



RC ID# 2022-008 a

**STATE OF CONNECTICUT
JUDICIAL BRANCH**

CONNECTICUT BAR EXAMINING COMMITTEE

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VIA EMAIL ONLY Joseph.DelCiampo@jud.ct.gov

March 7, 2022

Attorney Joseph J. Del Ciampo
Secretary to the Rules Committee
100 Washington Street
Hartford, CT 06106

Dear Attorney Del Ciampo:

As you are aware, the bar admission process was modified during the COVID-19 pandemic to allow for admission in absentia whereby the Connecticut Bar Examining Committee (CBEC) filed a motion with the court for approval and then sent required affidavits to candidates for completion before an individual authorized to administer oaths. The forms were then returned to CBEC and processed to the Statewide Grievance Committee for issuance and activation of juris numbers.

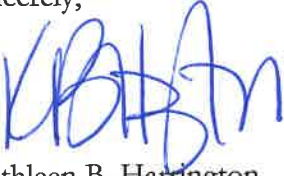
Given the continuing nature of the pandemic, social distancing, mask mandates, and remote proceedings throughout 2021, the in absentia process continued to be utilized by the CBEC as the primary process for admission. This process, while successful, entailed significant administrative work for the CBEC staff. To make the process more efficient, the Chief Court Administrator (CCA) signed a Standing Order authorizing the CBEC to recommend candidates for admission in absentia, thereby eliminating the need for motions to be filed with the court. Not only did this lessen the administrative burden on the CBEC staff, but it also streamlined the process from the candidates' perspective in that the CBEC staff processed recommendations for admission on a weekly basis without waiting for enough candidates to justify filing a motion with the court. The CCA's Standing Order was effective on August 10, 2021 and was posted on the Judicial Branch website. A copy is attached.

Given the success of the in absentia process, we inquired and were advised that the CCA and the Chief Justice were in favor of offering admission via the in absentia process as an option for candidates going forward. As such, the CBEC staff drafted proposed changes to the Practice Book to codify the in absentia process as an option for admission. The proposals were sent to the CCA for review. We're pleased to report that the CCA has approved the proposed rule changes, and by this submission we are now submitting the proposed rule changes to the Rules Committee for consideration and respectfully request that these be added to the March 14th agenda if possible.

The proposed rule changes have been sent to the CBA for comment, and we've copied Attorney Michael Bowler, Statewide Bar Counsel, on this submission so that he can review and comment on the proposed rule changes as well.

Lisa Valko, CBEC Director, and I will appear at the March 14, 2022 Rules Committee meeting to answer any questions the Rules Committee may have. Thank you.

Sincerely,



Kathleen B. Harrington
Deputy Director, Attorney Services

Enc.

cc: Hon. Anne C. Dranginis (Ret.), CBEC Chair – by email only
Lisa Valko, CBEC Director – by email only
Melissa A. Farley, Executive Director, External Affairs Division – by email only
Michael P. Bowler, Statewide Bar Counsel – by email only

STANDING ORDER – ADMISSION BY SUPERIOR COURT
EFFECTIVE AS OF AUGUST 10, 2021

This standing order shall serve as authorization for the CT Bar Examining Committee to recommend candidates for admission in absentia. Upon the administration of the oaths by an official duly qualified to administer oaths, the candidates who have taken the oaths shall be admitted to the Bar of the State of Connecticut in absentia.



Judge Patrick L. Carroll III
Chief Court Administrator

RULES OF THE SUPERIOR COURT
REGULATING ADMISSION TO THE BAR

Sec. 2-5. —EXAMINATION OF CANDIDATES FOR ADMISSION

The bar examining committee shall further have the duty, power and authority to provide for the examination of candidates for admission to the bar; to determine whether such candidates are qualified as to prelaw education, legal education, good moral character and fitness to practice law; and to recommend ~~to the court~~ for admission to the bar qualified candidates.

Sec. 2-9. CERTIFICATION OF APPLICANTS RECOMMENDED FOR ADMISSION; CONDITIONS OF ADMISSION

(a) The bar examining committee shall certify ~~to the clerk of the superior court for the Judicial District where the applicant has his or her correspondence address~~ the names of any such applicants recommended by it for admission to the bar and shall notify the applicants of its decision.

(b) The bar examining committee may, in light of the physical or mental disability of a candidate that has caused conduct or behavior that would otherwise have rendered the candidate currently unfit to practice law, determine that it will only recommend an applicant for admission to the bar conditional upon the applicant's compliance with conditions prescribed by the committee relevant to the disability and the fitness of the applicant. Such determination shall be made after a hearing on the record is conducted by the committee or a panel thereof consisting of at least three members appointed by the chair, unless such hearing is waived by the applicant. Such conditions shall be tailored to detect recurrence of the conduct or behavior which could render an applicant unfit to practice law or pose a risk to clients or the public and to encourage continued treatment, abstinence, or other support. The conditional admission period shall not exceed five years, unless the conditionally-admitted attorney fails to comply with the conditions of admission, and the committee or the court determines, in accordance with the procedures set forth in section 2-11, that a further period of conditional admission is necessary. The committee shall notify the applicant by mail of its decision and that the applicant must sign an agreement with the committee under oath affirming acceptance of such conditions and that the applicant will comply with them. Upon receipt of this agreement from the applicant, duly executed, the committee shall recommend the applicant for admission to the bar as provided herein. The committee shall forward a copy of the agreement to the statewide bar counsel, who shall be considered a party for purposes of defending an appeal under Section 2-11A.

Sec. 2-10. ADMISSION BY SUPERIOR COURT: ADMISSION IN ABSENTIA

(a) Each applicant who shall be recommended for admission to the bar, ~~except under subsection (c) of this rule~~, shall present himself or herself to the superior court, or to either the supreme court or the appellate court sitting as the superior court, at such place and at such time as shall be prescribed by the bar examining committee, or shall be prescribed by the supreme court or the appellate court, and such court may then, upon motion, admit such person as an attorney. The administrative director shall give notice to each clerk of the names of the newly admitted attorneys. At the time such applicant is admitted as an attorney the applicant shall be sworn as a commissioner of the superior court.

(b) The administrative judge of said judicial district or a designee or the chief justice of the supreme court or a designee or the chief judge of the appellate court or a designee may deliver an address to the applicants so admitted respecting their duties and responsibilities as attorneys.

(c) The bar examining committee may, upon election by a candidate, recommend the candidate for admission in absentia. Upon the administration of the oaths taken as commissioner of the superior court and for admission to the bar by an official duly qualified to administer oaths, the candidate who has taken the oaths shall be admitted to the Bar of the State of Connecticut in absentia. The candidate shall complete the oaths and submit the original affidavits to the bar examining committee within one hundred and eighty (180) days from the date of certification.

Sec. 2-13. ATTORNEYS OF OTHER JURISDICTIONS; QUALIFICATIONS AND REQUIREMENTS FOR ADMISSION

(a) Any member of the bar of another state or territory of the United States or the District of Columbia, who, after satisfying the bar examining committee that his or her educational qualifications are such as would entitle him or her to take the examination in Connecticut, and that (i) at least one jurisdiction in which he or she is a member of the bar is reciprocal to Connecticut in that it would admit a member of the bar of Connecticut to its bar without examination under provisions similar to those set out in this section or (ii) he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction, shall satisfy the committee that he or she:

(1) is of good moral character, is fit to practice law, and has either passed an examination in professional responsibility or has completed a course in professional responsibility in accordance with the regulations of the committee;

(2) has been duly licensed to practice law before the highest court of a reciprocal state or territory of the United States or in the District of Columbia if reciprocal to Connecticut, or that he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction and (A) has lawfully engaged in the practice of law as the applicant's principal means of livelihood for at least five of the ten years immediately preceding the date of the application and is in good standing, or (B) if the applicant has taken the bar examinations of Connecticut and failed to pass them, the applicant has lawfully engaged in the practice of law as his or her principal means of livelihood for at least five of the ten years immediately preceding the date of the application and is in good standing, provided that such five years of practice shall have occurred subsequent to the applicant's last failed Connecticut examination; and

(3) is a citizen of the United States or an alien lawfully residing in the United States, which shall include an individual authorized to work lawfully in the United States, may be admitted by the court as an attorney without examination upon written application and the payment of such fee as the committee shall from time to time determine, upon compliance with the following requirements: Such application, duly verified, shall be filed with the administrative director of the committee and shall set forth his or her qualifications as hereinbefore provided. The following affidavits shall be filed by the person completing the affidavit:

(A) affidavits from two attorneys who personally know the applicant certifying to his or her good moral character and fitness to practice law and supporting, to the satisfaction of the committee, his or her practice of law as defined under (2) of this subsection;

(B) affidavits from two members of the bar of Connecticut of at least five years' standing, certifying that the applicant is of good moral character and is fit to practice law; and

(C) an affidavit from the applicant, certifying whether such applicant has a grievance pending against him or her, has ever been reprimanded, suspended, placed on inactive status, disbarred,

or has ever resigned from the practice of law, and, if so, setting forth the circumstances concerning such action. Such an affidavit is not required if it has been furnished as part of the application form prescribed by the committee.

(b) For the purpose of this rule, the “practice of law” shall include the following activities, if performed after the date of the applicant’s admission to the jurisdiction in which the activities were performed, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:

- (1) representation of one or more clients in the practice of law;
- (2) service as a lawyer with a state, federal, or territorial agency, including military services;
- (3) teaching law at an accredited law school, including supervision of law students within a clinical program;
- (4) service as a judge in a state, federal, or territorial court of record;
- (5) service as a judicial law clerk;
- (6) service as authorized house counsel;
- (7) service as authorized house counsel in Connecticut before July 1, 2008, or while certified pursuant to Section 2-15A; or
- (8) any combination of the above.

Sec. 2-15A. —AUTHORIZED HOUSE COUNSEL

(a) Purpose

The purpose of this section is to clarify the status of house counsel as authorized house counsel as defined herein, and to confirm that such counsel are subject to regulation by the judges of the superior court. Notwithstanding any other section of this chapter relating to admission to the bar, this section shall authorize attorneys licensed to practice in jurisdictions other than Connecticut to be permitted to undertake these activities, as defined herein, in Connecticut without the requirement of taking the bar examination so long as they are exclusively employed by an organization.

(b) Definitions

(1) Authorized House Counsel. An “authorized house counsel” is any person who:

(A) is a member in good standing of the entity governing the practice of law of each state (other than Connecticut) or territory of the United States, or the District of Columbia or any foreign jurisdiction in which the member is licensed;

(B) has been certified on recommendation of the bar examining committee in accordance with this section;

(C) agrees to abide by the rules regulating members of the Connecticut bar and submit to the jurisdiction of the statewide grievance committee and the superior court; and

(D) is, at the date of application for registration under this rule, employed in the state of Connecticut by an organization or relocating to the state of Connecticut in furtherance of such employment within 3 months prior to starting work in the state of Connecticut or 3 months after the applicant begins work in the state of Connecticut of such application under this section and receives or shall receive compensation for activities performed for that business organization.

(2) Organization. An “organization” for the purpose of this rule is a corporation, partnership, association, or employer sponsored benefit plan or other legal entity (taken together with its respective parents, subsidiaries, and affiliates) that is not itself engaged in the practice of law or the rendering of legal services outside such organization, whether for a fee or otherwise, and does not charge or collect a fee for the representation or advice other than to entities comprising such organization for the activities of the authorized house counsel.

(c) Activities

(1) Authorized Activities. An authorized house counsel, as an employee of an organization, may provide legal services in the state of Connecticut to the organization for which a registration pursuant to subsection (d) is effective, provided, however, that such activities shall be limited to:

(A) the giving of legal advice to the directors, officers, employees, trustees, and agents of the organization with respect to its business and affairs;

(B) negotiating and documenting all matters for the organization; and

(C) representation of the organization in its dealings with any administrative agency, tribunal or commission having jurisdiction; provided, however, authorized house counsel shall not be permitted to make appearances as counsel before any state or municipal administrative tribunal, agency, or commission, and shall not be permitted to make appearances in any court of this state, unless the attorney is specially admitted to appear in a case before such tribunal, agency, commission or court.

(2) Disclosure. Authorized house counsel shall not represent themselves to be members of the Connecticut bar or commissioners of the superior court licensed to practice law in this state. Such counsel may represent themselves as Connecticut authorized house counsel.

(3) Limitation on Representation. In no event shall the activities permitted hereunder include the individual or personal representation of any shareholder, owner, partner, officer, employee, servant, or agent in any matter or transaction or the giving of advice therefor unless otherwise permitted or authorized by law, code, or rule or as may be permitted by subsection (c)(1). Authorized house counsel shall not be permitted to prepare legal instruments or documents on behalf of anyone other than the organization employing the authorized house counsel.

(4) Limitation on Opinions to Third Parties. An authorized house counsel shall not express or render a legal judgment or opinion to be relied upon by any third person or party other than legal opinions rendered in connection with commercial, financial or other business transactions to which the authorized house counsel's employer organization is a party and in which the legal opinions have been requested from the authorized house counsel by another party to the transaction. Nothing in this subsection (c)(4) shall permit authorized house counsel to render legal opinions or advice in consumer transactions to customers of the organization employing the authorized house counsel.

(5) Pro Bono Legal Services. Notwithstanding anything to the contrary in this section, an authorized house counsel may participate in the provision of any and all legal services pro bono publico in Connecticut offered under the supervision of an organized legal aid society or state/local bar association project, or of a member of the Connecticut bar who is also working on the pro bono representation.

(d) Registration

(1) Filing with the Bar Examining Committee. The bar examining committee shall investigate whether the applicant is at least eighteen years of age and is of good moral character, consistent with the requirement of Section 2-8(3) regarding applicants for admission to the bar. In addition, the applicant shall file with the committee, and the committee shall consider, the following:

(A) a certificate from each entity governing the practice of law of a state or territory of the United States, or the District of Columbia or any foreign jurisdiction in which the applicant is licensed to practice law certifying that the applicant is a member in good standing;

(B) a sworn statement by the applicant:

(i) that the applicant has read and is familiar with the Connecticut Rules of Professional Conduct for attorneys and Chapter 2 (Attorneys) of the Superior Court Rules, General Provisions, and will abide by the provisions thereof;

(ii) that the applicant submits to the jurisdiction of the statewide grievance committee and the superior court for disciplinary purposes, and authorizes notification to or from the entity governing the practice of law of each state or territory of the United States, or the District of Columbia in which the applicant is licensed to practice law of any disciplinary action taken against the applicant;

(iii) listing any jurisdiction in which the applicant is now or ever has been licensed to practice law ; and

(iv) disclosing any disciplinary sanction or pending proceeding pertaining or relating to his or her license to practice law, including but not limited to reprimand, censure, suspension or disbarment, or has been placed on inactive status;

(C) a certificate from an organization certifying that it is qualified as set forth in subsection (b)(2); that it is aware that the applicant is not licensed to practice law in Connecticut; and that the applicant is employed or about to be employed in Connecticut by the organization as set forth in subsection (b)(1)(D);

(D) an appropriate application pursuant to the regulations of the bar examining committee;

(E) remittance of a filing fee to the bar examining committee as prescribed and set by that committee; and

(F) an affidavit from each of two members of the Connecticut bar, who have each been licensed to practice law in Connecticut for at least five years, certifying that the applicant is of good moral character and that the applicant is employed or will be employed by an organization as defined above in subsection (b)(2).

(2) Certification. Upon recommendation of the bar examining committee, the court may certify the applicant shall be certified as authorized house counsel in absentia, and shall cause notice of such certification to be published in the Connecticut Law Journal. Upon the administration of the oath taken as authorized house counsel by an official duly qualified to administer oaths, the applicant who has taken the oath shall be certified as authorized house counsel in absentia. The applicant shall complete the oath and submit the original affidavit to the bar examining committee within one hundred and eighty (180) days from the date of certification. The committee shall cause notice of such certification to be published in the Connecticut Law Journal.

(3) Annual Client Security Fund Fee. Individuals certified pursuant to this section shall comply with the requirements of sections 2-68 and 2-70 of this chapter, including payment of the annual fee and shall pay any other fees imposed on attorneys by court rule.

(4) Annual Registration. Individuals certified pursuant to this section shall register annually with the statewide grievance committee in accordance with section 2-26 and section 2-27(d) of this chapter.

(e) Termination or Withdrawal of Registration

(1) Cessation of Authorization to Perform Services. Authorization to perform services under this rule shall cease upon the earliest of the following events:

(A) the termination or resignation of employment with the organization for which registration has been filed, provided, however, that if the authorized house counsel shall commence employment with another organization within 30 days of the termination or resignation, authorization to perform services under this rule shall continue upon the filing with the bar examining committee of a certificate as set forth in subsection (d)(1)(C);

(B) the withdrawal of registration by the authorized house counsel;

(C) the relocation of an authorized house counsel outside of Connecticut for a period greater than 180 consecutive days; or

(D) the failure of authorized house counsel to comply with any applicable provision of this rule.

Notice of one of the events set forth in subsections (e)(1)(A)-(C) or a new certificate as provided in subsection (e)(1)(A) must be filed with the bar examining committee by the authorized house counsel within 30 days after such action. Failure to provide such notice by the authorized house counsel shall be a basis for discipline pursuant to the Rules of Professional Conduct for attorneys.

(2) Notice of Withdrawal of Authorization. Upon receipt of the notice required by subsection (e)(1), the bar examining committee shall forward a request to the statewide bar counsel that the authorization under this chapter be revoked. Notice of the revocation shall be mailed by the statewide bar counsel to the authorized house counsel and the organization employing the authorized house counsel.

(3) Reapplication. Nothing herein shall prevent an individual previously authorized as house counsel to reapply for authorization as set forth in subsection (d).

(f) Discipline

(1) Termination of Authorization by Court. In addition to any appropriate proceedings and discipline that may be imposed by the statewide grievance committee, the superior court may, at

any time, with cause, terminate an authorized house counsel's registration, temporarily or permanently.

(2) Notification to Other States. The statewide bar council shall be authorized to notify each entity governing the practice of law in the state or territory of the United States, or the District of Columbia, in which the authorized house counsel is licensed to practice law, of any disciplinary action against the authorized house counsel.

(g) Transition

(1) Preapplication Employment in Connecticut. The performance of an applicant's duties as an employee of an organization in Connecticut prior to the effective date of this rule shall not be grounds for the denial of registration of such applicant if application for registration is made within 6 months of the effective date of this rule.

(2) Immunity from Enforcement Action. An authorized house counsel who has been duly registered under this rule shall not be subject to enforcement action for the unlicensed practice of law for acting as counsel to an organization prior to the effective date of this rule.

Sec. 2-17. FOREIGN LEGAL CONSULTANTS; LICENSING REQUIREMENTS

Upon recommendation of the bar examining committee, an applicant may be licensed to practice as a foreign legal consultant, without examination, who: the court may license to practice as a foreign legal consultant, without examination, an applicant who:

(1) has been admitted to practice (or has obtained the equivalent of admission) in a foreign country, and has engaged in the practice of law in that country, and has been in good standing as an attorney or counselor at law (or the equivalent of either) in that country, for a period of not less than five of the seven years immediately preceding the date of application;

(2) possesses the good moral character and fitness to practice law requisite for a member of the bar of this court; and

(3) is at least twenty-six years of age.