

BOARD OF LAW EXAMINERS

2018 Annual Report



PURPOSE

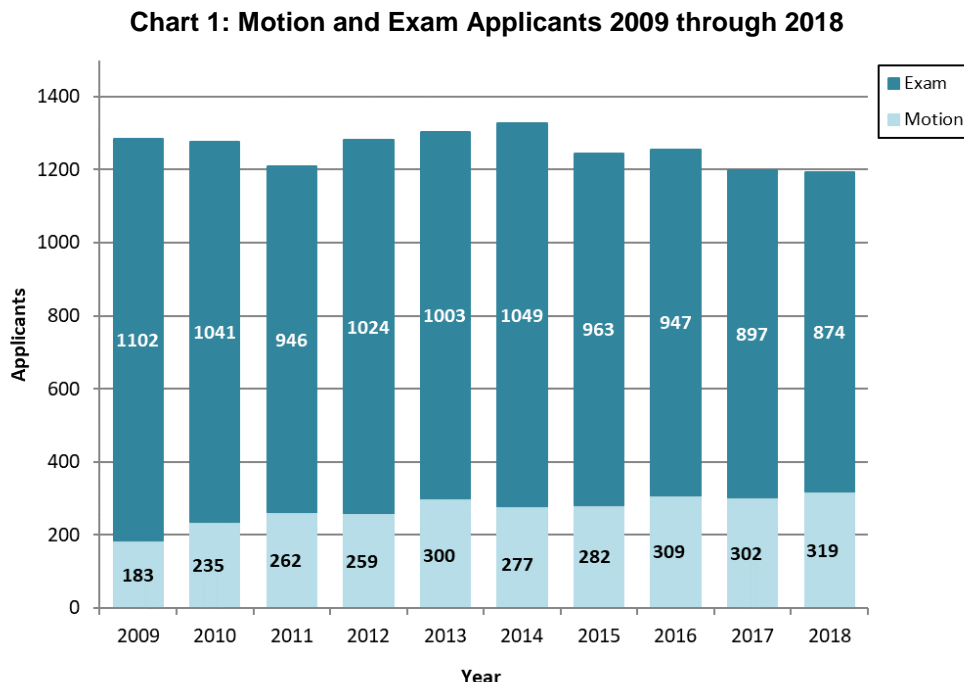
The Minnesota State Board of Law Examiners (BLE) is responsible for ensuring that those who are admitted to the bar in Minnesota have the necessary competence and character to justify the trust and confidence of clients, the public, and the legal profession. The Board investigates bar applicants' character 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 11.7 FTE. The Director, Managing Attorney, Staff Attorney, Office Administrator, and two Office Assistants 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.

APPLICANTS TO THE MINNESOTA BAR: ALL APPLICANTS

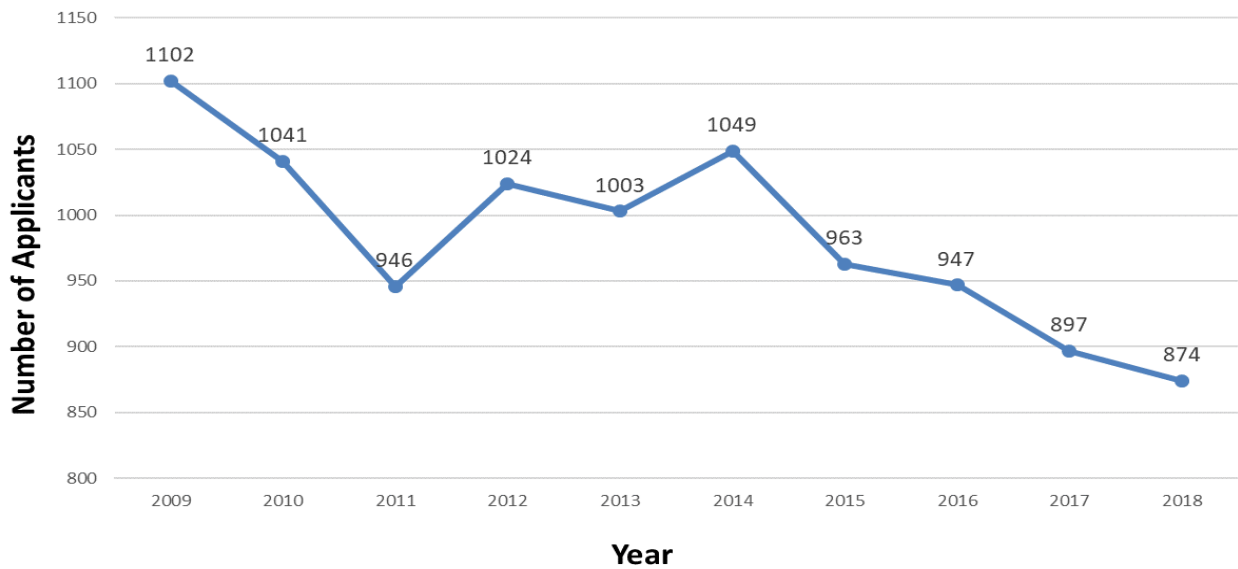
New lawyers are admitted to the bar in Minnesota by taking and passing the Uniform Bar Examination (UBE) or applying by motion. All applicants to the Minnesota bar must submit proof that they have received a scaled score of at least 85 or higher on the Multi-State Professional Responsibility Examination (MPRE). In 2018, the total number of exam applicants decreased by 23, or 2.6% compared to 2017; the total number of motion applicants increased by 17, or 5.6%, compared to 2017. Overall, the total number of exam and motion applicants decreased by 6, or .5% compared to 2017. **Chart 1** shows the number and type of applicants.



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. 2018 saw the lowest number in 25 years.

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. The charts also compare the overall passage rate to the passage rate of applicants sitting for the exam for the first time in Minnesota.

Chart 3: February Examination Law School Statistics

	FEB 2016				FEB 2017				FEB 2018			
	SAT	OVERALL PASSAGE	FIRST TIME		SAT	OVERALL PASSAGE	FIRST TIME		SAT	OVERALL PASSAGE	FIRST TIME	
University of MN	33	23	69.70%	84.62%	31	15	48.39%	66.67%	23	8	34.78%	37.50%
St. Thomas	28	13	46.43%	57.14%	30	12	40.00%	75.00%	30	12	40.00%	20.00%
Mitchell Hamline	0	0	0.00%	0.00%	75	44	58.67%	59.52%	84	42	50.00%	61.76%
Other Schools ¹	180	120	66.67%	80.19%	86	45	52.33%	78.72%	76	52	68.42%	78.00%
TOTAL – All Schools	241	156	64.73%	79.37%	222	116	52.25%	69.70%	213	114	53.52%	65.98%

Chart 4: July Examination Law School Statistics

	JULY 2016				JULY 2017				JULY 2018			
	SAT	OVERALL PASSAGE	FIRST TIME		SAT	OVERALL PASSAGE	FIRST TIME		SAT	OVERALL PASSAGE	FIRST TIME	
University of MN	177	151	85.31%	87.95%	148	129	87.16%	91.24%	141	124	87.94%	91.47%
St. Thomas	101	65	64.36%	70.45%	120	92	76.67%	83.50%	94	66	70.21%	75.00%
Mitchell Hamline	196	151	77.04%	77.84%	194	127	65.46%	70.93%	184	124	67.39%	74.34%
Other Schools ²	157	95	60.51%	75.00%	141	100	70.92%	87.13%	167	124	74.25%	80.95%
TOTAL – All Schools	631	462	73.22%	79.08%	603	448	74.30%	82.07%	586	438	74.74%	80.66%

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

	2016				2017				2018			
	SAT	OVERALL PASSAGE	FIRST TIME		SAT	OVERALL PASSAGE	FIRST TIME		SAT	OVERALL PASSAGE	FIRST TIME	
University of MN	210	174	82.86%	87.71%	179	144	80.45%	90.21%	164	132	80.49%	88.32%
St. Thomas	129	78	60.47%	69.47%	150	104	69.33%	83.18%	124	78	62.90%	71.91%
Mitchell Hamline	196	151	77.04%	77.84%	269	171	63.57%	68.69%	268	166	61.94%	72.04%
Other Schools ³	337	215	63.80%	77.48%	227	145	63.88%	84.46%	243	176	72.43%	80.20%
TOTAL – All Schools	872	618	70.87%	79.13%	825	564	68.36%	80.07%	799	552	69.09%	78.33%

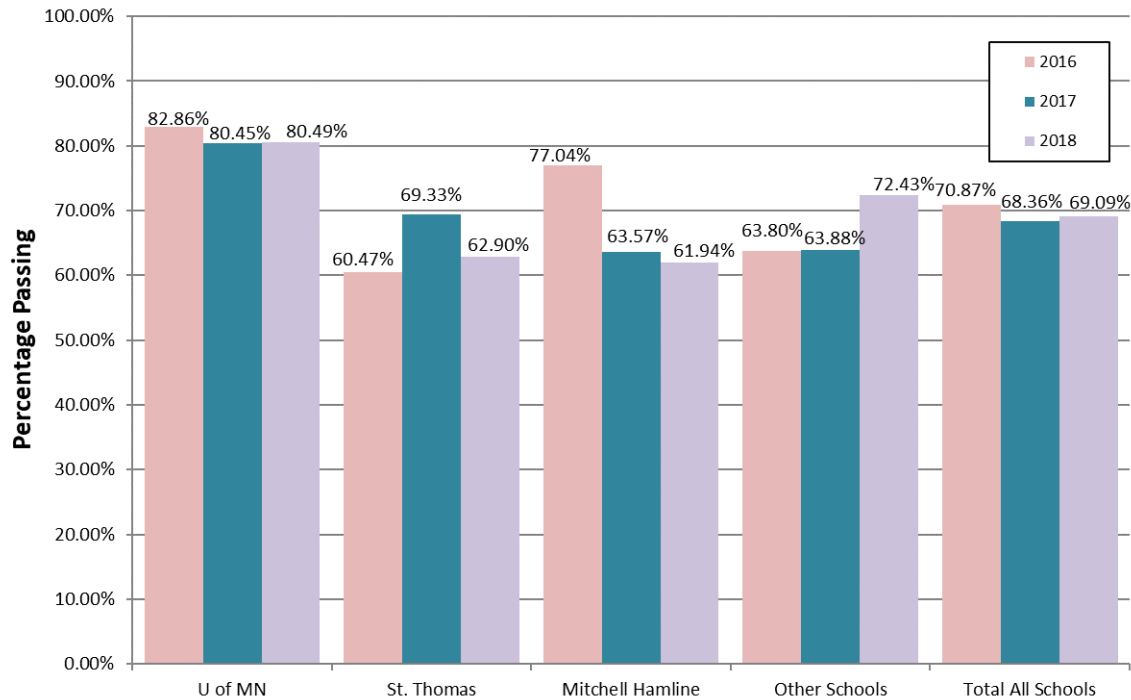
¹ "Other Schools" includes William Mitchell, Hamline, and all out-of-state schools.

² "Other Schools" includes William Mitchell, Hamline, and all out-of-state schools.

³ "Other Schools" includes William Mitchell, Hamline, and all out-of-state schools.

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 overall. Passage rates declined from 2016 to 2017. Overall passage rates were up slightly in 2018.

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 and on 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 documented needs of the applicant while preserving the integrity of the exam and adhering to reasonable standards of test administration.

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.

When 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.

- Accommodations provided in 2018 included:**
- **Additional testing time**
 - **Testing in a private or semi-private room**
 - **Off-the-clock breaks**

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

In 2018, 758 or 94.8% of all examinees took the Minnesota bar examination on a laptop.

Chart 7: Individuals Taking the Essay Examination by Laptop (Past 5 Years)

	2014	2015	2016	2017	2018
Laptop	919	863	816	791	758
Handwritten	53	41	56	34	42
Total	972	904	872	825	800
Percentage by Laptop	94.5%	95.5%	93.6%	95.9%	94.8%

APPLICANTS TO THE MINNESOTA BAR: MOTION

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 2009 and 2018.

Chart 8: Rule 7 Admissions

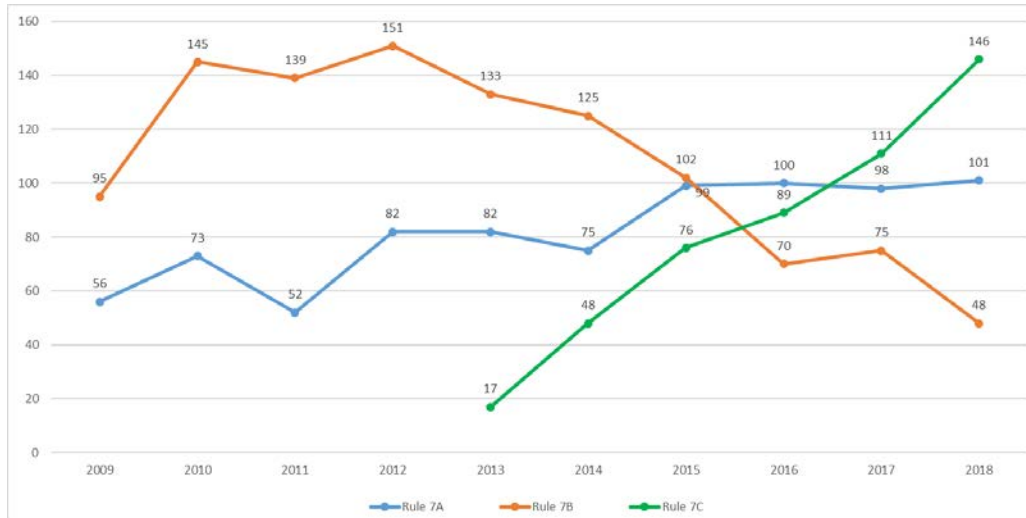
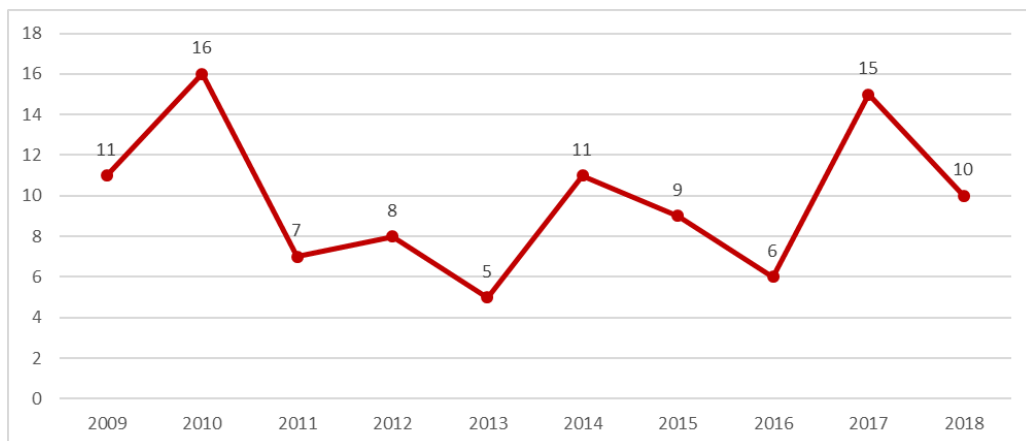


Chart 9: Rule 8, 9, 10, and 11 Admissions



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

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 2018, 305 individuals were admitted on motion without examination, compared to 299 in 2017, an increase of 2.01%. The number of motion applications increased from 302 in 2017 to 319 in 2018, an increase of 5.63%. The difference in the number is due to the timing of when the applications were received and recommended, which sometimes takes place in different calendar 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 the requisite years of practice. In 2018, 104 applications were filed under Rule 7A, compared with 94 in 2017, an increase of 10.6%. During 2018, 101 Rule 7A applicants were admitted, compared to 98 admissions in 2017, and increase of 3.1%.

**Percentage change
in Rule 7
applications from
2017 to 2018:**

Rule 7A: +10.6%
Rule 7B: -14.3%
Rule 7C: +12.1%

In 2017, the Court issued an Order asking the Board to study Rule 7A, including a review of whether and how the Board should treat part-time legal work and periods of leave. On September 12, 2017, the Minnesota Board of Law Examiners published a public notice seeking comments to Rule 7A. The public notice outlined the ways that Applicants to the Minnesota bar may provide evidence of competence under the Board's current Rules and provided information on the scope of the Board's current review. The Board received 6 written comments. On January 16, 2018, the Board held a public meeting to discuss the issue. The four parties that requested to present were invited to appear and an open invitation to the meeting was posted to the Board's website. Following the meeting, the Board made a preliminary recommendation, which the Board posted to the website to invite further public comment. On June 1, 2018, the Board filed the Report with the Court and recommended changes to Rule 7A. On November 20, 2018, the Court issued an Order amending Rule 7A. The order amended the practice requirement from 60 of the 84 months preceding the application to 36 of the 60 preceding months, and removed "Principal occupation" as a determining factor in calculating eligibility, instead requiring an attorney to be engaged in the lawful practice of law for at least 1,000 hours per year.

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 were 48 applications in 2018, compared to 56 applications in 2017, a decrease of 14.3%. 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 2018, 48 applicants were admitted under Rule 7B, compared to 75 in 2017, a decrease of 36%.

In 2013 Minnesota began to accept transferred UBE scores under 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 2018, 157 applications were filed under Rule 7C, compared to 140 filed in 2017, an increase of 12.1%. In 2018, 146 Rule 7C applicants were admitted, compared to 111 in 2017, an increase of 31.5%.

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. Three lawyers were admitted under Rule 8 in 2018, compared to six in 2017.

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. 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.

There was one Rule 9 admission in 2018, the same as in 2017. There were three Rule 10 admissions in 2018, compared to six in 2017.

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 new foreign legal consultant admissions in 2018, the same as in 2017, and one foreign legal consultant who was recertified in 2018.

As is shown by **Chart 10** below, there has been an increase over the past ten years in the number of individuals admitted on motion without examination. In 2018, the Rule 7C admissions increased significantly but were offset by the significant reduction in Rule 7B admissions.

Chart 10: Lawyers Admitted on Motion (Without Examination)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Rule 7A (years of practice)	56	73	52	82	82	75	99	100	98	101
Rule 7B (MBE score)	95	145	139	151	133	125	102	70	75	48
Rule 7C (UBE score⁴)	-	-	-	-	17	48	76	89	111	146
Rule 8 (Temp Legal Services)	2	1	0	0	2	1	3	2	6	3
Rule 9 (Temp House Counsel)	4	4	0	1	1	1	0	1	1	1
Rule 10 (House Counsel License)	5	11	6	6	2	7	5	3	6	3
Rule 11 (Foreign Legal Consultant)	0	0	1	1	0	2	1	0	2	3
TOTAL	162	234	198	241	237	259	286	265	299	305

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. In 2018, 80.7% of successful February applicants and 92.5% of successful July applicants cleared in time to participate in the admission ceremony. Applicants who did not clear character and fitness prior to the admission ceremony 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.

⁴ 2013 was the first year applicants could apply under Rule 7C.

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 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 ADMISSIONS

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 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 60 months. The conditional license status is confidential and is not disclosed to the public.

Between 2004 and 2018, 120 lawyers have been conditionally admitted to the bar and 94 lawyers have successfully completed conditional admission. There were 24 lawyers on conditional admission at the end of 2018.

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.

FUNDING

Board revenues are generated from bar application fees and from a \$29 per lawyer allocation from the Lawyer Registration fee (effective as of the October 1, 2017 registration cycle). **Chart 11** shows the 2018 fees received by category, compared to the fees received in the previous three calendar years. Total revenue in 2018 increased by \$100,136, or 6.2%, compared to 2017.

Chart 11: BLE Receipts for Calendar Years 2015-2018

Fee	2015	2016	2017	2018
Lawyer Registration fees	\$631,368	\$626,145	\$757,558	\$865,175
Bar Exam Application fees	\$538,825	\$506,750	\$491,345	\$472,700
Motion Application fees	\$254,000	\$284,400	\$273,950	\$287,450
Misc. Fees (including laptop and Rule 8-11 fees)	\$103,860	\$100,321	\$100,113	\$97,777
Total	\$1,528,053	\$1,517,616	\$1,622,966	\$1,723,102

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 2018 the Board membership included:

- Douglas R. Peterson, President, University of Minnesota
- Thomas H. Boyd, Winthrop & Weinstine, P.A.
- Hon. Juan G. Hoyos, 4th District
- Andrew D. Hultgren, Franz Hultgren Evenson P.A.
- John M. Koneck, Fredrikson & Byron, P.A.
- Mark S. Kuppe, PsyD, Psychologist Emeritus
- Shawne Monahan, Public Member
- Pamela A. Thein, Fox Rothschild LLP
- Timothy Y. Wong, Barnes & Thornburg LLP

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 2018 included: the Rules & Policy Committee, Committee to Study Rule 7A, Budget and Operations Committee, Character and Fitness Committee, and the Bar Exam Committee.

In 2018, the Board met with representatives from the MSBA, the Director regularly participated in the MSBA Rules and Policy Committee meetings, and staff presented at the law schools.


The Bar Admissions Advisory Council, comprised of the Board, leaders from each of the local law schools, and representatives from the MSBA, did not meet in 2018, but met in early 2019 to discuss issues related to legal education.

CONCLUSION

Lawyer mobility continues to be on the rise and the Board continues to see increased motion applications. While the legal market has started to improve, the number of bar exam applications remains lower than previous years. Board staff continues to educate lawyers on the bar application process and provide transparency on the types of circumstances that will lead to delay. The Board will continue to conduct the entire admission process in a fair and conscientious manner by processing each application as expeditiously as possible and treating each applicant with consideration and respect.

Respectfully submitted,

MINNESOTA BOARD OF LAW EXAMINERS



Douglas R. Peterson
President



Emily J. Eschweiler
Director

Dated: 7/19/19