

IN THE COURT OF APPEALS OF MARYLAND
ADMINISTRATIVE ORDER
ON LIMITATION ON APPLICATIONS AND
COVID-19 VACCINATION/TESTING REQUIREMENTS FOR
APPLICANTS FOR THE FEBRUARY 2022
UNIFORM BAR EXAMINATION IN MARYLAND

WHEREAS, Pursuant to the Maryland Constitution, Article IV, § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, Title 16, Chapter 1000 of the Maryland Rules of Practice and Procedure sets forth emergency powers of the Chief Judge of the Court of Appeals; and

WHEREAS, on June 1, 2021, the National Conference of Bar Examiners (NCBE) announced that February 2022 bar exam materials will be made available to jurisdictions for paper-based, in-person testing only, unless restrictions by a public health authority prohibit a jurisdiction from administering the February 2022 bar exam in-person; and

WHEREAS, Maryland does not currently have restrictions that would prohibit in-person testing; and

WHEREAS, the Maryland State Board of Law Examiners (SBLE) expects to administer an in-person, paper-based Uniform Bar Examination (UBE) in February 2022; and

WHEREAS, physical limitations exist on the amount of space available to SBLE to administer the February 2022 UBE; and

WHEREAS, due to the outbreak of the novel coronavirus, COVID-19, and the more recent emergence of the Delta variant of the novel coronavirus, and consistent with guidance issued by the Centers for Disease Control and Prevention (CDC), then-Chief Judge of the Court of Appeals of Maryland Mary Ellen Barbera entered administrative orders indicating that an emergency exists; and

WHEREAS, the COVID-19 emergency continues to require measures to protect the health and safety of Maryland residents and Judiciary personnel; and

WHEREAS, although vaccination efforts had made significant progress in suppressing the spread of COVID-19, the emergence of the highly contagious Delta variant has caused rapid increases in infection transmission rates, particularly among the unvaccinated; and

WHEREAS, vaccinations, being readily available, provide the best protection of individuals, including bar applicants, examination proctors, and examination staff, from infection with COVID-19, and the requirement of vaccinations being consistent with the provision and maintenance of a safe bar examination environment;

NOW, THEREFORE, I, Joseph M. Getty, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order, this 29th day of October 2021, that:

- (a) Seating for the February 2022 UBE in Maryland shall initially be limited to 500 applicants; and

- (i) The SBLE shall accept Notices of Intent to Take the February 2022 UBE in Maryland for filing on a first-come, first-served basis¹; and
 - (ii) If the SBLE receives more than 500 Notices of Intent to Take the February 2022 UBE in Maryland, the SBLE shall maintain a waiting list of eligible applicants² on a first-come, first-served basis; and
 - (iii) The SBLE shall fill available seats at the exam from the waiting list on a first-come, first-served basis; and
 - (iv) At the SBLE's sole discretion, the 500-seat limit stated above may be increased or decreased as necessary to use available seating space while maintaining appropriate social distancing and/or separation between vaccinated and unvaccinated applicants at examination sites; and
- (b) All individuals filing a Notice of Intent to Take the February 2022 UBE in Maryland (hereinafter "February 2022 Applicants") who have received all vaccination doses as required by COVID-19 vaccination protocols³ ("vaccinated February 2022 Applicants") shall provide proof of vaccination by Tuesday, February 1, 2022⁴ to the SBLE's administrative office in a secure manner to be determined by the SBLE; and
 - (c) All February 2022 Applicants who have not received the required number of vaccination doses, regardless of the reason for their unvaccinated status, and

¹ To be accepted for filing, all filing requirements must be in place: signed Notice of Intent preceded or accompanied by the completed Character Questionnaire and undergraduate transcript; and accompanied by the appropriate fees.

² To be placed on the waiting list, the applicant's Notice of Intent, other required documents, and fees, must be acceptable for filing, as set forth above.

³ As of the date of this Order, the U.S. Food and Drug Administration has issued final approval of the Pfizer mRNA two-dose vaccine protocols and emergency use approval of the Moderna two-dose vaccine protocol and the Johnson and Johnson single dose vaccination protocol. "In general, people are considered fully vaccinated: two (2) weeks after their second dose in a 2-dose series, such as the Pfizer or Moderna vaccines, or two (2) weeks after a single-dose vaccine, such as Johnson & Johnson's vaccine." (<https://perma.cc/HU33-TJ6W>)

⁴ Nothing shall prevent applicants from providing proof of vaccination prior to this deadline, and applicants are encouraged to do so as early as possible.

all February 2022 Applicants not providing proof of vaccination as contemplated by this Order and by the procedures established by the SBLE shall be deemed to be “unvaccinated February 2022 Applicants” regardless of their actual full or partial vaccination status; and,

- (d) Unvaccinated February 2022 Applicants will be required to submit a negative COVID-19 test result in-person on the morning of the first day of the February 2022 UBE in Maryland in order to enter the examination facility; and
 - (i) The results must be from a polymerase chain reaction (PCR)/nucleic acid amplification test (NAAT) taken at a laboratory or test site within four (4) days prior to the first day of the exam⁵; and
 - (ii) Results from at-home tests will not be accepted; and
- (e) Unvaccinated February 2022 Applicants are responsible for obtaining the tests required by this Administrative Order and bearing the costs associated therewith; and
- (f) Vaccinated February 2022 Applicants shall be physically separated from Unvaccinated February 2022 Applicants to the extent possible under the available seating conditions at the contracted exam sites; and
- (g) All examination proctors and examination administration staff shall be subject to the requirements of this Administrative Order; and
- (h) All proof of vaccination status and test results submitted shall be considered confidential and maintained as such; and
- (i) Any person who does not comply with this Administrative Order shall be denied entrance to, or be subject to removal from, the examination site; and

⁵ Applicant’s test sample may be taken no earlier than Friday, February 17, 2022.

- (j) Failure to comply with this Administrative Order shall not constitute good cause for a deferral of the examination fee pursuant to Md. Rule 19-206(d), except that the SBLE may consider a good cause request from any applicant providing evidence of a good faith effort to procure negative test results as required by this Administrative Order, but whose test results are delayed through no fault of the applicant or who tests positive for COVID-19; and
- (k) In addition to the health measures set forth in this Administrative Order, the SBLE may implement other health measures, including masking and distancing requirements. This Administrative Order shall not substitute for other health measures implemented by the SBLE, including masking and distancing requirements, and those health measures shall not substitute for these requirements; and
- (l) To the extent that any local order conflicts with this Administrative Order, this Order shall prevail; and
- (m) This Administrative Order shall be modified as appropriate.

/s/ Joseph M. Getty
Joseph M. Getty
Chief Judge
Court of Appeals of Maryland

Filed: October 29, 2021

Pursuant to Maryland Uniform Electronic Legal Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document is authentic.



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Pursuant to the Maryland Uniform Electronic Legal Materials Act (§§ 10-1601 et seq. of the State Government Article) this document is authentic.

Suzanne C. Johnson, Clerk



Gregory Hilton, Clerk

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland