

The Texas Board of Law Examiners: A Summary of What the Texas Law Student Should Know*

Any Texas law student wishing to apply for admission to the Texas Bar must complete and file a form entitled the *Declaration of Intention to Study Law* (“Declaration”) with the Texas Board of Law Examiners (“BLE”).¹ The deadlines vary according to when you start law school; however the deadline tends to fall shortly (possibly as quickly as within 6 weeks) of when you begin your law school studies. Check with the Texas Board of Law Examiners for exact deadlines. The website is: www.ble.state.tx.us.

A. When the Process starts for the Texas Board of Law Examiners

It all actually starts before you are accepted to law school. The Texas Board of Law Examiners’ staff will compare the responses given on your law school application to the responses given on your Declaration. Questions relating to criminal offenses and discipline received as a student will receive particular review.²

You should note that the questions are not necessarily identical on law school applications as they are asked on the Declaration.³ Unfortunately, your law school application may probably have been completed a year or more before you are looking to complete the Declaration, but careful attention must be given to the responses you make on your law school application. Both the law schools and the Texas Board of Law Examiners expect your answer to be truthful and complete.⁴

B. Texas Bar of Law Examiners Investigation

If you misguidedly think the investigation is not intensive, you’re wrong. The Texas Board of Law Examiners will obtain criminal history information from both the

FBI and the Texas Department of Public Safety. Other records will be checked due to the authorization and release forms submitted with your Declaration.

The question then becomes what happens if your application to law school was not as complete as needed or not as complete as the Declaration requires? Go immediately to your Dean of Admissions, explain and get an amendment to you law school application made. This amendment will also have to be disclosed on your Declaration and documented.

C. See an Attorney

If the correction is more than a missed date or an inadvertent error, it is highly recommended that you contact an attorney who is familiar with the workings of the Board of Law Examiners. At the time you are studying for the bar exam, is not the time to get a letter from the BOLE requesting a hearing on your fitness to be held in Austin, Texas.

D. When in doubt, disclose.

Make sure you do so timely. This is extremely important especially if there are significant matters to be revealed. Resolution and counseling in the resolution of many issues are possible during the time students are in law school, but timely filing gives one the benefit of the greatest period of time. You may be embarrassed about past events, major or minor, but the first issue is your honesty, as part of your moral character. You may also want to seek independent advice on how best to do this.

E. Texas Bar of Law Examiners: Background & Issues

The Rules of Admission requirement that a person be of *present* good moral character and fitness; hence the Board of Law Examiners' investigation. Issues which may require a hearing include, but are not limited to:

Dishonesty, including non-disclosure of information requested by a law school or the Board of Law Examiners;

Felony criminal history (see Rule IV on the Board of Law Examiners' website [www.ble.state.tx.us] for additional information about felonies);

Significant misdemeanor criminal history;

Failure to discharge significant financial obligations, including:

Payment of child-support;

Filing federal income tax returns and payment of required taxes;

Failure, in an employment setting, to file withholding taxes for employees; and

Default in a substantial amount of business or personal debts.⁵

Special attention to expunged arrests:

The Board of Law Examiners wants you to be sure that if a past indiscretion has been expunged, it has really been expunged. It does you no good to say: "My attorney told me it was expunged." If this is not correct, it looks bad for you, not your attorney.

The BOLE specifically states:

"While expunged or sealed offenses, arrests, tickets, or citations need not be disclosed, it is the applicant's/declarant's responsibility to ensure the offense, arrest, ticket, or citation has, in fact, been expunged or sealed. Failure to reveal an offense, arrest, ticket, or citation that is not in fact expunged or sealed, raises questions related to truthfulness in addition to questions regarding the offense itself."⁶

F. Texas Bar of Law Examiners' Non-Disclosure Rule.

Applicants are frequently unsure whether to reveal offenses that may be “expunged” or otherwise protected from disclosure. Do not fail to disclose because you “think” it was expunged. Make sure there is a formal order. While you are not required to reveal such matters on the Declaration/Application form,⁷ a criminal matter that is the subject of an order of non-disclosure may become a character and fitness issue. Pursuant to other sections of the Government Code⁸, the Texas Board of Law Examiners is entitled to access criminal history record information that is the subject of an order of non-disclosure. “So, if the Board of Law Examiners discovers a criminal matter that is the subject of an order of non-disclosure, even if you properly did not reveal that matter, the Board of Law Examiners may ask you to provide information about that criminal matter.”⁹

G. Moral Character or Fitness for the Texas Board of Law Examiners

Law Students frequently asked: what is the difference between “good moral character” and “fitness”? While the definitions found in Rule I offer no information, by inference from Rule X (b), the Board of Law Examiners is looking for chemical dependency or misuse¹⁰, which includes all forms of drugs, legal or illegal, and alcohol. In this context, common sense dictates that any indication of psychological or mental disorder would come under the issue of “fitness” as well. Any chemical dependency or misuse could additionally come under the issue of “good moral character” also.

If you require a hearing before the Board of Law Examiners, some notes for preparation:

- Do not go alone. Four years of undergraduate work and three years of law school and you want to represent yourself?
- Investigate the attorney panel before which you are to appear;
- Have a separate set of all exhibits, both the Board's and yours , for the hearing;
- Prepare a chronology of all events, criminal history and actions;
- When applicable, remember that the actual criminal history is not the issue; and
- Excuses are of no value if you intended to conceal.

At a hearing before the Board of Law Examiners, here are some questions you should be prepared for:

- Have you informed your present employer about this hearing?
- Have all documents been premarked and provided to the Board of Law Examiners' attorney?
- What is the reason you failed to fully disclose as requested in the law school application?
- Did you consider your disclosure full and complete as it says above your signature?
- When you amended why was it not full and complete?
- Are you telling the whole truth today?
- Is it not correct when you said that you did not intend to deceive the law school?
- Is it not correct when you said that you did not intend to deceive the Board of Law Examiners?
- What action did the law school take when you told them?
- If you thought something was not disclosed, why did you not inform the school that you were still looking?
- What were you trying to conceal on your application?
- Do you understand the higher standard that an attorney has to adhere to?
- Were you trying to deceive yourself in this matter?

H. Texas Board of Law Examiners: Statistical Information

According to statistical data available from the Board of Law Examiners, in 2007 there were 116 cases that went to full hearing and one case in which Agreed Orders were considered and concluded. Similar data for 2006 indicates 112 cases went to full hearings and there were 5 cases in which Agreed Orders were considered and entered. In 2007, the central issues for hearings and agreed orders were:

- Dishonesty (56);

- Criminal History (18);
- Chemical Dependency (9);
- Non-compliance with conditions of Board Order for a Probationary License (8);
- Non-compliance with curative measures in prior denial order (Petition for Redetermination) (5);
- IRS issues (4);
- Debt issues (4);
- Attorney applicant with disciplinary history (3);
- Lack of trustworthiness in carrying out responsibilities (2);
- Child Support Issues (2);
- Conduct Issues (2);
- Cheating, Bar Exam (1);
- Non-compliance with conditional approval of Declaration (1);
- Unauthorized practice of law (1); and
- Employment issues (1).¹¹

The Board of Law Examiners notes that “none of the following issues were determined to be central issues in hearings or agreed orders during [2006]: failure to support the Constitution; professional discipline in another profession; civil litigation; mental health; non-compliance with conditional approval of Declaration; denial in another state.”¹²

The results of the full hearings held in 2007 (116 hearings total) fall into 3 categories:

- Favorable to the person: character and fitness approved 71 (61%)
(% favorable in FY 06 was 54%).
- Unfavorable to the person:
 - Denied 7
 - Revoked PL, prior to licensure 0
 - Exam score voided 0
 - Recommended revocation of an active PL 2
 - Recommended cancellation of regular license 0
 - Total unfavorable to person 9 (7%)
(% in FY 06 was 17%).
- Probationary Licensure or Conditional Approval of Declaration:
Recommended for initial probationary license 27

Probationary license amended or continued	7
Conditional approval of a Declaration	2
Total	36 (31%)
(% in FY 06 was 29%)	

“Dishonesty continued to be the number one issue.”¹³

In summation, when in doubt, disclose. If there is any hint in your mind that you might not have all the information disclosed, inform the law school and the Board of Law Examiners that you are still looking; and keep at it. But do you really want to walk that lonesome valley by yourself?

I. Do You Need An Attorney?

Every attorney who practices before the Board of Law Examiners has a horror story about the law student who represented himself and was denied admission or placed on a lengthy probation. This is not the time to decide you know more than the Board of Law Examiners attorneys. Moreover, at hearing time, those applicants/declarants who are represented by counsel are taken first. While that is a very minor point in favor of having the assistance of counsel, remember the old adage, “The attorney who represents him/herself, has a fool for a client.” One does not want to begin or end one’s legal career on the wrong foot and appearing without counsel may increase the risk of a less than favorable outcome.

The Bennett Law Firm has over ten years experience in handling cases before the Board of Law Examiners. Every client we have represented as been admitted. All but one were admitted or approved immediately, and that one received a probationary license and ultimately received an unconditional license. We have the experience to assist the applicant/declarant through this often emotional and stressful situation, and

assist with the analysis of your particular scenario and what are the best actions to be taken in each particular case.¹⁴

CAVEAT: In an attempt to provide information to Texas law students, this article was submitted to the Board of Law Examiners for an opportunity to comment fully on the article. However, the Board of Law Examiners refused to approve or critique the article. The Board of Law Examiners does not approve or endorse this article. The Board of Law Examiners refers any interested party to their website, www.ble.st.tx.us. However, this article has been critiqued and reviewed by other attorneys who practice in this area.

**Written and edited by Bob Bennett and Renee Moeller-Taylor. Mr. Bennett is a former assistant United States Attorney and is Board Certified in Consumer and Commercial Law by the Texas Board of Legal Specialization. He has represented numerous law students and attorneys before the Texas Board of Law Examiners. Client comments about his work are at www.avvo.com, go to the Robert S. Bennett site. Mrs. Moeller is a contract and research attorney at the Bennett Law Firm.*

¹ The Texas Board of Law Examiners is not a part of the Texas State Bar. Both are established per the authority of the Texas Supreme Court but are separate entities. www.ble.st.tx.us; FAQs

² “A Message from the Texas Board of Law Examiners to Prospective Applicants for Admission to the Bar of Texas,” Prospective Student Message.

³ Id.

⁴ Id.

⁵ Id.

⁶ Texas Bar of Law Examiners website: www.ble.st.tx.us; FAQs

⁷ Texas Govt. Code §552.142 (b).

⁸ Texas Govt. Code §§ 411.081(d), 411.081(i)(5), 411.083(b), 411.084(a), 411.087(a), and 411.100.

⁹ Texas Bar of Law Examiners website: www.ble.st.tx.us; FAQs.

¹⁰ Rules Governing Admission to the Bar of Texas.

¹¹ BOARD OF LAW EXAMINERS CFSTATS.FY07.

¹² Id.

¹³ Id.

¹⁴ Statistics and information compiled by the Bennett Law Firm.