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FITNESS DEFINED; INDEPENDENT FITNESS EXAMINATION

(a) Fitness - defined. Fitness is the absence of any current mental impairment or current drug or alcohol dependency or abuse which, if extant, would substantially impair the ability of the Applicant or Petitioner to practice law.

(b) Testimony and Evidence: If it appears that the Applicant or Petitioner has engaged in conduct that was or may have been caused in whole or in part by a mental impairment or drug or alcohol dependency or abuse, the Applicant or Petitioner may present testimony or evidence from a licensed or certified mental health professional (hereafter "examining professional").

(c) Independent Fitness Examination: If after reviewing such testimony or evidence the Board finds that further examination is necessary, the Board by majority vote may require an examination of the Applicant or Petitioner by an examining professional approved by the Lawyers' Assistance Program of the Washington State Bar Association.

(d) Failure to Comply: The failure of an Applicant or a Petitioner to agree or submit to a required independent fitness examination shall result in the Applicant's or Petitioner's application or petition being denied.

(e) Costs: The cost of any examination required by the Board shall be borne by the Bar Association.

(f) Report: The examining professional shall issue a written report of his or her findings which report shall be provided to the Applicant or Petitioner and his or her counsel, Bar Counsel and the Character and Fitness Board.

(g) Confidentiality: Any report and testimony of an examining professional may be admitted into evidence at a hearing on, or review of, the Applicant's or Petitioner's fitness and transmitted with the record on review by the Disciplinary Board or the Supreme Court. Reports and testimony regarding the Applicant's or Petitioner's fitness shall otherwise be kept confidential in all respects and neither the report nor the testimony of the examining professional shall be discoverable or admissible in any other proceeding or action.

[Adopted effective September 1, 2006.]