

GOVERNMENT CODE
CHAPTER 82. LICENSING OF ATTORNEYS
SUBCHAPTER A. BOARD OF LAW EXAMINERS

Sec. 82.001. BOARD OF LAW EXAMINERS. (a) The Board of Law Examiners is composed of nine attorneys who have the qualifications required of members of the supreme court.

(b) The supreme court shall appoint the members of the board for staggered six-year terms, with the terms of one-third of the members expiring August 31 of each odd-numbered year. A member is subject to removal by the supreme court as provided by Section 82.0021.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 1, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 116, Sec. 1, eff. May 18, 1999; Acts 2003, 78th Leg., ch. 212, Sec. 1, eff. Sept. 1, 2003.

Sec. 82.002. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the Board of Law Examiners and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of board interest; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of board interest.

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

(d) A member of the board who has a financial interest, other than a remote financial interest, in a decision pending before the board is disqualified from participating in the decision.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 212, Sec. 2, eff. Sept. 1, 2003.

Sec. 82.0021. REMOVAL OF BOARD MEMBERS. (a) It is a ground for removal from the Board of Law Examiners that a member:

(1) does not have, at the time of taking office, the qualifications required by Section 82.001;

(2) does not maintain during service on the board the qualifications required by Section 82.001;

(3) is ineligible for membership under Section 82.002;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board;

(6) is incompetent; or

(7) is inattentive to the member's duties.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director of the board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the supreme court that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the supreme court that a potential ground for

removal exists.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 212, Sec. 3, eff. Sept. 1, 2003.

Sec. 82.003. OPEN RECORDS AND OPEN MEETINGS. (a) Except as provided by this section, the Board of Law Examiners is subject to Chapter 552 and Chapter 551.

(b) Examination questions that may be used in the future and examinations other than the one taken by the person requesting it are exempt from disclosure.

(c) Board deliberations, hearings, and determinations relating to moral character and fitness of an applicant shall be closed to the public, and records relating to these subjects are confidential. On the written request of an applicant, however, the applicant is entitled to:

(1) have the applicant's character and fitness hearing open to persons designated by the applicant; or

(2) have disclosed to the applicant records relating to the applicant's own moral character and fitness unless the person who supplied the information has requested that it not be disclosed.

(d) The board shall not inquire of a person who supplies information relating to an applicant's moral character and fitness whether the person objects to disclosure nor inform the person of the right to object.

(e) Board deliberations, hearings, and determinations relating to a request by an applicant who has a disability for testing accommodations under Section 82.0272 on the bar examination shall be closed to the public, and records relating to that subject are confidential.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), (94), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 212, Sec. 4, eff. Sept. 1, 2003.

Sec. 82.004. BOARD DUTIES. (a) The Board of Law Examiners, acting under instructions of the supreme court as provided by this chapter, shall determine the eligibility of candidates for examination for a license to practice law in this state.

(b) The board shall examine each eligible candidate as to the candidate's qualifications to practice law.

(c) The board may not recommend any person for a license to practice law unless the person has shown to the board, in the manner prescribed by the supreme court, that the person is of the moral character and of the capacity and attainment proper for that person to be licensed.

(d) On written request of an applicant who fails an examination administered by the board, the board shall give the applicant an oral or written analysis of the applicant's performance on the examination. The applicant may record an oral analysis.

(e) In each city in which an examination is administered, the board shall provide facilities that enable persons having physical, mental, or developmental disabilities to take the examination.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 3, eff. Sept. 1, 1991.

Sec. 82.005. BOARD COMPENSATION. (a) The supreme court shall set the compensation of each member of the Board of Law Examiners, excluding reasonable and necessary actual expenses, at an amount that does not exceed \$30,000 a year.

(b) Subchapter B, Chapter 659, does not apply to the compensation set under this section.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(104), eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 338, Sec. 1, eff. Sept. 1, 2005.

Sec. 82.006. SUNSET PROVISION. The Board of Law Examiners is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2015.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 6.19, eff. Nov. 12, 1991; Acts 2003, 78th Leg., ch. 212, Sec. 5, eff. Sept. 1,

2003.

Sec. 82.007. CAREER LADDER; ANNUAL PERFORMANCE EVALUATIONS. (a) The executive director of the Board of Law Examiners or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 5, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.

Sec. 82.0071. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director of the Board of Law Examiners or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the Commission on Human Rights for compliance with Subsection (b)(1); and

(3) filed with the governor's office and the supreme court.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 5, eff. Sept. 1, 1991. Redesignated from V.T.C.A., Government Code Sec. 82.007(e) and amended by 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.

Sec. 82.0072. STANDARDS OF CONDUCT. The executive director of the Board of Law Examiners or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.

Sec. 82.0073. SEPARATION OF RESPONSIBILITIES. The Board of Law Examiners shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.

Sec. 82.008. PUBLIC INFORMATION. (a) The Board of Law Examiners shall prepare information of public interest describing the functions of the board. The board shall make the information available to the public and appropriate agencies.

(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board. However, the board may prohibit public testimony that would reveal the examination questions described by Section 82.003(b) or would relate to the moral character or fitness of an applicant for a license.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 5, eff. Sept. 1, 1991.

Sec. 82.009. PROGRAM ACCESSIBILITY. The Board of Law Examiners shall prepare and maintain a written plan that describes how a person who has a physical, mental, or developmental disability can be provided reasonable access to the board's programs.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 5, eff. Sept. 1, 1991.

Sec. 82.010. TRAINING PROGRAM REQUIRED. (a) A person who is appointed to and qualifies for office as a member of the Board of Law Examiners may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the board;
- (2) the programs operated by the board;
- (3) the role and functions of the board;
- (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the board;
- (6) the results of the most recent formal audit of the board;

(7) the requirements of:
(A) the open meetings law, Chapter 551;
(B) the public information law, Chapter 552;
(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 7, eff. Sept. 1, 2003.

Sec. 82.011. WRITTEN COMPLAINTS. (a) The Board of Law Examiners shall maintain a file on each written complaint filed with the board. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint was received by the board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(b) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(c) The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 7, eff. Sept. 1, 2003.

Sec. 82.012. STATE EMPLOYEE INCENTIVE PROGRAM. The executive director of the Board of Law Examiners or the executive director's designee shall provide to board employees information and training on the benefits and methods of participation in the state employee incentive program.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 7, eff. Sept. 1, 2003.

Sec. 82.013. EFFECTIVE USE OF TECHNOLOGY. The Board of Law Examiners shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the board's planning processes.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 7, eff. Sept. 1, 2003.

SUBCHAPTER B. LICENSING OF ATTORNEYS

Sec. 82.021. SUPREME COURT AUTHORITY. Only the supreme court may issue licenses to practice law in this state as provided by this chapter. The power may not be delegated.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.022. SUPREME COURT RULEMAKING. (a) The supreme court may adopt rules on eligibility for examination for a license to practice law and on the manner in which the examination is conducted. The rules may include:

(1) provisions to ensure:
 (A) good moral character of each candidate for a license;
 (B) adequate prelegal study and attainment; and
 (C) adequate study of the law for at least two years, covering the course of study prescribed by the supreme court or the equivalent of that course;
(2) the legal topics to be covered by the course of study and by the examination;
(3) the times and places for holding the examination;
(4) the manner of conducting the examination;
(5) the grades necessary for licensing; and
(6) any other matter consistent with this chapter desirable to make the issuance of a license to practice law evidence of good character and fair capacity and attainment and proficiency in the knowledge of law.

(b) The supreme court shall adopt rules necessary to administer its functions and to govern the administration of the Board of Law Examiners' functions relating to the licensing of lawyers.

(c) The supreme court may adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a loan guaranteed under Chapter 57, Education Code, by the Texas Guaranteed Student Loan Corporation.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 985, Sec. 20, eff. Sept. 1, 1989.

Sec. 82.023. DECLARATION OF INTENTION TO STUDY LAW. (a) Each person intending to apply for admission to the bar must file with the Board of Law Examiners, on a form provided by the board, a declaration of intention to study law.

(b) The form for the declaration must clearly identify those conditions of character and fitness set out in Section 82.027 that may be investigated by the board and that may result in the denial of the declarant's application to take the examination.

(c) The board shall notify each first-year law student who files the declaration on or before January 1 of the year in which the student begins law school, not later than August 1 of the following year, of the board's decision as to the student's acceptable character and fitness. The board shall notify all other declarants not later than the 270th day after the date the declaration was filed whether or not it has determined that the declarant has acceptable character and fitness.

(d) If the board determines that an applicant does not have acceptable character and fitness, the notice of the decision must be accompanied by an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(e) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to meet with representatives of the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar and may require the applicant to submit to a treatment facility for evaluation.

(f) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar.

(g) In this section:

(1) "Chemical dependency" has the meaning assigned by Section 82.038.

(2) "Treatment facility" has the meaning assigned by Section 462.001, Health and Safety Code.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 6, eff. Sept. 1, 1991.

Sec. 82.024. LAW STUDY REQUIREMENTS; ELIGIBILITY FOR EXAMINATION. A person who has completed the prescribed study in an approved law school has satisfied the law study requirements for taking the examination for a license to practice law and is eligible to take the bar examination. An approved law school is one that is approved by the supreme court for the time period designated by the court as maintaining the additional standards to retain approval.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1,

1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 7, eff. Sept. 1, 1991.

Sec. 82.0241. UNACCREDITED SCHOOLS OF LAW. All matters relating to licensing of persons who were enrolled at unaccredited schools of law in this state are within the exclusive jurisdiction of the Supreme Court of the State of Texas.
Added by Acts 1991, 72nd Leg., ch. 485, Sec. 2, eff. June 1, 1993.

Sec. 82.027. APPLICATION FOR EXAMINATION. (a) Each applicant to take a bar examination must file an application with the Board of Law Examiners not later than the 180th day before the first day of the examination for which the person is applying.

(b) The application consists of a verified affidavit stating that since the filing of the applicant's original declaration of intention to study law, the applicant:

(1) has not been formally charged with any violation of law, excluding:

(A) cases that have been dismissed for reasons other than technical defects in the charging instrument;

(B) cases in which the applicant has been found not guilty;

(C) minor traffic violations;

(D) cases in which the record of arrest or conviction was expunged by court order;

(E) pardoned offenses; and

(F) Class C misdemeanors;

(2) is not mentally ill;

(3) has not been charged with fraud in any legal proceeding; and

(4) has not been involved in civil litigation or bankruptcy proceedings that reasonably bear on the applicant's fitness to practice law.

(c) On a showing of good cause or to prevent hardship, the board may permit an applicant to file an application with the board not later than the 60th day after the deadline prescribed by Subsection (a) on payment of applicable late fees.

(d) The filing deadlines and late fees do not apply to an applicant who failed the preceding bar examination. Any such applicant may take the next examination administered on filing an application with the board and paying the required examination fees not later than the date established by supreme court rule.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 212, Sec. 9, eff. Sept. 1, 2003.

Sec. 82.0271. RESIDENCY OR CITIZENSHIP STATUS OF APPLICANT. A person who has applied to take the bar examination may not be denied admission to the bar examination based on the applicant's lack of:

(1) permanent residency in the United States; or

(2) United States citizenship.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 8, eff. Sept. 1, 1991.

Sec. 82.0272. TESTING ACCOMMODATIONS FOR APPLICANTS WITH DISABILITIES. An applicant who has a physical, mental, or developmental disability may request that the Board of Law Examiners provide testing accommodations on the bar examination. An applicant whose request is denied may appeal the decision to a committee appointed by, and composed of three or more members of, the board.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 10, eff. Sept. 1, 2003.

Sec. 82.028. MORAL CHARACTER AND FITNESS OF APPLICANT. (a) The Board of Law Examiners may conduct an investigation of the moral character and fitness of each applicant for a license.

(b) The board may contract with public or private entities for investigative services relating to the moral character and fitness of applicants.

(c) The board may not recommend denial of a license and the supreme court may not deny a license to an applicant because of a deficiency in the applicant's moral character or fitness unless:

(1) the board finds a clear and rational connection between a character trait of the applicant and the likelihood that the applicant would injure a client or obstruct the administration of justice if the applicant were licensed to practice law; or

(2) the board finds a clear and rational connection between the applicant's present mental or emotional condition and the likelihood that the applicant will not discharge properly the applicant's responsibilities to a client, a court, or the legal

profession if the applicant is licensed to practice law.

(d) The board shall limit its investigation under this section to those areas clearly related to the applicant's moral character and present fitness to practice law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.029. RELEASE OF BAR EXAMINATION RESULTS. (a) On request of a law school that is conducting research on the achievement of the law school's students or graduates on the Texas bar examination, the Board of Law Examiners shall provide the law school with information concerning the results of a bar examination and the achievement of particular applicants on the examination, including examination results disaggregated by section or portion of the examination and any relevant statistics related to the results of the examination.

(b) An applicant may request that the board not release the applicant's identity to a law school that requests information under Subsection (a). The board shall grant the applicant's request if the applicant:

(1) sends the request to the board by certified mail or a comparable mailing method that provides proof of delivery; and

(2) makes the request before the applicant takes the bar examination.

(c) A law school that receives information from the board under Subsection (a) is subject to any restriction on the release of the information under federal or state law.

(d) Notwithstanding any other law, information that the board provides to a law school under Subsection (a) is confidential and may not be disclosed under any law related to open records or public information.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 10, eff. Sept. 1, 2003.

Sec. 82.030. BOARD ASSESSMENT OF MORAL CHARACTER AND FITNESS. (a) The Board of Law Examiners shall assess each applicant's moral character and fitness based on:

(1) the investigation of character and fitness performed after the filing of the declaration of intention to study law; and

(2) the filing of the affidavit required by Section 82.027 and the board's investigation into the accuracy and completeness of the affidavit.

(b) If the board determines that the applicant does not have the requisite good moral character and fitness, the board, not later than the 150th day after the day on which the application is filed, shall furnish the applicant an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(c) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to submit to a treatment facility for evaluation.

(d) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar.

(e) The board may not deny an applicant the opportunity to take the bar examination solely because the applicant:

(1) suffers or appears to suffer from chemical dependency; or

(2) has been convicted of or is on community supervision for a first offense of operating a motor vehicle while intoxicated under Section 49.04, Penal Code, or intoxication assault committed while operating a motor vehicle under Section 49.07, Penal Code.

(f) In this section, "treatment facility" has the meaning assigned by Section 462.001, Health and Safety Code.

(g) Subject to supreme court adoption by rule, the board shall define "chemical dependency."

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 14.33, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 212, Sec. 11, eff. Sept. 1, 2003.

Sec. 82.033. FEES. (a) The supreme court shall set the fee for the investigation of the moral character and fitness of each candidate at an amount that does not exceed \$150. The candidate

must pay the investigation fee to the Board of Law Examiners at the time it is requested by the board.

(b) The supreme court shall set the fee for any examination given by the board at an amount that does not exceed \$150. The candidate must pay the fee to the board at the time the candidate applies for examination.

(c) The supreme court may set an application fee for foreign attorneys at an amount that does not exceed \$700.

(d) The supreme court may set reasonable fees for additional services provided by the board, but the fee for any single additional service may not exceed \$150.

(e) The fees set by the supreme court must be sufficient to pay all costs of the board, including staff salaries, compensation to members of the board, and costs of investigation and administering the examinations, so that state general revenue funds are not necessary to operate the board.

(f) The board may adopt rules that provide for waiving or lowering for indigent persons a fee required by this section. Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.034. USE OF FUNDS. Fees received by the Board of Law Examiners shall be deposited in a fund established by the supreme court. The fund may be used only to administer the functions of the supreme court and the board relating to the licensing of lawyers. The fund shall be used as directed by the supreme court and under supreme court rules.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.035. AUDIT; FINANCIAL REPORT. (a) The financial transactions of the Board of Law Examiners are subject to audit by the state auditor in accordance with Chapter 321.

(b) The board shall file annually with the supreme court, the governor, and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received or disbursed by the board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 576, Sec. 11, eff. Sept. 1, 1991.

Sec. 82.036. FOREIGN ATTORNEYS. The supreme court shall make such rules and regulations as to admitting attorneys from other jurisdictions to practice law in this state as it shall deem proper and just. All such attorneys shall be required to furnish satisfactory proof as to good moral character.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 12, eff. Sept. 1, 1991.

Sec. 82.0361. NONRESIDENT ATTORNEY FEE. (a) In this section, "nonresident attorney" means a person who resides in and is licensed to practice law in another state but who is not a member of the State Bar of Texas.

(b) Except as provided by Subsection (e), a nonresident attorney requesting permission to participate in proceedings in a court in this state shall pay a fee of \$250 for each case in which the attorney is requesting to participate. The attorney shall pay the fee to the Board of Law Examiners before filing with the applicable court a motion requesting permission to participate in proceedings in that court as provided by rules adopted by the supreme court.

(c) Fees under this section shall be collected in the same manner as other fees collected by the Board of Law Examiners. The board shall remit the fees collected under this section to the comptroller not later than the 10th day after the end of each calendar quarter.

(d) The comptroller shall deposit the fees received under this section to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

(e) The supreme court may adopt rules to waive or reduce the fee required by this section for a nonresident attorney who seeks to represent an indigent person in proceedings in a court in this state.

(f) A nonresident attorney who files a motion requesting permission to participate in proceedings in a court in this state

shall provide to that court proof of payment of the fee required by this section. The supreme court by rule shall prescribe the method of proof.

Added by Acts 2003, 78th Leg., ch. 221, Sec. 1, eff. Sept. 1, 2003.

Sec. 82.037. OATH OF ATTORNEY. (a) Each person admitted to practice law shall, before receiving a license, take an oath that the person will:

(1) support the constitutions of the United States and this state;

(2) honestly demean himself in the practice of law; and

(3) discharge the attorney's duty to his client to the best of the attorney's ability.

(b) The oath shall be endorsed on the license, subscribed by the person taking the oath, and attested by the officer administering the oath.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.038. PROBATIONARY LICENSE FOR APPLICANT SUFFERING FROM CHEMICAL DEPENDENCY. (a) If, after a moral character and fitness assessment, the Board of Law Examiners determines that the applicant suffers from chemical dependency, the board shall notify the applicant of its determination and of the applicant's rights under this section.

(b) To obtain judicial review of the board's determination that the applicant suffers from chemical dependency, an applicant must file a petition in the district court of Travis County before the 60th day after the date that the board delivers notice of its determination. The petition must name the board as a defendant and be served on the executive director of the board. Before the date on which the applicant may obtain a default judgment against the board, the board shall file with the district court a certified record of the proceedings before the board.

(c) A party is not entitled to a jury in a judicial review of the board's determination that an applicant suffers from chemical dependency. The court may not substitute its judgment for that of the board as to the weight of the evidence on questions submitted to the board's discretion but shall affirm the board's decision if the decision is reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole.

(d) The board may not deny a person who successfully takes the bar examination a probationary license to practice law solely because the person:

(1) suffers from chemical dependency; or

(2) has been convicted of or is on community supervision for a first offense of operating a motor vehicle while intoxicated under Section 49.04, Penal Code, or intoxication assault committed while operating a motor vehicle under Section 49.07, Penal Code.

(e) The board shall specify the conditions of a probationary license to practice law, which must be designed to protect the public from the potential harm the person might cause. Conditions of a probationary license may include one or more of the following:

(1) prohibiting the person from using alcohol or controlled substances;

(2) treatment for chemical dependency;

(3) supervision of the person's work by a licensed attorney;

(4) submission to periodic drug testing;

(5) periodic reporting by the person to the board; or

(6) suspension, for a portion of the probationary period, of an activity for which a license to practice law is required.

(f) A probationary license issued under this section expires on the second anniversary of the date on which the license is issued. A person who holds a probationary license may apply for a renewal of the probationary license or for a regular license to practice law. The board, after redetermination of the character and fitness of a person who holds a probationary license, may recommend to the supreme court that it grant the person a regular license to practice law. The redetermination must include an evaluation of the person by a treatment facility. The board may not recommend to the supreme court that the person be granted a regular license to practice law unless the board finds that the person has successfully completed treatment and has been free from chemical

dependency for the preceding two years.

(g) The supreme court shall adopt rules under which the board and the State Bar of Texas jointly develop and fund a program for evaluation and referral to treatment for persons who have been issued a probationary license under this section.

(h) A probationary license may be immediately revoked if the person violates a condition of probation imposed by the board.

(i) On request, the board in coordination with the State Bar of Texas shall inform a member of the public whether a particular person holds a probationary license. Any information that forms the basis for the issuance of the probationary license is confidential.

(j) In this section:

(1) "Chemical dependency" has the meaning provided by supreme court rule adopted under Section 82.030.

(2) "Controlled substance," "treatment facility," and "treatment" have the meanings assigned by Section 462.001, Health and Safety Code.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 13, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.34, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 212, Sec. 12, eff. Sept. 1, 2003.

SUBCHAPTER C. ATTORNEY CONDUCT

Sec. 82.061. MISBEHAVIOR OR CONTEMPT. (a) An attorney at law may be fined or imprisoned by any court for misbehavior or for contempt of the court.

(b) An attorney may not be suspended or stricken from the rolls for contempt unless the contempt involves fraudulent or dishonorable conduct or malpractice.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.062. DISBARMENT. Any attorney who is guilty of barratry, any fraudulent or dishonorable conduct, or malpractice may be suspended from practice, or the attorney's license may be revoked, by a district court of the county in which the attorney resides or in which the act complained of occurred. An attorney may be suspended from practice or the attorney's license may be revoked under this section regardless of the fact that the act complained of may be an offense under the Penal Code and regardless of whether the attorney is being prosecuted for or has been convicted of the offense.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.063. RETENTION OF CLIENT'S MONEY. (a) A person may bring an action against the person's attorney if the attorney receives or collects money for the person and refuses to pay the money to the person on demand.

(b) To recover under this section the person must file a motion with a district court in either the county in which the attorney usually resides or the county in which the attorney resided when the attorney collected or received the money.

(c) Notice of the motion and a copy of the motion shall be served on the attorney not later than the fifth day before the trial.

(d) If the motion is sustained, judgment shall be rendered against the defendant for the amount collected or received and at least 10 percent but not more than 20 percent damages on the principal sum.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.064. OFFICERS NOT TO APPEAR. (a) A judge or clerk of the supreme court, the court of criminal appeals, a court of appeals, or a district court, or a sheriff may not appear and plead as an attorney at law in any court of record in this state.

(b) A county judge or county clerk who is licensed to practice law may not appear and practice as an attorney at law in any county or justice court except in cases over which the court in which the judge or clerk serves has neither original nor appellate jurisdiction.

(c) A county clerk who is licensed to practice law may not appear and practice as an attorney at law in the supreme court, the court of criminal appeals, a court of appeals, or a district court unless the court in which the clerk serves has neither original nor appellate jurisdiction.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 829, Sec. 1, eff. Sept.

1, 1991.

Sec. 82.065. CONTINGENT FEE CONTRACT FOR LEGAL SERVICES. (a) A contingent fee contract for legal services must be in writing and signed by the attorney and client.

(b) A contingent fee contract for legal services is voidable by the client if it is procured as a result of conduct violating the laws of this state or the Disciplinary Rules of the State Bar of Texas regarding barratry by attorneys or other persons.

Added by Acts 1989, 71st Leg., ch. 866, Sec. 3, eff. Sept. 1, 1989.

Sec. 82.066. ATTORNEY MAY NOT APPEAR. An attorney may not appear before a judge or justice in a civil case if the attorney is related to the judge or justice by affinity or consanguinity within the first degree, as determined under Chapter 573.

Added by Acts 1989, 71st Leg., ch. 866, Sec. 4, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 561, Sec. 24, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995.