

REVIEW OF APPLICATIONS

(a) Admissions Staff Review. All applications for admission or licensure to practice law in Washington State or to change membership class or status with the Bar, and all petitions for readmission to the practice of law in Washington State shall be reviewed by the Bar admissions staff for purposes of determining whether any of the factors set forth in APR 21(a) are present.

(b) Referral to Bar Counsel—Standard. All applications and petitions that reflect one or more of the factors set forth in APR 21(a) shall be referred to Bar Counsel for review.

(c) Review by Bar Counsel. Upon receiving a referral from the Bar admissions staff, Bar Counsel may conduct such further investigation as they deem necessary. Bar counsel may issue subpoenas to compel attendance of an applicant or witness, or the production of books, documents, or other evidence, at a deposition or hearing. Subpoenas shall be served in the same manner as in civil cases in the superior court. Any investigation or inquiry into a health diagnosis, alcohol or drug dependence, or treatment for either must comply with subsections (e) and (f) of this Rule.

(d) Referral for Hearing—Standard. Bar Counsel shall refer to the Character and Fitness Board for hearing any applicant about whom there is a substantial question whether the applicant possess the requisite good moral character and fitness to practice law. In determining whether a substantial question exists, Bar Counsel shall apply the factors and considerations set forth in APR 21(a) and review the material evidence in the light most favorable to the Bar's obligation to recommend the licensure or admission to the practice of law of only those persons who possess good moral character and fitness to practice law.

(e) Basis for Inquiry into Health Diagnosis and Drug or Alcohol Dependence. Any inquiry by the Bar or the Character and Fitness Board about drug or alcohol dependence, a health diagnosis, or treatment for either can occur only if it appears that the applicant has engaged in conduct that demonstrates the inability to meet one or more of the essential eligibility requirements and (1) the drug or alcohol dependence, health diagnosis, or treatment information was disclosed voluntarily to explain the conduct or as a voluntary response to any question on the application; or (2) the or the Character and Fitness Board learns from a third-party source that the drug or alcohol dependence, health diagnosis, or treatment was raised as an explanation for the conduct.

(f) Scope of Inquiry into Health Diagnosis and Drug or Alcohol Dependence. When a basis for an inquiry by the Bar or the Character and Fitness Board has been established under subsection (e), any such inquiry must be narrowly, reasonably, and individually tailored and adhere to the following:

(1) The first inquiry will be to request statements from the applicant;

(2) Following completion of the inquiry in subsection (f)(1) above, additional statements may be requested from treatment providers if reasonably deemed necessary by the Bar or the Character and Fitness Board. The statements of treatment providers shall be accorded considerable weight; and

(3) In those cases in which the statements from the applicant and treatment providers do not resolve reasonable concerns about the applicant's ability to meet the essential eligibility requirements, the Bar or Character and Fitness Board may seek medical or treatment records. Any requests for medical or treatment records shall be by way of narrowly tailored requests and

releases that provide access only to information that is reasonably necessary to assess the applicant's ability to meet the essential eligibility requirements.

(4) Any testimony or records from medical or other treatment providers may be admitted into evidence at a hearing on, or review of, the applicant's fitness and transmitted with the record on review to the Disciplinary Board and/or the Supreme Court. Records and testimony regarding the applicant's fitness shall otherwise be kept confidential in all respects, and neither the records nor the testimony of the medical or treatment provider shall be discoverable or admissible in any other proceeding or action without the written consent of the applicant.

[Adopted effective September 1, 2016; Amended effective September 1, 2017; January 1, 2023.]