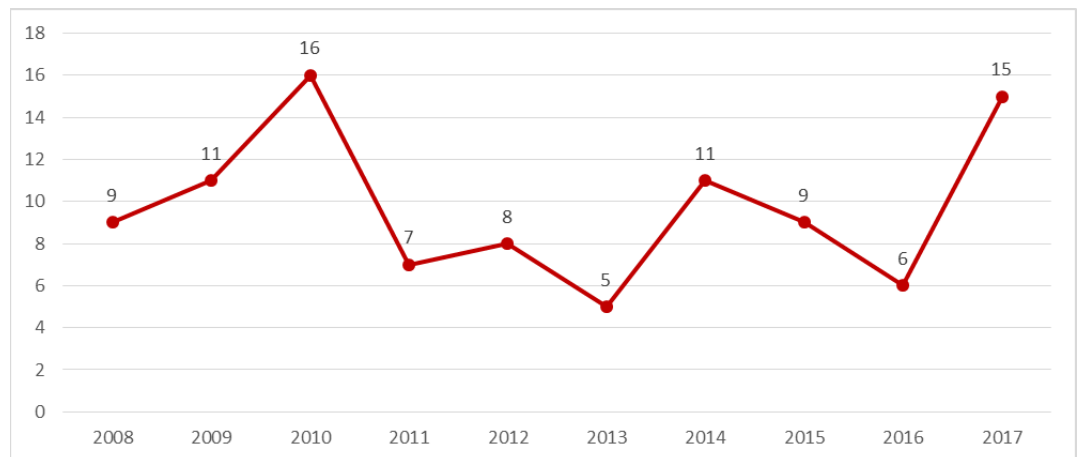
Rules 7, 8, 9, 10, and 11 allow applicants licensed in other jurisdiction to apply for licensure in Minnesota on motion (without exam) provided the applicant meets the Rule requirements. The charts below show the number of applicants who have applied on motion between 2008 and 2017.

**Chart 8: Rule 7 Admissions**

In 2016, the staff approved 31 requests and one applicant whose request was denied requested an expedited hearing.



**Chart 9: Rule 8, 9, 10, and 11 Admissions**





Applicants who are admitted on motion are required to meet all of the other requirements to practice law in Minnesota, including a positive character and fitness determination and a determination that they meet the eligibility criteria to practice law. In 2017, 299 individuals were admitted on motion without examination, compared to 265 in 2016, an increase of 12.8%. However, the number of motion applications decreased from 309 in 2016 to 302 in 2017, an increase of 2.3%. The difference in the number is due to the timing of when the applications were received and recommended, which sometimes takes place in different years. The section below provides additional detail regarding various types of motion applicants.

## 1. Rule 7

Rule 7A permits applicants to be admitted without examination in Minnesota if they are licensed and in good standing and have practiced law as their primary occupation for at least five of the last seven years in another jurisdiction. In 2017, 94 applications were filed under Rule 7A, compared with 106 in 2016. During 2017, 98 Rule 7A applicants were admitted, compared to 100 admissions in 2016. In 2017, the Court issued an Order asking the Board to study this issue. The Board's report is due to the Court on June 1, 2018. Additional information will be in the 2018 annual report.

**Percentage change  
in Rule 7  
applications from  
2016 to 2017:**

**Rule 7A: -11%**  
**Rule 7B: -40%**  
**Rule 7C: +41%**



Rule 7B permits applicants to be admitted without examination in Minnesota if they have received a scaled score of 145 or above on an MBE taken within the past two years as part of another jurisdiction's bar exam and have been admitted in that jurisdiction. The number of applications filed under Rule 7B decreased from 93 applications in 2016 to 56 applications in 2017. As more states adopt the UBE, the number of applications under Rule 7B has decreased while the number of applications under Rule 7C has increased. In 2017, 75 applicants were admitted under Rule 7B, five more than in 2016.

In 2013 Minnesota began to accept transferred UBE scores under the new rule, Rule 7C. This provision permits applicants to be admitted without examination in Minnesota if they have received a scaled score of 260 or above on a UBE exam taken in another UBE state. Applicants do not need to be admitted in the jurisdiction where they achieved the UBE score. In 2017, 140 applications were filed under Rule 7C, compared to 99 filed in 2016. In 2017, 111 Rule 7C applicants were admitted, compared to 89 in 2016, an increase of 24.7%.

## 2. Rules 8, 9, and 10

Rule 8 permits a lawyer licensed in another jurisdiction who has accepted legal employment with a Minnesota legal services program to obtain a temporary license (valid for 15 months) to practice law in Minnesota for the legal services program. Six legal services lawyers were admitted in 2017, compared to two in 2016.

Rule 9 and Rule 10 licenses permit the admission of lawyers who are employed in Minnesota solely for a corporation or other non-law firm entity and who limit their practice to representation of the corporation or other entity. Under Rule 9 and Rule 10, applicants must have at least three years of active and lawful practice during the past five years (rather than the five out of seven years required for Rule 7A). If a lawyer licensed under Rule 9 or 10 leaves employment with the corporation which sponsored the application, the license is no longer valid.

Rule 9 permits house counsel applicants to be licensed on a temporary basis. The application process under Rule 9 is expedited in order to permit the house counsel lawyer to be licensed as quickly as possible. The scope of practice under this Rule limits holders to practicing only for the corporate employer.

There was one Rule 9 admission in 2017, the same as in 2016. There were six Rule 10 admissions in 2017, compared to three in 2016.

### 3. Rule 11

A lawyer admitted and practicing law in a country other than the United States may apply for a Foreign Legal Consultant License. This license permits the individual to advise clients on the law of the country in which the foreign legal consultant is admitted as a lawyer, counselor at law, or equivalent. A foreign legal consultant cannot represent individuals in matters outside of the limited scope of the Foreign Legal Consultant License, unless the lawyer is licensed as a house counsel foreign legal consultant. Foreign legal consultants who are admitted as house counsel may practice for the corporate entity without the restrictions that apply to private foreign legal consultants. There were two foreign legal consultant admissions in 2017 compared to none in 2016.

As is shown by **Chart 10** below, there has been a significant increase over the past ten years in the number of individuals admitted on motion without examination. The increase in 2017 is clearly attributable to the adoption of the UBE (Rule 7C) in 2013.

**Chart 10: Lawyers Admitted on Motion (Without Examination)**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
<b>Rule 7A (years of practice)</b>	75	56	73	52	82	82	75	99	100	98
<b>Rule 7B (MBE score)</b>	142	95	145	139	151	133	125	102	70	75
<b>Rule 7C (UBE score<sup>1</sup>)</b>	-	-	-	-	-	17	48	76	89	111
<b>Rule 8 (Temp Legal Services)</b>	3	2	1	0	0	2	1	3	2	6
<b>Rule 9 (Temp House Counsel)</b>	5	4	4	0	1	1	1	0	1	1
<b>Rule 10 (House Counsel License)</b>	1	5	11	6	6	2	7	5	3	6
<b>Rule 11 (Foreign Legal Consultant)</b>	0	0	0	1	1	0	2	1	0	2
<b>TOTAL</b>	<b>226</b>	<b>162</b>	<b>234</b>	<b>198</b>	<b>241</b>	<b>237</b>	<b>259</b>	<b>286</b>	<b>265</b>	<b>299</b>


<sup>1</sup> 2013 was the first year applicants could apply under Rule 7C.

# Character and Fitness Investigations

The Board of Law Examiners conducts an investigation of the background of each applicant to the bar. The focus of the investigation is to determine whether an applicant demonstrates the ability to meet the essential eligibility requirements to practice law. These standards include the ability to be honest and candid, use good judgment, act in accordance with the law, avoid acts which exhibit a disregard for the rights and welfare of others, act diligently and reliably in fulfilling one's obligations, use good judgment in financial dealings, and comply with deadlines and time constraints.

The Board staff uses processing systems and written procedures to ensure that character and fitness investigations are conducted in a thorough, fair, efficient, and consistent manner. Full and complete disclosure is important. Applications that raise serious character and fitness concerns are brought to the Board for review. The more serious the misconduct in the applicant's past, the more evidence of rehabilitation the applicant will be required to provide. Dishonesty is the most frequent reason for denial of a bar application. Failure to provide thorough responses is the most frequent reason for delay.

For most applicants taking the bar examination, the Board completes investigations by the time the bar examination results are published. There are some applicants each examination cycle who wait until the results are released before providing responses to inquiries that the Board staff previously posted. This may result in applicants who are unable to attend the admission ceremony.



**Of the 116 applicants who passed the February 2017 bar examination, 88.8% of successful examinees were cleared as to character and fitness in time to participate in the May 2017 admission ceremony. Of the 448 applicants who passed the July 2017 bar examination, 94.2% were cleared as to character and fitness in time to participate in the October admission ceremony. Applicants who did not clear either failed to respond to Board requests in a timely manner or had serious issues. In addition, some applicants did not qualify to attend the ceremony because they had not yet submitted a qualifying MPRE score.**

# Chemical Dependency and Emotional Conditions

Board inquiries into mental health and chemical dependency issues are narrowly focused to meet the Board's responsibility to protect the public and to determine whether an applicant meets the essential eligibility requirements. The Board recognizes the stresses that law school and other factors may place on applicants and encourages applicants to seek psychological counseling or treatment whenever the applicant believes it beneficial to do so.

**The Board views the decision to seek treatment as a positive factor in evaluating applications and regularly recommends admission of applicants who have addressed their issues and who have the current ability to meet the essential eligibility requirements to practice law.**


# Psychological Evaluations

The Minnesota Bar Application includes several paragraphs explaining that written policies and procedures as well as information processing systems are not intended to discourage mental health treatment. When an applicant discloses, or the Board's investigation identifies conduct that suggests a mental or neurological condition that appears likely to prevent the applicant from fulfilling the essential eligibility requirements of the practice of law as set forth in Rule 5A of the Rules, the Board may refer the applicant for a comprehensive psychological evaluation. Such referrals are rare and when requested, are conducted at the Board's expense.

## Conditional Admission

Rule 16 permits the Board to conditionally admit applicants whose past conduct raises concerns under Rule 5, but whose current record of conduct evidences a commitment to rehabilitation and an ability to meet the essential eligibility requirements of the practice of law. An applicant may be placed on conditional admission for issues such as substance abuse, chemical dependency, mental health-related misconduct, criminal probation, or financial irresponsibility.

Conditional admission occurs with the consent of the applicant and permits the applicant to begin practicing law while continuing in his or her program of rehabilitation. Typical conditional admission terms for an applicant with chemical dependency or



**The conditional admission program has been highly successful. Between 2004 and 2017, 109 lawyers have been conditionally admitted to the bar and 79 lawyers have successfully completed conditional admission. There were 27 lawyers on conditional admission at the end of 2017.**

substance abuse concerns would include requiring the applicant to report regular attendance at a sober support group, remain law abiding, and submit to random urinalysis. The period of conditional admission ranges from six to 24 months. The conditional license status is confidential and is not disclosed to the public.

On July 19, 2016, the Board filed a Petition requesting that the Court amend the Rule to provide for conditional

admission periods of up to 60 months. The Court issued an order on January 25, 2017 granting the Board's petition, effective July 1, 2017.

## Adverse Determination

When the Board concludes that an applicant's past conduct warrants denial, the Board issues an adverse determination providing the grounds for the preliminary denial. Applicants may appeal the determination and request a hearing before the full Board.

Between 2010 and 2017, the Board has issued 30 adverse determinations for character and fitness, and denied only seven applicants after full hearing.

Board revenues are generated from bar application fees and from a \$21 per lawyer allocation from the Lawyer Registration fee. **Chart 11** shows the fees received in 2016 by fee category, compared to the fees received in the previous three calendar years. In Fiscal Year 17 (FY17), the Board of Law Examiners received an increase in the allocation it receives from Lawyer Registration fees. Total revenue in 2017 increased by approximately \$105,350, or 6.9%, compared to 2016.

**Chart 11: BLE Receipts for Calendar Years 2014-2017**

Fee	2014	2015	2016	2017
Lawyer Registration fees	\$649,831	\$631,368	\$626,145	\$757,558
Bar Exam Application fees	\$578,681	\$538,825	\$506,750	\$491,345
Motion Application fees	\$259,500	\$254,000	\$284,400	\$273,950
Misc. Fees (including laptop and Rule 8-11 fees)	\$104,519	\$103,860	\$100,321	\$100,113
<b>Total</b>	<b>\$1,592,531</b>	<b>\$1,528,053</b>	<b>\$1,517,616</b>	<b>\$1,622,966</b>

## Board Members and Board Activities

The Board of Law Examiners is comprised of nine members, including seven lawyer members and two public members. The Minnesota Supreme Court appoints all members to the Board. In 2017 the Board membership included:

- Douglas R. Peterson, President, University of Minnesota, Minneapolis, MN
- Barbara J. D'Aquila, Norton, Rose, Fulbright
- Hon. Juan G. Hoyos, 4<sup>th</sup> District
- Andrew D. Hultgren, Franz Hultgren Evenson P.A.
- John Koneck, Fredrikson & Byron, P.A.
- Mark S. Kuppe, PsyD, Psychologist Emeritus
- Shawne Monahan, Public Member
- Pamela A. Thein, Fox Rothschild LLP
- Timothy Y. Wong, 3M

Justice G. Barry Anderson is the Supreme Court liaison to the Board.

In addition to the Board's commitment to the ten yearly meetings, Board members also sit on committees of the Board, which meet on a regular basis. The standing committees in 2017 included: the Rules & Policy Committee, Budget and Operations Committee, Character and Fitness Committee, and the Bar Exam Committee.

In May 2017, the Court issued an Order directing the Board to review Rule 7A (eligibility for admission based on years of practice) of the Rules for Admission to the Bar (Rules), including a review of whether and how the Board should treat part-time legal work. The Board formed a Special Committee to review this issue. In September, the Board requested written comments. Those comments were posted to the Board's website in December and a hearing was scheduled for January. Additional information will be provided in the 2018 Annual Report.

In 2018, the Board also worked to increase transparency for prospective applicants. Additional information was published to the Board's website, the Board met with representatives from the MSBA, the Director regularly participated in the MSBA Rules and Policy Committee meetings, and the Director and Board members presented at the MSBA's December General Assembly meeting.

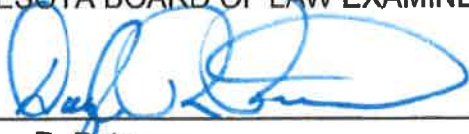
The Bar Admissions Advisory Council, comprised of the Board, leaders from each of the local law schools, and representatives from the MSBA, met in November to discuss issues related to legal education.

## Conclusion

The next five to ten-year period in bar admissions will be one of uncertainty. The decrease in the number of law students nationally, the decrease in the bar passage in Minnesota and nationally, and the increase in applicants transferring UBE scores attained in other states all contribute to uncertainty about the number and type of applicants as well as the needed level of funding to support the Board's operation. Despite these factors, the Board will continue to use its best efforts to ensure that both the bar examination and the entire bar admission process is conducted in Minnesota in a fair and conscientious manner by processing each bar applicant's file expeditiously, and treating each applicant with the consideration and respect due a future member of the legal profession.

Respectfully submitted,

MINNESOTA BOARD OF LAW EXAMINERS



Douglas R. Peterson  
President



Emily J. Eschweiler  
Director

Dated: 6/13/18