

## Character & Fitness Process Before the Florida Board of Bar Examiners

by Richard C. McFarlain

Most lawyers licensed to the Bar in Florida today have been touched, if only lightly, by the Florida Board of Bar Examiners. The purpose of this article is to introduce lawyers and bar applicants to the board's processes in determining character and fitness requirements for admission to The Florida Bar.

Since its beginning, the Supreme Court of Florida has had certain inherent powers. Some of these powers, including the court's exclusive jurisdiction over the admission and discipline of lawyers, were formalized in the Constitution of the State of Florida.<sup>1</sup> The Florida Supreme Court created The Florida Bar for discipline of lawyers and a Florida Board of Bar Examiners for admission.

The board of bar examiners is composed of fifteen people—twelve lawyers and three nonlawyers. Lawyers serve terms of five years and nonlawyers, terms of three years. Each member may serve more than one term. Lawyer mem-

bers are selected by the Supreme Court of Florida from a list of three names for each vacancy submitted by the Board of Governors of The Florida Bar. The list of nonlawyer nominees is sent by a joint committee of the board of governors and the board of bar examiners, again three names for each vacancy.<sup>2</sup> The board of bar examiners is supported by a staff of thirty located in Tallahassee.<sup>3</sup>

The board is not a force unto itself. As the agent of the Supreme Court of Florida, it is subject to the court's direction and control. The board does not admit persons to practice. It screens them and makes recommendations to the court.

The board administers the bar examination twice a year and investigates the character and fitness of all applicants. This work is done in secret, and most applicants pass through the process with little or no problem. However, when the board puts the full force of its investigatory power on an applicant's past activi-

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ties, the applicant may be in for a new experience in which he must defend his past in a procedure in which he has no leverage.

## APPLICANTS

Applicants with problems before the board come in two general classes. The first consist of younger people with little or no work experience who are recent law school graduates. The second is composed of out-of-state lawyers or others who have had extensive experience in the world.

The first group may have problems stemming from the abuse or sale of drugs, student honor code violations, the failure to pay student loans or other financial obligations in a timely fashion, arrests or convictions, or concealing arrests or convictions on their applications. This concealment offense can lead to additional problems particularly if the applicant failed to disclose necessary information on his law school application.

If the law school has been deceived, a suggestion will be made by the board that the applicant fully inform the dean of the false application and the circumstances surrounding it, in writing, with

a copy to the executive director of the board. When the applicant complies, a variety of actions can follow depending on the attitude of the dean and the policy of the school. In at least two law schools in Florida, such disclosure can lead to litigation by the school to revoke the applicant's law degree.

Such cases may sometimes be resolved by agreeing to allow the school to put an overlay on the applicant's transcript saying applicant did graduate, but will not be permitted to return to the university. Other schools, depending on the facts of the case, may accept the applicant's explanation and apology without further proceedings.

The second classification of applicants are the older, more experienced lawyers from out-of-state or applicants who attend law school later in life. They may encounter problems revolving around disciplinary problems with other state bars, criminal activity, personal and business difficulties, the sale and abuse of illegal drugs or the abuse of alcohol.

Out-of-state lawyers who have concealed or misrepresented facts on their application will be asked to produce a copy of all other bar applications filed. If the applicant has also falsified the application in a state where admitted, counsel will need to learn that state's disciplinary and admission rules, as the board may ask the out-of-state lawyer to disclose the prior falsification to his home state authorities. The fact the board uses this technique to help applicants risk losing their license in their home state and violate their own confidential privilege can be a very painful thing for applicants.

Ordinarily, applicants who have a problem obtaining the board's recommendations for approval usually have past or present troubles which they chose to conceal. This concealment inevitably leads to their filing a false application either by falsehood or omission.

Filling out the application for admission is serious business, since it is filed under oath. Too often applicants give it only passing attention. Applications are continuing and it is the duty of applicants to keep them timely by filing





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amendments.<sup>4</sup> When the board's investigators uncover concealed or incomplete matters, the board sends a letter requesting further information. Applicants then must file amendments, under oath, with explanatory statements. Lying on the application is taken as serious misconduct, as illustrated by the statement of one justice's thinking in this regard: "It is axiomatic that an applicant for admission to The Florida Bar who lies or omits the truth on the Bar application is presumed unfit for admission to the legal profession in this state."<sup>5</sup>

Even if applicants should, somehow, succeed in lying their way into the Bar, the court will not hesitate to approve the board's revocation of its recommendation of admission upon discovery of the falsification.<sup>6</sup>

Some applicants may think juvenile misconduct sealed or expunged by a court order is not the business of the board. However, F.S. §943.058(6)(b)4, (1987) makes clear that the board has a right to look at all such material.

#### INVESTIGATIVE HEARING

When the application and amendments do not satisfy the board, the investigative hearing process starts. Applicants will receive a letter from the executive director saying the board wishes them to appear at an investigative hearing at a set date and location. The letter will also describe in general terms the matters about which the board wishes to inquire and will have attached to it a notice of rights and responsibilities. The board's inquiry may not necessarily be limited to specific matters set forth in the letter. The letter will also state that any matters bearing on character and fitness may be examined and failure to respond within sixty days will terminate the application.

As counsel begins representation of an applicant at any point, the person under investigation should send a letter to the executive director of the board confirming counsel's retention. This notifies the board that it can work with counsel and not violate confidentiality. Counsel

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should send a retainer letter to the appli-  
cant saying exactly how the case will pro-  
ceed, what it will cost, and the time  
schedule. This is good general practice  
which gives a necessary professional sta-  
tus to what can be a very emotional and  
stressful time for the applicant.

It is critical for counsel to convince  
the applicant that the truth, no matter  
how embarrassing, will do more good  
than a lie under oath. Counsel should  
meet with applicant and take sufficient  
time to work on the facts and a chronol-  
ogy of events. All documents bearing  
on the applicant's character and fitness  
should be gathered, such as transcripts  
of former testimony, law school applica-  
tions, criminal and financial records.  
When the applicant gets to the uncom-  
fortable part, counsel should work  
through it, minute by minute if neces-  
sary, hour by hour certainly, so that the  
applicant will be in a position to tell the  
whole story in an organized way and  
not leave out what the board probably  
already knows but wants to hear from  
the lips of the applicant.

Once counsel has the applicant men-  
tally ready to work with the board, the  
major part of counsel's job at the investi-  
gative hearing level is done. Neverthe-  
less, it is good practice to attend the  
hearing with the applicant. This hearing  
is neither the time nor place to interpose  
learned objections or make dramatic  
opening and closing statements. It is  
certainly not the place to be abrasive or  
abusive to the members of the board. Re-  
member this: The applicant wants to get  
into the Bar; counsel is already in. Appli-  
cants have no leverage at an investigative  
hearing. For better or for worse they are  
supplicants. Do not make it worse for  
them.



Character and fitness proceedings  
tend to be personal and highly charged.  
Applicants feel totally exposed to  
strangers whom they feel are not trying  
to help them but, instead, are intent on  
dwelling on the most embarrassing mo-  
ments in their lives and in so doing,  
blocking their life-long ambition. They  
feel the pressure.

The investigative hearing will usually  
be held in a hotel. They are closed, confi-  
dential hearings. Applicant will report to  
a holding area in the lobby where a dis-  
crete sign with the board's name on it  
will be placed. As the board often di-  
vides into panels, others appearing be-  
fore it will also be in the waiting area.  
When the time comes, counsel and appli-  
cant will be courteously escorted into a  
hearing room by a staff member. Three  
or more board members, staff and a  
court reporter will be seated on three  
sides of tables assembled in a hollow  
square. The board counsel will not al-  
ways be present, but at times assists in  
more complicated matters. Customarily,  
applicant and counsel are seated side by  
side on the fourth side, making it some-  
what awkward for applicant's counsel to  
observe the applicant during the process.  
Counsel may stand, but no lectern is pro-  
vided for the resting of notes.

The proceeding opens with identifi-  
cation of the applicant and counsel. The  
presiding officer will state the nature of  
the proceeding, identify the board mem-  
bers present and ask the applicant to be  
sworn in by the court reporter. The ap-  
plicant will be asked to state his or her  
name. Then the applicant will be handed  
a copy of the notice of rights and respon-  
sibilities and asked if he received the  
original copy sent earlier, if he has read  
it, and if he has any questions regarding  
it. After being asked if he understands  
his rights and responsibilities, the docu-  
ment becomes Exhibit 1 in the record.

In the interrogation that follows, the  
technical rules of evidence need not be  
observed,<sup>7</sup> and are not. If counsel has  
done a good job, the applicant maintains  
composure, and the truth is not shaded  
in any way, admission may be recom-  
mended without further proceedings.

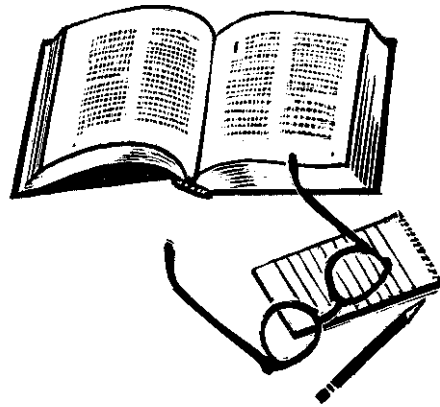
Each board member asks questions. All are uniformly well-informed about the case.

Applicant's counsel may be asked if he would like a few private minutes with applicant. Counsel will also be asked if he or the applicant would like to offer anything else and, if not, to make a closing statement. Whether to make such a statement is a judgment call which should be decided at the time and under the circumstances.

Counsel and the applicant are then excused. The result, determined by the full board on the panel's recommendation, can take several weeks, depending on the board's workload.

Sometimes the applicant will be told he has established the qualifications as to character and fitness and will be recommended for admission. Sometimes he will be told further investigation is needed. Sometimes specifications will be filed charging the applicant with matters which, if proven, would preclude the board's favorable finding and recommendation to the supreme court. This leads to a formal hearing.

In exceptional cases, after the investigative hearing, instead of filing specifications pertaining to drug, alcohol or psychological problems, the board will enter into a consent order with the applicant. The board is authorized to recommend an applicant for admission if he has agreed to abide by specified terms



and conditions upon admission to the Bar. If the supreme court accepts the board's recommendation and the applicant is admitted pursuant to a consent order, the terms and conditions of admission shall be administered by The Florida Bar.<sup>8</sup>

### FORMAL HEARING

Although the board is not bound during a formal hearing by "technical" rules of evidence<sup>9</sup> nor the Rules of Civil Procedure, there is a certain air of formality surrounding these proceedings that one does not easily forget. These hearings, too, are closed and confidential and the board is represented by counsel.

The process begins with the filing of specifications on the applicant, who must file an answer within twenty days of receipt. If the answer is not timely filed, the specifications shall be deemed admitted. Extensions of time may be allowed by the board. If the answer is not filed, the board will enter findings of fact, find the specifications proven and make appropriate conclusions of law which may include a recommendation that applicant not be admitted to The Florida Bar.<sup>10</sup>

When a timely answer is filed, the board will notify the applicant of the dates and locations available for the formal hearing and have the applicant agree to the date and location. If the applicant does not cooperate, the board will set the hearing. Should the applicant fail to attend without good cause, the specifications will be deemed admitted and the board will enter findings of fact, finding the specifications proven, and make appropriate conclusions of law, which may include a recommendation that the applicant not be admitted.

With the filing of specifications, the board's counsel may begin to take depositions. Counsel should now request copies of exhibits the board intends to use. An exchange of witness lists allows the applicant's counsel to set up depositions. The board allows supplementation of the witness list up to twenty days prior to the formal hearing. The use of stipula-

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### ADMISSIONS TO THE BAR

The Supreme Court of Florida has authorized the release of the following information relative to admission of applicants to The Florida Bar for the period from October 1986 to September 1987.

Applications Received	2,655
Investigative Hearings Held	195
Formal Hearings Held	21
Unfavorable Recommendations by Board	11
Petitions filed with Supreme Court for Review of Adverse Board Recommendation for Admission	4
Applicants Admitted after filing of Petition with Supreme Court for Review of Adverse Board Recommendation for Admission	1
Applicants Recommended by the Board for Admission to the Bar	2,360
Applicants Admitted Pursuant to an Order of Probationary Admission	11

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tions can be helpful at this juncture.

The depositions taken by the board at the formal hearing are admissible into evidence and, when admitted, go with the record to the supreme court. Since the board uses these depositions instead of live witnesses in many cases, counsel should be present to cross examine and possibly impeach. Since the board is not bound to the "technical" rules of evidence, on occasion it has taken and admitted to the record the sworn deposition of its own investigators, who state what unsworn witnesses told them.

Sufficient time needs to be taken with the applicant prior to the formal hearing even if counsel has taken the applicant through an investigative hearing and particularly if the applicant is a new client.

Often an applicant who was without counsel at the investigative hearing was not completely candid on examination and tried to deny or evade facts which,

although not important enough to disqualify, seemed important enough to conceal but were well known to the board. As a result of this duplicity, specifications were filed charging the applicant with not being candid under oath.

If counsel comes in at this point, he now has the task of admitting that the applicant was not completely candid, or lied, but has seen the error of his ways, is now rehabilitated and understands the necessity of a lawyer telling the truth. A line of questions may now take place beginning: "Inasmuch as the investigative hearing, wherein you perjured yourself, was only four months ago, tell me how it is that you are so suddenly rehabilitated?" This line of questions, with unsatisfactory answers may lead the board not to move the admission of the applicant, bringing on a subsequent, much later, hearing to show rehabilitation.

It is imperative the full story be brought out with all extenuating circumstances. If the applicant is not willing to do this, counsel should consider resigning from the case on grounds he cannot be of effective assistance.

The transcript from the investigative hearing, available upon request, at cost, from the board, should be reviewed with the applicant. Counsel should let the applicant know what he plans to cover on direct examination and take him through his previous testimony so he knows what he said under oath. This is imperative, because the applicant may get rattled (or overcome by emotion) under the pressure of the formal hearing and sink into disorganized confusion.

Before the formal hearing is a good time to develop affidavits from persons you will not call as substantive or character witnesses. These are generally admitted by the board, for whatever probative value they may have. Since they are not subject to cross examination, their weight may be marginal, but from a psychological point of view, it is better to offer them than to go in empty handed. The writer of the affidavit should be aware of all the facts in the case and should say so, otherwise the affidavit is of little use.

When the formal hearing date ar-

rives, counsel and the applicant are in another Florida hotel lobby with witnesses and several other applicants and their lawyers and witnesses. Though the board does its best to be on time, hearings run over, and there may be a wait. If the hearing goes too long, it may be adjourned and recommenced at the next board meeting, generally in two months.

As in the investigative hearing, a staff member escorts applicant and counsel into the hearing room. Seven or more board members are present with staff, a court reporter, and the board's counsel around three sides of a large square of assembled tables. Identifications are made; the witnesses are sworn and, usually, the "rule" is invoked. No lectern is provided. Counsel is seated next to applicant and may stay seated throughout the proceeding.

The proceeding is commenced with the board's counsel making an opening statement. Applicant's counsel may follow or wait until he has put on his case or waive opening altogether. Board counsel then outlines the specifications and offers documentary evidence including depositions, criminal records, credit reports, and the transcript of the investigative hearing. The building of this paper case is done smoothly, efficiently, and can be devastating.

The applicant is asked to look at each exhibit, and if there are any objections, they should be made at this time. Witnesses for the board are then brought forth for direct examination by counsel, the board members, and cross examination by applicant's counsel. The board then rests.

If counsel has not already done so, he may make an opening statement. As a general rule, keep this short and put the applicant on the stand immediately. It is the applicant's character and fitness to practice law that the board is interested in, not counsel's technique as an orator.

Once the applicant is on the stand, through the process of direct examination, counsel should proceed through the whole story bringing out the worst about the applicant, warts and all.

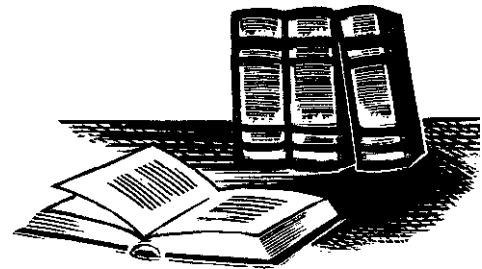
If the applicant has lied to the board

somewhere along the way, counsel should tell why he lied, and how sorry he is, if that is the case. The purpose of the board is to examine the character and fitness of a human being who wants to be a lawyer. Put it in human terms. If there is remorse, show remorse. If counsel is relying on applicant's rehabilitation it should be proved under the proper rule.<sup>11</sup>

After direct examination, the applicant is cross-examined by the board's counsel and each member of the board. This is a thorough procedure. Applicant's counsel then has an opportunity to redirect and more questions may come from the board.

Excruciating as the board's questions may seem to the applicant, they are generally well thought out and on point. When the board has exhausted its questions to the applicant, applicant's witnesses, if any, may be called for direct examination, where the same procedure is followed. If there is a character witness, and as a general rule there should be one, counsel should be sure the character witness knows exactly what has transpired to bring on this formal hearing. It is important that the witness has read the application, the specifications, the answer, the transcript of the investigative hearing, and is aware of other documentary evidence offered by the board or in the applicant's behalf. Nothing is worse than to have a character witness say: "He did what? Why that's horrible! I didn't know that."

If a sitting judge is used as a character witness, he should appear under subpoena. Canon II of the Code of Judicial



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Conduct indicates that the testimony of a judge as a character witness injects the prestige of his office into the proceeding and may be misunderstood to be an official testimonial. Sanctions could be imposed on the judge. The canon, however, does not afford the judge a privilege against testifying in response to an official summons.

Having put on the applicant and witnesses, counsel should rest. The board may bring forth a mystery guest in the form of a rebuttal witness without notice. If applicant told counsel everything, there should be no problem. If information has been held back, counsel and the court reporter are the only people in the hearing room who have no idea of what is about to happen. The applicant knows. The staff and the board members know and the witness knows. The urge to bolt the room should be controlled, though requesting a short recess may be in order.

If, however, counsel is prepared, even if the witness is out to do the applicant some personal harm (and this happens) counsel will know. It is an opportunity to neutralize the witness. If this is not done the chances are good the board is going to believe its own witness.

When the evidence is in, counsel for the board will close. His job is to make the applicant look bad and claim the charges in the specifications were proven. Often, he is correct. Counsel for the applicant follows and contends the specifications either were not proven and why, or, even though they were proven, that they are not of the magnitude to exclude the applicant. Here counsel for the applicant will set out the relative innocuousness of the events, the length of time that has elapsed since their occurrence, the applicant's remorse and honesty as shown in the testimony, and whatever else good he can show that proves the applicant is of fit character to be a lawyer. The burden is to show fitness, not to disprove the specifications. The applicant does not have to prove the falsity of the charges made against him.<sup>12</sup>

If the applicant is recommended for admission, notification usually arrives

within two or three weeks. If he is denied, the board's counsel will prepare a statement, which sometimes takes a while because of the board's backlog.

If counsel believes that the applicant did everything charged but has been rehabilitated, he states that in the answer or in an affirmative defense, to prove the seven requirements found in the rule.<sup>13</sup> In serious drug or alcohol cases, special care must be taken by counsel to prove that the applicant is recovering and is in the hands of competent support people. The board has the power to recommend admission for such applicants on a conditional basis,<sup>14</sup> but the applicant must evince that confidence in him will be rewarded. The supreme court, of course, makes the ultimate decision.

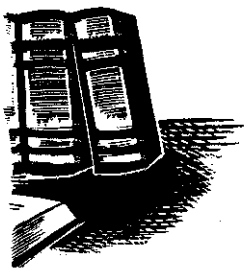
### POST FORMAL HEARING PRACTICE

If the board's recommendation is unsatisfactory to the applicant, a petition for reconsideration, together with a fee of \$70, may be filed within sixty days after notice. This petition must contain new material which the board has not previously considered. The applicant may proceed directly to the supreme court by filing a petition with the clerk within sixty days after receipt of the board's recommendation, serving a copy on the executive director of the board.<sup>15</sup>

When the executive director receives the petition, he places the record of the formal hearing with the supreme court and the court decides whether the applicant meets the character and fitness requirements. In some cases the court grants oral argument, *in camera*. It is not bad form to file a motion to maintain confidentiality with the clerk of the supreme court. It is also wise to review the record personally as submitted by the executive director to ensure that no oversight has been made.

The court may sustain the board, admit the applicant, or send the matter back to the board for further proceedings.

An applicant who has been through the entire process and has been denied may reapply two years after the date of



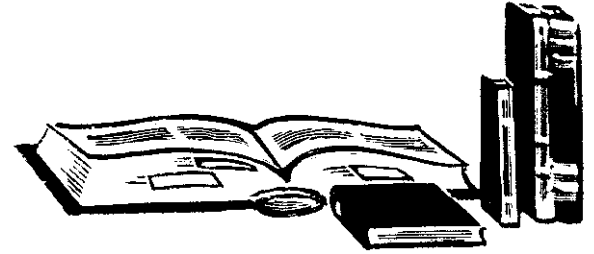
the adverse finding by filing a petition with the supreme court.<sup>16</sup> Payment of a \$1000 cost deposit may be required. In the past, this two-year period did not begin running until after the court ruled, which had a stifling effect upon appeals. Now, the two years run from the time of the board's recommendation, and filing a petition with the supreme court does not affect it.

Applicants in this posture should not believe they are eligible for admission in two years. The rule means the process may begin again in two years and take up where it left off, including an investigative hearing as well as a formal hearing. Applicants are well-advised to re-think why they are being held out and concentrate on rehabilitation in the two-year period. This is their opportunity to get into position to be a lawyer. Here again, the rules on rehabilitation come into play and should be followed closely.

One of the problems counsel must deal with is the nonavailability of the complete case law on the subject of character and fitness in Florida. There are published opinions and there are confidential unpublished opinions. The only persons with access to unpublished confidential opinions are members of the court and the parties to the unpublished opinions. Since one of the parties is always the board, it follows the examiners know the full body of the law and applicant's counsel does not.

Further, the board's use of unsworn statements, the absence of the "technical" rules of evidence, and the occasional withholding by the board of the Rules of Civil Procedure regarding discovery are just some of the elements that give a tilt to the playing field.

Some of the published cases indicate that serious misconduct may be forgiven by the court. Persons charged with petty larceny,<sup>17</sup> conviction of sale of cocaine,<sup>18</sup> shoplifting,<sup>19</sup> filing for bankruptcy,<sup>20</sup> homosexual acts between consenting adults,<sup>21</sup> unauthorized practice of law and filing false application<sup>22</sup> have been admitted to the Bar in Florida. However, these cases are not reason for assuring applicants with similar problems. The board



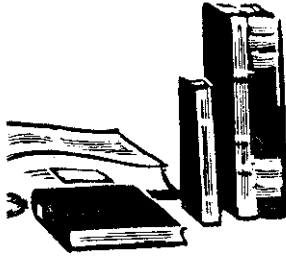
will investigate. Each case stands on its own. The acts mentioned above will be looked at as well as any other variant of human behavior the board thinks may affect applicant's ability to practice law upon the public of Florida.

In the 1950's and early 1960's, bar examiners looked for communists and fornicators. In the late 1960's and early 1970's, they looked for hippies and pot smokers. Then came the era of cocaine, homosexuals, bankrupts, and unpaid student loans. Today alcoholism and other drug abuse is on the ascendancy. But always, the issue is good moral character. Counsel should review the major United States Supreme Court cases for legal guidance in regard to moral character.<sup>23</sup>

## CONCLUSION

The Florida Board of Bar Examiners performs a public service in examining the fitness of highly trained people who wish to practice their skills on behalf of the people of Florida. The board establishes high standards. Such standards necessarily create a reaction which demonstrates itself through groups who would eliminate all inquiry into character and fitness and, if given their way, would eliminate the entire bar admissions process. This reaction, though possibly well-intentioned, does not give proper regard for the interest of the state in protecting the people from unqualified lawyers.

The methods the board employs in its character and fitness investigations are thorough but as unintrusive as possible



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sive as possible

given the circumstances and the subject matter.

As a general rule, if the truth is told and sufficient time has passed since the offending conduct, the applicant's chance of admission is good. The board and the court understand no one is perfect, even lawyers. If they were, The Florida Bar would not be spending \$3.7 million this year on grievance cases. The lawyers who are disciplined have changed for the worse since admission. Applicants who seek admission after some untoward event have changed too, hopefully for the better. When they demonstrate that change to the satisfaction of the Florida Board of Bar Examiners, they will be recommended to the supreme court for admission to The Florida Bar.

1. Fla. Const. art. V, § 15.
2. Fla. Sup. Ct. Bar Admiss. Rule, art. I.
3. The Board of Bar Examiners is located at 1300 East Park Avenue, Tallahassee, Florida 32399-1750.
4. Fla. Sup. Ct. Bar Admiss. Rule, art. IV B § 9.b.
5. *The Florida Bar v. Alex P. Lancaster*, 448 So.2d 1019, 1024 (Fla. 1984) (Erlich, J., concurring in part and dissenting in part).
6. *Fla. Bd. of Bar Exam. v. Lerner*, 250 So.2d 852, 853 (Fla. 1971). See also Fla. Sup. Ct. Bar Admiss. Rule, art. VII § 2.
7. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 3.a.
8. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 3.c.
9. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 3.f.
10. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 3.d.
11. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 4.e. provides:

e. Any applicant or student registrant who, in any formal hearing held in response to Specifications pursuant to Article III, Section 3 or in any proceeding held before the Board pursuant to Article II, Section 5 or Article III, Section 4.d., affirmatively asserts rehabilitation from prior conduct which bears adversely upon such person's character and fitness for admission to the Bar shall be required to produce clear and convincing evidence of such rehabilitation including, but not limited to, the following elements:

- (1) Strict compliance with the specific conditions of any disciplinary, judicial, administrative or other order, where applicable;
- (2) Unimpeachable character and moral standing in the community;
- (3) Good reputation for professional ability, where applicable;
- (4) Lack of malice and ill feeling toward those who by duty were compelled to bring about the disciplinary, judicial, administrative or other proceeding;

- (5) Personal assurances, supported by corroborating evidence, of a desire and intention to conduct one's self in an exemplary fashion in the future;
- (6) Restitution of funds or property, where applicable;
- (7) Positive action showing rehabilitation by such things as a person's occupation, religion, community or civic service. Merely showing that an individual is now living as and doing those things he or she should have done throughout life, although necessary to prove rehabilitation, does not prove that the individual has undertaken a useful and constructive place in society. The requirement of positive action is appropriate for applicants for admission to the Bar because service to one's community is an implied obligation of members of the Bar."

12. *Coleman v. Watts*, 81 So.2d 650, 655 (Fla. 1955) (quoting *Board of Bar Exam. v. Poyntz*, 152 Or. 592, 595, 52 P.2d 1141, 1143 (1935), *reh'g. denied*, 54 P.2d 1212 (Or. 1936)).
13. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 4.e.
14. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 3.c.
15. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 4.a., b.
16. Fla. Sup. Ct. Bar Admiss. Rule, art. III B § 4.d.
17. *In re Question of Law Certified to the Supreme Court of Florida by the Fla. Bd. of Bar Exam.*, 183 So.2d 688 (Fla. 1966).
18. *In re Diaz-Arguelles*, 401 So.2d 1347 (Fla. 1981).
19. Fla. Bd. of Bar Exam. *Re: L.K.D.*, 397 So.2d 673 (Fla. 1981).
20. Fla. Bd. of Bar Exam. *Re: Lomnie Neil Groot*, 365 So.2d 164 (Fla. 1978). *But see* Fla. Bd. of Bar Exam. *Re: G.W.L.*, 364 So.2d 454 (Fla. 1978). *See also* Fla. Bd. of Bar Exam. *Re: Richard Elliot Kwasnik*, 508 So.2d 338 (Fla.).
21. Fla. Bd. of Bar Exam. *Re: N.R.S.*, 403 So.2d 1315 (Fla. 1981); *In re: Fla. Bd. of Bar Exam.*, *In re Robert Francis Eimers*, 358 So.2d 7 (Fla. 1978).
22. *Lopez v. Fla. Bd. of Bar Exam.*, 231 So.2d 819 (Fla. 1969). *In re Application of V.M.F. for Admission to The Florida Bar*, 491 So.2d 1104 (Fla. 1986).
23. *See Konigsberg v. State Bar*, 353 U.S. 252, (1957); *Schwartz v. Bd. of Bar Exam.*, 353 U.S. 232 (1957).