

APR 24.1
HEARING PROCEDURE

(a) Notice. The Character and Fitness Board may fix a time and place for a hearing on the application, and Bar Counsel shall serve notice thereof not less than 30 days prior to the hearing upon the applicant and upon such other persons as may be ordered by the Character and Fitness Board. This notice requirement may be waived by the applicant.

(b) Appearance and Right to Counsel. Applicants shall appear in person at any hearing before the Character and Fitness Board, unless the applicant's presence is waived by the Character and Fitness Board for good cause shown. The presumption is that the applicant's personal attendance at the hearing will be required. An applicant may be represented by counsel.

(c) Burden of Proof. An applicant must establish by clear and convincing evidence that they are of good moral character and possesses the requisite fitness to practice law.

(d) Proceedings Not Civil or Criminal. Hearings before the Character and Fitness Board are not civil or criminal but are sui generis hearings to determine whether an applicant is of good moral character and possesses the requisite fitness to practice law.

(e) Rules of Evidence.

(1) Evidentiary rulings shall be made by the Character and Fitness Board chair. A majority of Character and Fitness Board members present may by vote overrule a ruling by the chair.

(2) Consistent with subsection (d) of this rule, evidence, including hearsay evidence, is admissible if in the chair's judgment it is the kind of evidence on which reasonably prudent persons are accustomed to rely on the conduct of their affairs. The chairperson may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(3) Witnesses shall testify under oath; all testimony shall be transcribed by a certified court reporter.

(4) Expert witnesses shall appear and testify in person or by telephone or video conference before the Character and Fitness Board, unless in the discretion of the Character and Fitness Board their appearance before the Character and Fitness Board is waived.

(5) Generally, all documentary evidence to be submitted to the Character and Fitness Board for consideration must be delivered to Bar Counsel not less than 30 days prior to the hearing. Bar Counsel will provide copies of all documentary evidence, and any hearing briefs, memoranda, or other documentary material, to the Character and Fitness Board members and to the applicant prior to the hearing date.

(6) The Character and Fitness Board may take notice of any judicially cognizable facts, or technical or scientific facts within a Character and Fitness Board member's specialized knowledge.

(7) Questioning of the applicant and the applicant's witnesses shall be conducted by Bar Counsel, by members of the Character and Fitness Board, and by the applicant or the applicant's counsel.

(8) The Character and Fitness Board may question medical or other treatment providers and seek medical or other treatment records consistent with the provisions of APR 22.1(e) and (f) and APR 24.1(f).

(f) Independent Medical Examination. An independent medical examination (IME) may be requested by the Character and Fitness Board only when a basis for an inquiry by the

Character and Fitness Board exists under APR 22.1(e) and only after testimony and evidence presented at the hearing has failed to resolve the Character and Fitness Board's reasonable concerns regarding the applicant's ability to meet the essential eligibility requirements to practice law. If the applicant has not previously been requested to provide information under APR 22.1(f)(1), (2) and (3), the Character and Fitness Board shall provide the applicant with the opportunity to submit such information, within such reasonable timelines as the Character and Fitness Board shall establish, prior to requesting the IME.

(1) *Time and Place.* Any independent medical examination shall occur at a time and place convenient to the applicant and shall be conducted by a provider mutually agreed upon by the applicant and the Bar.

(2) *Failure to Comply.* The failure of an applicant to agree to or submit to a required independent medical examination shall result in the applicant's application or petition being denied.

(3) *Costs.* The cost of any independent medical examination required by the Character and Fitness Board shall be borne by the Bar.

(4) *Report.* The examining professional shall issue a written report of their findings, which shall be provided to the applicant and the applicant's counsel, Bar Counsel, and the Character and Fitness Board.

(5) *Confidentiality of IME.* Any report and testimony of an examining professional 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. Reports and Testimony regarding the applicant'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 without the consent of the applicant.

(6) *Rebuttal to IME.* Applicants shall have the right to provide rebuttal medical information from their treating clinicians if such information is provided within 30 days from the receipt of the independent medical examination report.

(g) Confidentiality. All hearings and documents before the Character and Fitness Board on applications for admission or licensure to practice law, enrollment in the law clerk program, and return to active membership are confidential, but may be provided to the Disciplinary Board or Supreme Court in connection with any appeal or review, or to other entities with the written consent of the applicant.

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