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**The Road Ahead:
Oregon's New Comity Admission Rule**

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Two decades ago, Oregon was at the forefront of reciprocal admission. Reflecting the times, however, the revolution in reciprocal admission in which Oregon was a key player only involved Washington and Idaho. From what was then known as the “Tri-State Reciprocal Admission Compact,” Oregon gradually expanded reciprocal admission over the years to include many other states. Reciprocity, however, was inherently dependent on other states participating—and not all did. Therefore, reciprocal admission was not a universal solution short of taking the Oregon bar exam for all experienced lawyers coming from other states to join law firms here.

The Oregon Supreme Court has addressed this fundamental short-coming of reciprocity through a new “comity” rule that replaces reciprocal admission. The new rule—Oregon Rule for Admission of Attorneys 15.05—is available on the Oregon State Bar’s web site. In this column, we’ll first examine the new rule and then conclude with a brief survey of other recent related developments in Oregon.

The New Rule

The Supreme Court’s order adopting comity admission—SCO 22-032—does so as a direct replacement of the former reciprocal admission rule that had

the same rule number. The new version reflects a subtle but substantial change.

As noted above, Oregon's former reciprocal admission rule was inevitably

tethered to the participation of other jurisdictions nationally. The new rule is not.

RFA 15.05(2)(a) sets out the nub of the new rule:

(2) An applicant for admission under this rule shall:

(a) Submit sufficient proof, to the satisfaction of the Board, that the applicant has:

(i) Earned a (1) Juris Doctor (J.D.) or (2) Bachelor of Law (LL.B.) degree from an ABA accredited law school; or satisfied the requirements of RFA 3.05(3) [relating to graduates of foreign law schools];

(ii) Passed a bar examination in another state, commonwealth, district or territory of the United States;

(iii) Been admitted to the practice of law in at least one other state, commonwealth, district or territory of the United States of America;

(iv) Current active membership to the practice of law in the highest court of at least one other state, commonwealth, district or territory of the United States; and

(v) Been engaged in the authorized full-time practice of law for a minimum of 24-months out of the 48-months immediately preceding the date that the applicant submits their application for admission as an attorney in another state in which they were authorized to practice law or in a state that does not presently prohibit the type of practice of law that was conducted by the applicant in said state.

Comity applicants are also subject to character and fitness review and must complete CLE courses in Oregon practice and procedure.

In addition to de-coupling Oregon admission with corresponding accommodation of Oregon lawyers in other states, the new rule also significantly reduces the experience requirement necessary to take advantage of comity. Under the old reciprocal admission rule, applicants had to have practiced continuously for five of the past seven years immediately preceding an application. Under the new comity rule, by contrast, the practice requirement is reduced to 24 of the preceding 48 months. RFA 15.05(1)(d) defines “full-time practice of law” as generally being 30 hours per week. The reduction in the experience requirement should especially benefit newer lawyers.

While not the equivalent of a drivers’ license, the new comity rule is another practical step in recognizing the geographically fluid nature of law practice today.

Other Developments

Although significant, the comity rule is just one of several recent developments that have generally made it easier for out-of-state lawyers to join law firms here. Two in particular offer important clarifications on the work that can be undertaken here pending admission.

First, the Supreme Court adopted a rule—RFA 13.70—specifically permitting out-of-state lawyers with admission applications pending to practice

here while action is taken on their applications. The new rule followed in the wake of *In re Harris*, 366 Or 475, 466 P3d 22 (2020), which considered the extent to which an out-of-state lawyer moving to Oregon could practice here while an admission application was pending. The new rule requires registration with the Oregon State Bar and has a variety of other conditions. Nonetheless, RFA 13.70 eliminates much of the confusion surrounding this common circumstance. Additional information and registration forms are available on the OSB web site.

Second, the Oregon State Bar issued an ethics advisory opinion—Formal Opinion 2021-198 (2021)—discussing the tasks that a law school graduate not yet admitted can perform under the supervision of Oregon-licensed lawyers. While not attempting to catalog all tasks a law graduate can perform pending admission, the opinion notes (at 4) that the potential range of activities is broad as long as performed under the supervision of a licensed attorney and the graduate does not hold themselves out as a lawyer: “These activities may include conducting factual and legal research; drafting contracts, affidavits, and legal memoranda; interviewing witnesses and clients for information-gathering purposes; preparing documents for a lawyer’s review and signature; filing executed legal documents; and offering legal conclusions to the attorney or firm.”

Although Formal Opinion 2021-198 doesn't necessarily plow new ground, it offers comforting clarity for another common circumstance. Formal Opinion 2021-198 is also available on the OSB web site.

ABOUT THE AUTHOR

Mark J. Fucile of Fucile & Reising LLP handles professional responsibility, risk management and attorney-client privilege issues for lawyers, law firms and corporate and governmental legal departments throughout the Northwest. Mark has chaired both the WSBA Committee on Professional Ethics and its predecessor, the WSBA Rules of Professional Conduct Committee. Mark has served on the Oregon State Bar Legal Ethics Committee and is a member of the Idaho State Bar Section on Professionalism & Ethics. Mark writes the Ethics Focus column for the Multnomah (Portland) Bar's *Multnomah Lawyer*, the Ethics & the Law column for the WSBA *Bar News* and is a regular contributor on legal ethics to the WSBA *NWSidebar* blog. Mark is the editor-in-chief and a contributing author for the WSBA *Legal Ethics Deskbook* and a principal editor and contributing author for the OSB *Ethical Oregon Lawyer* and the WSBA *Law of Lawyering in Washington*. Before co-founding Fucile & Reising LLP in 2005, Mark was a partner and in-house ethics counsel for a large Northwest regional firm. He also teaches legal ethics as an adjunct for the University of Oregon School of Law at its Portland campus. Mark is admitted in Oregon, Washington, Idaho, Alaska and the District of Columbia. He is a graduate of the UCLA School of Law. Mark's telephone and email are 503.224.4895 and Mark@frllp.com.