



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM**

**DATE:** August 7, 2020

**TO:** Members, Provisional Licensure Working Group

**FROM:** Donna S. Hershkowitz, Interim Executive Director  
Caroline Holmes, Assistant General Counsel

**SUBJECT:** Components of a Provisional Licensure Program

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### **EXECUTIVE SUMMARY**

On July 16, 2020, the California Supreme Court directed the State Bar of California “to implement, as soon as possible, a temporary supervised provisional licensure program – a limited license to practice specified areas of law under the supervision of a licensed attorney.” This agenda item describes various components of a supervised provisional licensure program for the working group’s consideration; examines what other states that have implemented a provisional licensure program have done; and compares with California’s own Practical Training of Law Students (PTLS) program and other special admissions programs that allow out-of-state attorneys to practice in California in limited ways. The working group will be asked to adopt recommendations for the parameters of the program.

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### **BACKGROUND**

On July 16, 2020, prior to the Supreme Court’s direction, the State Bar Board of Trustees delegated authority to Trustee Joshua Perttula to take the lead on implementation efforts related to the administration of an online bar examination, and delegated authority to Trustee Hailyn Chen to take the lead on implementation efforts related to any other direction regarding licensure directed by the Supreme Court. Ms. Chen was delegated the authority to appoint a working group or take other steps necessary to implement the direction of the Supreme Court.

On July 16, 2020, the California Supreme Court directed the State Bar of California “to implement, as soon as possible, a temporary supervised provisional licensure program – a limited license to practice specified areas of law under the supervision of a licensed attorney.” The letter clarified that the provisional licensure program shall continue at least through June 1,

2022, and is available for all 2020 graduates of California-based law schools (whether ABA approved, California accredited, or unaccredited) or 2020 graduates of law schools outside of California if such graduates are permitted to sit for the Bar Examination under California law. The letter from the Supreme Court is included as **Attachment A**.

Subsequent clarification from the Court provided that the program shall be open to: (1) individuals who graduated in 2020 and did not pass the February 2020 bar examination; (2) individuals who elect to take the October 2020 online bar examination; and (3) 2020 graduates of an LLM program.

In 2018, the State Bar updated rules related to its Registered In-House Counsel (RIHC) program and Registered Legal Aid Attorney (RLAA) program. In addition, the State Bar established a new Registered Military Spouse Attorney (RMS) program to provide an opportunity for an attorney spouse of an active duty service member who is ordered stationed in California to practice law without passing the California Bar Examination. Collectively, these programs are referred to as the Multijurisdictional Practice (MJP) program. The rules from the MJP programs are included as **Attachment B1-4**.

Rule 9.42 of the California Rules of Court, and Rule 3.1 – 3.10 of the State Bar Rules create the Practical Training of Law Students (PTLS) program to allow certified law students to negotiate for an on behalf of a client; appear on behalf of a client in depositions; appear on behalf of a client in any public trial, hearing, arbitration, or proceeding; and appear on behalf of a government agency in the prosecution of criminal actions classified as infractions. However, all such activities are subject to the strict and direct supervision of an attorney and, in certain instances, the approval of the court or other tribunal. (See **Attachment C**.)

As of July 26, 2020, the following states enacted provisional licensure programs, extended their legal intern programs or developed programs similar to their law student programs in response to the challenges in administering and taking a July or fall 2020 bar examination: Alabama, Arizona, Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, Missouri, Montana, New Jersey, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Texas, Vermont, Washington, and Wyoming. (See **Attachments D1 – 23**.)

A few states adopted a “diploma privilege” under which eligible law graduates would be able to practice without ever having to take the Bar exam. The California Supreme Court, along with expressly declined to adopt a diploma privilege, as did the following jurisdictions: Idaho, Illinois, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, and Tennessee.

## **DISCUSSION**

California’s multijurisdictional practice program, allowing out-of-state attorneys the ability to practice in California under defined circumstances, was the product of several years of work and thought. Following the submission of the 2002 Final Report and Recommendations of the Supreme Court Advisory Task Force on Multijurisdictional Practice, the Supreme Court and the State Bar received the 2004 Final Report of the California Supreme Court Multijurisdictional

Practice Implementation Committee. (The 2004 report is included as **Attachment E**.) Among other things, the rules regarding multijurisdictional practice included thoughtful analysis of the supervisory needs of these attorneys, MCLE requirements to which they should be subject, the requirement that they be subject to the disciplinary authority of the State Bar, requirements about the level of supervision required for attorneys, eligibility to perform the supervisory role, and the requirement that the supervising attorney assume professional responsibility for the work performed by the out-of-state attorney registered in California.

It make sense, therefore, to use these MJP rules, along with the rules adopted by other states, as well as California's Practical Training of Law Students program rules to help design this short term, but important program. A chart describing the permissible activities and required supervision under these programs is included as **Attachment F**.

For purposes of this agenda item, we refer to this as the provisional licensure program and to those who are registered in the program as provisional licensees. However even the name becomes important, as there will need to be guidance on how such individuals refer to themselves in dealing with clients, the courts or other tribunals, employers, or the general public. This issue is raised later in the agenda.

Below, we break down the key issues for the working group's consideration into digestible components. For ease of focusing the working group on the more controversial proposals and those which require more discussion and analysis, bullet points worded as declarative statements represent the proposed outcome from the working group chair and staff. Bullet points raising questions are designed for greater working group discussion. Members of the working group are welcome, of course, to discuss any of the bullet points below.

## **Eligibility**

The discussion of the requirements of the provisional licensure program begins with a discussion of who is eligible to apply for and participate in the program.

- Applicants must have satisfied all requirements for Admission other than passing of a bar examination.
  - In California, requirements for Admission are the following:
    - Positive moral character determination (which is active / not expired)
    - Received a passing score on the Multistate Professional Responsibility Exam (MPRE) as defined by the Committee of Bar Examiners
    - No outstanding child support payments due
    - No outstanding fees due to the State Bar
    - Certificate of Good Standing or Certified law school transcript received
    - Fingerprints cleared.
  - Ten (10) states addressed this issue. Of those, 9 require the applicant to have a positive moral character determination in order to be eligible. One requires that a moral character application be filed, but not that it have been acted upon – although the applicant is terminated from the program if not given a positive

moral character determination.

- Pursuant to the direction of the Supreme Court, applicants for the program must be 2020 graduates of California-based law schools (whether ABA approved, California accredited, or unaccredited) or 2020 graduates of law schools outside of California if such graduates are permitted to sit for the Bar Examination under California law. This applies to graduates of a JD program or an LLM program.
- Pursuant to the direction of the Supreme Court, eligible applicants includes those who have previously taken and failed to pass the February 2020 or October 2020 California bar examination. This would apply to January 2020 graduates who sat for the February bar examination and those who sit for the October 2020 remote bar examination.
  - Should there be a limitation on the number of times an applicant can sit for the bar examination in California or any other jurisdiction and fail to pass and still remain eligible for the program?
    - 10 states do not admit into the program applicants who had previously taken and failed a bar examination in any jurisdiction
    - 2 states do not admit into the program applicants who had previously taken and failed a bar exam in their jurisdiction.
    - 5 states do not expressly state that you cannot have failed an exam prior to admittance to the program, but provide for termination from the program upon failure to pass a bar exam.
    - 1 states provides that eligible applicants include those who failed to pass 1 bar exam, but no more.
    - The intent of the California Supreme Court, however, appears to be that applicants not be terminated from the provisional licensure program because of failure to pass a bar examination.
- Applicants must have employment or conditional employment with a designated supervisor to apply for and receive provisional licensure. The supervisor must work for the same entity for which the applicant is / will be employed.
  - Most states appear to require the applicant to have the supervisor in place in order to first become provisionally licensed.
- Must the applicant reside in, work in, or work for a California based employer?
  - This is a requirement included in the New York rules. Eligibility for Colorado's program is similarly limited to those who affirm an intent to practice in Colorado. No other state appears to talk about whether the applicant must reside in or work in the state. However, it is a fair assumption that this is what was contemplated, as the applicant must work under the supervision of an active licensee in that state.

## Requirements of Applicant

The next component for discussion is what is required of the applicant to receive the provisional licensure and what is required during the term of the provisional licensure.

- An applicant must abide by the rules of professional conduct and must submit to the State Bar of California a declaration that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney.
  - This is consistent with the other MJP program requirements in California.
  - This is also a common statement by other states that adopted a provisional licensure program
  - The Arizona rules provide that the rules governing the discipline of lawyers is not applicable to the certified limited practice graduate, and that termination of certification shall be without prejudice to the privilege of the graduate to apply for admission to practice to law.
- Applicant must pay a fee to the State Bar.
  - For the MJP programs, the fee is essentially equivalent to the annual licensing fee owing by California licensed attorneys.
  - The fee is necessary to recoup costs of administering the program.
  - Note that the Arizona rules expressly provide that although a law graduate in its program will be deemed an active member of the State Bar, they are not required to pay fees.
  - Several states rules expressly require the payment of a fee to participate in the program.
- Must an applicant meet MCLE Requirements? Or the 10-hour New Attorney MCLE Requirement?
  - Other California MJP programs require the participants to meet MCLE requirements. Specifically, the MJP rules require the individual to satisfy in their first year of practice under all of the MCLE requirements, including ethics education, that licensees of the State Bar must complete every three years and, thereafter, satisfy the MCLE requirements, as proportionally reduced for the compliance group as set forth in State Bar Rules 2.70 and 2.71.
  - Only Illinois appears to expressly mention in the rules the requirement to complete MCLE. In that state, a provisionally licensed attorney must complete a 6 hour basic skills course and an additional 3 hours of MCLE every 90 days.
  - Rule 2.53 of the State Bar Rules require newly licensed attorneys to complete a State Bar New Attorney Training program during the first year of admission which can also be applied to the regular MCLE requirement. This training is available on an e-learning platform and is focused on law practice competency for newly admitted licensees.

- Only use a designated term, and not describe themselves as an attorney or imply in any way in writing or orally to be a fully licensed attorney of the State Bar of California.
  - This parallels a requirement for MJP rules and most if not all of the rules from other jurisdictions.
- What should this program be called and how should the program participants refer to themselves orally, to clients or potential clients, in court pleadings, on letterhead, business cards, signature blocks and the like?
  - As noted above, a review of other state programs is not particularly instructive, as there is not a common agreed upon term. Two states refer to “certified limited practice graduates,” and the other four states that name the participants all use different terms: “certified law school graduates,” supervised practitioner,” “practice pending admission,” and “2020 limited licensee.”
- Submit a new Application for Provisional Licensure before beginning employment with a new qualifying supervising attorney.
  - This parallels a requirement in the MJP rules.
  - The rules should clarify that if the new supervising attorney works for the same employer as the previous supervisor, the provisional licensee shall be required only to submit a new declaration from the supervising attorney but shall lose their certification nor be required to re-apply for certification.
  - Relatedly, the MJP rules require the registrant to report the termination of supervision by the supervising attorney immediately to the State Bar.

### **Scope of Practice / Length of Program**

- In what practice areas should provisionally licensed attorneys be permitted to practice / what criteria should be used to determine the appropriate practice areas?
  - The July 16 letter from the Supreme Court described provisional licensure as a “temporary,” “limited license to practice specified areas of law” under the supervision of a licensed attorney.
    - Other states do not appear to limit the practice areas, although Illinois specifies that provisionally licensed attorneys may only work with legal aid, the public defender, government law offices, or private law offices with 1 or more attorneys.
  - Presumably, a provisionally licensed attorney should have greater reign than a certified law student. Under the PTLIS program, Rule 9.42 of the California Rules of Courts provide the following limitations on the work of certified law students in the criminal arena: certified law students may appear on behalf of a government agency in the prosecution of criminal actions classified as infractions or other such minor criminal offenses with a maximum penalty or a fine equal to the maximum fine for infractions in California, including any public trial:

- Subject to approval by the court, commissioner, referee, hearing officer, or magistrate presiding at such public trial; and
  - Without the personal appearance of the supervising attorney or any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney, but only if the supervising attorney or the designated attorney has approved in writing the performance of such acts by the certified law student and is immediately available to attend the proceeding.
- Provisionally licensed attorneys should not be permitted access to a client trust account.
  - A little background might be helpful for those less familiar with client trust accounts.

Attorneys have a fiduciary duty to their clients, and are generally required to deposit or invest all client deposits or funds in a trust account. Rule 1.15 of the Rules of Professional Conduct provides that “all funds received or held by a lawyer or law firm for the benefit of a client, or other person to whom the lawyer owes a contractual, statutory, or other legal duty . . . shall be deposited in one or more identifiable bank accounts labeled trust accounts.” Lawyers are prohibited from depositing their own funds, or funds belonging to the law firm in the trust account (referred to as commingling), with limited exceptions.

There are precise rules how to maintain the accounts and keep track of funds in the account to ensure that the lawyer is maintaining the client funds on behalf of and for the benefit of the client. Complaints involving inappropriate commingling, or more commonly, misappropriation of client funds, are among the most common made to the State Bar’s disciplinary authority.

The State Bar of California maintains a Client Security Fund – funded by lawyer fees – which pays out millions of dollars every year to clients who suffered a financial loss due to the misconduct of their lawyers. For 2020, the State Bar received double the amount of licensing fees to address the backlog in these payments, and we plan to disburse more than 13 million in funds to clients.

- Only New York expressly includes a similar requirement in its rules.
- How long should the program last?
  - The Supreme Court directed that the program at a minimum “remain in effect until at least June 1, 2022 to permit 2020 graduates maximum flexibility.” This date will allow applicants several opportunities to take a bar examination. Recognizing that they will be working, and would require time to study, it is not anticipated that provisionally licensed attorneys will take many exams, but the June 2022 time frame would allow them the opportunity to take the following exams: October 2020, February 2021, July 2021, and February 2022.
  - No other jurisdiction’s program appears to last quite as long as June 2022 –

although some commenced in April, May, or June of 2002. Lengths of the programs vary, but include:

- 12, 14, or 18 months from graduation: Arizona, Minnesota, Texas
  - December 31, 2020: Kentucky and Wyoming
  - Upon release of results from the first bar examination offered (or failure to register or sit for that exam): Ohio, Pennsylvania, Massachusetts
  - Results of the February 2021 bar exam (or failure to register or sit for that exam): Arkansas, Indiana, Missouri, Alabama
  - November 2021: Tennessee, Illinois (and Idaho is 10/31/2021).
- What other limitations on practice should be imposed?
    - There are a number of similarities in the programs adopted by states across the country. The chart below may provide useful guidance in answering this and some of the above questions.
    - Client consent?
    - Is consent / approval of a court or other tribunal required for the provisionally licensed attorney to appear?
    - May the provisionally licensed attorney appear in any proceedings without the attendance of the supervising attorney as long as the supervising attorney approved of the participation?
    - Must all court filings, settlements, agreements, etc include the designation of provisional status and contact information for the supervising attorney?
    - May the provisionally licensed attorney give legal advice without direct approval by the supervising attorney? Must the supervising attorney approve all submissions to the court, settlement agreements, contracts, etc?
  - If we were using the PTLs program as a guide, with the intent that greater flexibility be provided to provisionally licensed attorneys, we should note the following limitations are currently imposed on certified law students:
    - Certified law students may negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the certified law student:
      - Obtains the approval of the supervising attorney to engage in the activities;
      - Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the certified law student; and
      - Performs the activities under the general supervision of the supervising attorney;
    - They may appear on behalf of the client in depositions, provided that the certified law student:

- Obtains the approval of the supervising attorney to engage in the activity;
  - Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney); and
  - Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student.
- Appear on behalf of the client in any public trial, hearing, arbitration, or proceeding, or before any arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, provided that the certified law student:
- Obtains the approval of the supervising attorney to engage in the activity;
  - Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney);
  - Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student.

**Limitations on Practice of a Provisionally Licensed Attorney – State-by-State Comparison**

(SA = Supervising Attorney)

State	Limitations Related to Court Appearances and Court Filings						
	Client consent required	SA approval required	SA must be attorney of record	Required consent/approval must be filed with court and/or provisional status must be expressly disclosed to court	Court must enter order approving appearance	Court filings must be signed by SA	Court filings must include designation of provisional status and/or contact info for SA
Alabama	X	X	X	X	X	X	
Arizona	X	X		X		X	
Arkansas						X	
Colorado				X		X	X
Georgia				X			X
Idaho				X		X*	
Illinois	X			X		X	X
Indiana							
Kentucky							X
Massachusetts				X			
Minnesota				X			
Missouri						X	
Montana	X	X		X			X
New Jersey			X				
New York					X*	X	
Ohio	X	X					
Pennsylvania						X	X
South Dakota				X		X	
Tennessee	X		X	X		X	X
Texas	X			X			
Vermont	X	X		X	X	X	
Washington						X	X

Limitations Related to Court Appearances and Court Filings							
State	Client consent required	SA approval required	SA must be attorney of record	Required consent/approval must be filed with court and/or provisional status must be expressly disclosed to court	Court must enter order approving appearance	Court filings must be signed by SA	Court filings must include designation of provisional status and/or contact info for SA
Wyoming							X

\*Denotes additional jurisdiction-specific rules relating to the limitation

Limitations Related to Other Legal Services								
State	Legal advice with SA approval	Legal advice under SA's direct and ongoing supervision	Volunteer legal services with client consent	All communications must include designation of provisional status	All communications must be signed by SA	Written disclosure to all clients of provisional status and SA's contact info	Written client consent for all services	Disclosure of provisional status to all clients
Alabama								
Arizona	X		X					
Arkansas		X						
Colorado				X				
Georgia						X		
Idaho		X					X	X
Illinois							X	
Indiana								X
Kentucky				X				X
Massachusetts								

State	Limitations Related to Other Legal Services							
	Legal advice with SA approval	Legal advice under SA's direct and ongoing supervision	Volunteer legal services with client consent	All communications must include designation of provisional status	All communications must be signed by SA	Written disclosure to all clients of provisional status and SA's contact info	Written client consent for all services	Disclosure of provisional status to all clients
Minnesota								X
Missouri								
Montana						X		X
New Jersey								
New York	X*							
Ohio								
Pennsylvania		X			X			
South Dakota								
Tennessee				X			X	
Texas	X	X						
Vermont					X			X
Washington				X	X			X
Wyoming				X				X

\*Denotes additional jurisdiction-specific rules relating to the limitation

## Eligibility to Participate As a Supervisor

Of equal importance to the success of this provisional licensure program are the eligibility criteria for who may participate as a supervisor, and what the extent of that supervision might look like. A chart describing both eligibility and the supervisory requirements follows this section and the section below.

- A supervising attorney shall be required to have practiced law as a full-time occupation for at least four years in any United States jurisdiction and have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California
  - This is the requirement from California’s MJP rules
  - Is there a reason to deviate from the MJP requirements?
- A supervising attorney must not be inactive in California, or ineligible to practice, suspended, or have resigned or been disbarred in any jurisdiction
  - This requirement is found in the MJP rules
  - Some states provide that the supervising attorney may not be subject to discipline or have ever been disciplined.
- A supervising attorney must currently practice law in, or within a reasonable period of time have previously practice law in the specified practice area in which the provisional licensed attorney will be practicing.
- As noted above, a supervising attorney must work for the same entity for which the applicant is / will be employed.
- What are the appropriate limitations on the number of provisionally licensed attorneys a supervisor may supervise?
  - At least 4 states include a specific limit, with at least 3 states limiting a supervisor to 2 provisionally licensed attorneys (Arkansas and Illinois); at least 1 state limits it to 4 (Texas)<sup>1</sup>.
  - There are no specifications in the MJP rules.
  - California’s PTLs rules provide that an attorney may supervise at one time no more than five certified law students or twenty-five if employed full-time to

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<sup>1</sup> When highlighting the number of states that impose a certain requirement or limitation, this agenda item repeatedly refers to “at least” X number of states. This is because several states did not enact comprehensive rules, but rather provided that the rules governing, for example, their legal intern program, was extended to law graduates. In most instances, no comprehensive review of that existing rule was performed. As a result, the count of the number of states including certain provisions in their rules is necessary incomplete.

supervise law students in a law school or government training program.

- A supervising attorney must be prepared to assume personal representation of the provisionally licensed attorney's clients in the event of suspension or termination of provisional status.
  - This is an incredibly common provision amongst the rules from other jurisdictions.

### **Supervisory Requirements**

- A supervising attorney must agree to assume professional responsibility for any work that the provisionally licensed attorney performs while under the supervising attorney's supervision.
- Current California PTLs and MJP rules provide as follows:
  - PTLs: A supervising attorney must personally assume professional responsibility for any activity a certified law student performs pursuant to these rules;
  - RMS: the supervising attorney assumes professional responsibility for any work performed by the registered military spouse attorney under this rule.
  - RLAA: the eligible legal aid organization and the supervising attorney assume professional responsibility for any work performed by the applicant under this rule.
- The rules of at least 8 states contain almost identical language. While 6 of those states impose no limitation on this statement, presumably making it broader than the supervisory responsibility spelled out in the Rules of Professional Conduct, 2 states do appear to limit the obligation to assume responsibility consistent with the Rules of Professional Conduct.
  - Rule 5.1 of the Rules of Professional Conduct provides that:

“[a] lawyer having direct supervisory authority over another lawyer, whether or not a member or employee of the same law firm, shall make reasonable efforts to ensure that the other lawyer complies with these rules and the State Bar Act.

(c) A lawyer shall be responsible for another lawyer's violation of these rules and the State Bar Act if: (1) the lawyer orders or, with knowledge of the relevant facts and of the specific conduct, ratifies the conduct involved; or (2) the lawyer, individually or together with other lawyers, possesses managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, whether or not a member or employee of the

same law firm, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

As a result, the broad language would seem to impose this liability on the supervising attorney regardless of whether the supervising attorney ordered the conduct, ratified it, or knows of the conduct at a time when its consequences can be mitigated. The language of the Rule of Professional Conduct, however, governs those supervising other “attorneys.” As with the MJP and PTL programs, a provisional licensure program has an attorney agreeing to provide supervision over someone who has not satisfied all the requirements to practice law in the State of California, and thus it is reasonable that the obligation and exposure is greater.

- At least 3 states address a requirement to have malpractice insurance, with Illinois and Texas states imposing a requirement on the supervising attorney to provide malpractice insurance for the provisionally licensed attorney and Montana simply providing that a person who is provisionally admitted shall be insured for legal malpractice. .
  - These three states do not otherwise mandate professional liability insurance.
  
- What is the level of supervision required?
  - Must a supervising attorney be present at all court appearances in which the provisionally licensed attorney is appearing on behalf of a client. Must they appear in person if that is how the provisionally licensed attorney is appearing or is remote appearance permissible? Or must the supervising attorney only be available to appear upon request?
    - In Arizona, the supervising attorney must physically appear in criminal matters on behalf of the state, felonies, and what is likely the equivalent of unlimited civil matters. In limited civil and misdemeanor cases, the attorney does not have to physically appear with the client’s consent.
    - In Montana, the client must consent to the absence of the supervising attorney in civil matters; however in criminal matters, the supervising attorney must appear in any cases in which the defendant has a right to counsel.
    - Colorado requires the supervising attorney to be available, but not necessarily present in criminal matters that are less than felonies unless testimony is to be taken.
  - Must a supervising attorney review, approve, and sign all documents prepared by the provisionally licensed attorney to be filed in a court of record, arbitration proceedings, or other judicial and quasi-judicial proceeding.

- Must a supervising attorneys review, approve, and sign all agreements, settlements, contracts, and other similar documents prepared by the provisionally licensed attorney?
  - New York requires the approval of the supervising attorney for final disposition of a matter.

#### Other Miscellaneous Issues

- Provisional licensure terminates in the following circumstances:
  - Upon imposition of discipline for misconduct by any other professional or occupational licensing authority, including administrative or stayed suspension against the provisionally licensed attorney
  - Upon imposition of discipline for misconduct by the State Bar of California or any other bar, including administrative or stayed suspension, against the supervising attorney
  - Upon admission to the State Bar of California
  - Upon cessation of the Provisional Licensure Program
  - Upon request
  - For failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar
  - If the provisionally licensed attorney no longer meets the requirements of this rule.
    - These provisions are largely consistent with the provisions of California's MJP rules and several other states rules.
- The same privileges and confidentialities that would apply to licensed attorneys also apply to provisionally licensed attorneys.
  - The Arizona rules provide: The rules of law and evidence relating to privileged communications between attorney and client shall govern communications made or received by and among supervising and designated attorneys, certified limit practice graduates.
  - The Washington Legal Intern rules provide: For purposes of the attorney-client privilege, a Licensed Legal Intern shall be considered a subordinate of the lawyer providing supervision for the Intern.
- The State Bar shall have the right to audit the provisionally licensed attorney and supervising attorney for compliance with program requirements.
  - It does not appear that other states have an express requirement in the provisional licensure rules.

## Minimum Qualifications and Supervisory Requirements of a Supervising Attorney – State-by-State Comparison

(SA = Supervising Attorney)

State	Minimum Qualifications and Supervisory Requirements						
	SA must assume personal professional responsibility and/or personal representation of graduate's clients in event of suspension or termination of provisional status	SA must secure prior written consent of client for graduate's court services and keep client advised of services performed	SA must be physically present at some or all court appearances	Court filings must be signed by SA	SA must be active member of state bar for at least 2-5 years	SA must not supervise more than 2-4 graduates	SA must maintain malpractice coverage for graduate and/or graduate must maintain their own coverage
Alabama	X	X	X*	X			
Arizona	X		X*	X			
Arkansas	X			X	X	X	
Colorado	X		X	X	X		
Connecticut	X				X*		
Georgia	X				X		
Idaho	X		X*	X*	X	X*	
Illinois	X		X		X*	X	X
Indiana							
Kentucky					X		
Massachusetts			X				
Minnesota	X		X	X			
Missouri			X*				
Montana			X*		X		X
New Jersey			X*				

State	Minimum Qualifications and Supervisory Requirements						
	SA must assume personal professional responsibility and/or personal representation of graduate's clients in event of suspension or termination of provisional status	SA must secure prior written consent of client for graduate's court services and keep client advised of services performed	SA must be physically present at some or all court appearances	Court filings must be signed by SA	SA must be active member of state bar for at least 2-5 years	SA must not supervise more than 2-4 graduates	SA must maintain malpractice coverage for graduate and/or graduate must maintain their own coverage
New York			X*	X	X		
Ohio	X		X*	X			
Pennsylvania	X			X	X	X	
South Dakota			X*	X			
Tennessee	X		X*			X	
Texas	X		X	X	X	X	X
Vermont	X		X	X	X*	X*	
Washington			X	X	X	X*	
Wyoming							

\*Denotes additional jurisdiction-specific rules relating to the requirement

## **ATTACHMENTS LIST**

- A.** July 16, 2020 Letter from the Supreme Court to the State Bar
  
- B.** Rules of Court and State Bar Rules Regarding:
  - 1. Registered Military Spouse Program
  - 2. Registered In-House Counsel Program
  - 3. Registered Legal Aid Attorney Program
  - 4. Registered Foreign Legal Consultant Program
  
- C.** Rule of Court and State Bar Rules Regarding Practical Training of Law Students' Program
  
- D.** Provisional Licensure and Legal Intern Rules in Other US Jurisdictions
  - 1. Alabama Rules
  - 2. Arizona Rules
  - 3. Arkansas Rules
  - 4. Colorado Rules
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  - 20. Texas Rules
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  - 23. Wyoming Rules
  
- E.** Report of the California Supreme Court Multijurisdictional Practice Implementation Committee: Final Report and Proposed Rules, March 10, 2004

- F. Comparison Chart of Permissible Activities and Supervision Requirements: PTLS and MJP programs**
  
- G. Roster of Provisional Licensure Working Group**



## Supreme Court of California

JORGE E. NAVARRETE  
CLERK AND EXECUTIVE OFFICER  
OF THE SUPREME COURT

EARL WARREN BUILDING  
350 McALLISTER STREET  
SAN FRANCISCO, CA 94102  
(415) 865-7000

July 16, 2020

### **SENT VIA USPS AND EMAIL**

Alan K. Steinbrecher, Chair  
State Bar of California, Board of Trustees  
180 Howard Street  
San Francisco, CA 94105  
asteinbrecher@steinbrecherspan.com

### **RE: California Bar Exam**

Dear Mr. Steinbrecher,

The changing circumstances surrounding the ongoing COVID-19 pandemic in California, and throughout the country, have had an unprecedented impact on professional licensure testing for graduates seeking admission to many professions, including not only law, but medicine, nursing, architecture, and engineering. The court understands that many law school graduates are being substantially affected by the resulting disruption. Some graduates have lost job offers. Many are about to lose health insurance, cannot find a job to pay bills, or are in fear of deportation if they cannot enter the bar in time to retain job offers. Many more have student loan payments that become due in mid-November, but without a law license and the ability to work, they fear going into default.

With these considerations in mind, the court has sought the safest, most humane and practical options for licensing law graduates by encouraging and working with the State Bar to pursue the option of administering the California Bar Examination online as a remote test, to avoid the need for, and dangers posed by, mass in-person testing. The court also directed the State Bar to engage in focused conversations with the National Conference of Bar Examiners (NCBE) to address the ability to administer an online version of the multiple-choice Multistate Bar Examination.

Our sister states also struggle with similar issues. Many have recently canceled in-person testing plans and have increasingly turned to online solutions. Although a few less populous states have been able to accommodate a diploma privilege that grants entry for all of the graduates of their states' constituent American Bar Association (ABA)-accredited law schools, the law schools in California, unlike in other states, represent a diverse array of ABA-accredited, California-accredited, and California-registered schools. If California were to adopt diploma-privilege criteria used by other states, graduates of nearly four dozen California law schools would not meet those criteria and would be excluded.

With these considerations in mind, the court seeks a path that ensures the fair and equal treatment of all graduates, regardless of law school accreditation status, while also ensuring that protections remain in place for consumers of legal services.

After considering all letters, comments, the actions of other states, discussions with the NCBE, consultations with the informal state bar workgroup on the status of the bar exam, and having given careful thought to the expressed needs of bar applicants, the court directs the State Bar as follows:

The September 9-10 administration is cancelled. Joining at least 15 other jurisdictions that have, to date, taken similar measures, the State Bar is directed to make the necessary arrangements for the online remote administration of the bar examination on October 5-6, 2020, and extend registration for this exam through July 24, 2020. The State Bar has worked diligently on measures for the successful deployment of the exam online. Based on that work and current information, the court has determined that an online exam can be administered and delivered without the need for an examinee to have a high-speed or constant internet connection. The court asks that the State Bar clearly explain the necessary system requirements and other details concerning the circumstances of an online exam in a “Frequently Asked Questions” guide.

The court strongly encourages law schools to assist those graduates who lack internet access at home, or who have home environments not amenable to two days of uninterrupted examination, by employing the same and similar measures, including the use of school facilities and equipment, that schools have utilized to allow students to complete the Spring 2020 semester.

In consideration of the fact that California is one of two states with the highest pass score for its minimum competency exam, and based on findings from recently completed bar examination studies as well as data from ongoing studies, the court directs the State Bar to modify the pass score for the California Bar Examination to allow for a minimum passing score of 1390, which is approximately two standard errors below the median recommended cut score of 1439 from the 2017 Standard Setting Study. This modified minimum passing score is effective for the administration of the bar examination on October 5-6, 2020, and will be applied prospectively to future administrations of the California Bar Examination (irrespective of whether the exam is administered online in the future). The court will consider any further changes pending recommendations offered by the forthcoming Blue-Ribbon Commission on the Future of the California Bar Examination.

The court recognizes that postponement of the bar examination may impact employment prospects, delay incomes, and otherwise impair the livelihoods of persons who recently have graduated from law school. Moreover, the court recognizes 2020 graduates may not be in a position to study and prepare for a fall bar 2020 examination. Therefore, in order to mitigate these hardships faced by graduates while fulfilling the responsibility to protect the public by ensuring that persons engaged in the practice of law are minimally competent to do so, the court directs the State Bar to implement, as soon as possible, a temporary supervised provisional licensure program — a limited license to practice specified areas of law under the supervision of a licensed attorney.

This program will be made available for all 2020 graduates of law schools based in California or those 2020 graduates of law schools outside California who are permitted to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061. More information will be forthcoming regarding this program, and the State Bar will issue a

July 16, 2020

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“Frequently Asked Questions” guide concerning the details. At a minimum, this provisional licensure program shall remain in effect until at least June 1, 2022 to permit 2020 graduates maximum flexibility. This timeframe will afford the 2020 graduates several opportunities to take the exam of their choosing through February 2022 and await the exam results. In addition, in order to expedite relief and pursuant to the court’s inherent authority over the admission of attorneys into the practice of law, the State Bar should afford a public comment period of at least 15 days for any proposed supervised provisional licensure program rules. (*In re Attorney Discipline System* (1998) 19 Cal.4th 582; Cal. Rules of Court, Rule 9.3.)

With the exception of postponing the October 2020 First-Year Law Students’ Examination to November 2020 or any amendments to the rules governing the number of times an examinee can sit for that exam, this letter supersedes the court’s prior April 27, 2020 letter.

Sincerely,



JORGE E. NAVARRETE  
Clerk and  
Executive Officer of the Supreme Court

cc: Donna Hershkowitz

## TITLE 3. PROGRAMS AND SERVICES

Adopted March 1, 2019

### DIVISION 3. NON-LICENSEE ATTORNEYS

#### Chapter 1. Multijurisdictional Practice

##### Article 1. Registered Military Spouse Attorney

###### Rule 3.350 Definitions

- (A) A “Registered Military Spouse Attorney” is an attorney who meets the eligibility requirements of Rule 9.41.1 of the California Rules of Court (“Rule 9.41.1”) and is registered by the State Bar as a Registered Military Spouse Attorney.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Military Spouse Attorney.

*Rule 3.350 adopted effective March 1, 2019.*

###### Rule 3.351 Application

- (A) To apply to register as a Registered Military Spouse Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.41.1 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered Military Spouse Attorney<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines;
  - (3) meet State Bar requirements for acceptable moral character;
  - (4) submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rules of Court, rule 9.41.1.

- (5) submit a Declaration signed by the supervising attorney.<sup>4</sup>
  
- (B) An application to practice law as a Registered Military Spouse Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

*Rule 3.351 adopted effective March 1, 2019.*

#### Rule 3.352 Duties of Registered Military Spouse Attorney

An attorney employed as Registered Military Spouse Attorney must

- (A) annually renew registration as a Registered Military Spouse Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of five years as a Registered Military Spouse Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.41.1;
- (D) report a change of supervising attorney in accordance with State Bar requirements;
- (E) use the title “Specially Registered Attorney” in connection with activities performed as a Registered Military Spouse Attorney;
- (F) not imply or claim in any way to be a licensed attorney of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney’s employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
  - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney’s status of good standing, suspension, resignation, disbarment, or a functional equivalent;
  - (2) termination of supervision by the supervising attorney; or

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<sup>4</sup> See Rules of Court, rule 9.41.1(a)(3)(F)

- (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (I) be supervised by a qualifying supervising attorney who meets the requirements of Rule 9.41.1;
- (J) submit a new application to register as a Registered Military Spouse Attorney before beginning employment with a new qualifying supervising attorney; and
- (K) otherwise comply with the requirements of Rule 9.41.1 and these rules.

*Rule 3.351 adopted effective March 1, 2019.*

#### Rule 3.353 Duties of employer

A qualifying supervising attorney who meets the requirements of Rule 9.41.1 must

- (A) complete the Application for Approval, and be approved by the State Bar, as a qualifying supervising attorney;
- (B) complete and sign a Declaration before supervising a Registered Military Spouse Attorney, attesting that he or she
  - (1) is a qualified supervising attorney;
  - (2) to supervise Registered Military Spouse Attorney (“attorney”) and otherwise comply with the requirements of Rule 9.41.1 and these rules;
  - (3) deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
  - (4) agrees to notify the State Bar of California, in writing, within thirty days if
    - (a) the attorney has terminated employment;
    - (b) the attorney is no longer eligible for employment as required by Rule 9.41.1 and these rules;
    - (c) the supervising attorney no longer meets the requirements of these rules;
    - (d) their status as a qualifying supervising attorney has changed; or
    - (e) he/she has changed their office address.

*Rule 3.353 adopted effective March 1, 2019.*

### Rule 3.354 Termination of Registration

- (A) Registration as a Military Spouse Attorney terminates
  - (1) as required by Rule 9.41.1;
  - (2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;
  - (3) upon admission to the State Bar of California;
  - (4) upon repeal of Rule 9.41.1 or termination of the Registered Military Spouse Attorney program; or
  - (5) upon request.
- (B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Foreign Legal Consultant in order to practice law in California.
- (C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

*Rule 3.354 adopted effective March 1, 2019.*

### Rule 3.355 Reinstatement after termination

An attorney terminated as a Registered Military Spouse Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

*Rule 3.355 adopted effective March 1, 2019.*

### Rule 3.356 Public information

State Bar records for attorneys permitted to practice law as Registered Military Spouse Attorney are public to the same extent as licensed attorney records.

*Rules 3.356 adopted effective March 1, 2019*



# California Rules of Court

(Revised July 1, 2020)

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## Rule 9.41.1. Registered military spouse attorney

### (a) Definitions

- (1) "Military Spouse Attorney" means an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency and who is married to, in a civil union with, or a registered domestic partner of, a Service Member.
- (2) "Service Member" means an active duty member of the United States Uniformed Services who has been ordered stationed within California.
- (3) "Active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:
  - (A) Is a licensee in good standing of the entity governing the practice of law in each jurisdiction in which the attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and;
  - (B) Remains an active licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered military spouse attorney in California.

### (b) Scope of Practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is permitted to practice law in California, under supervision, in all forms of legal practice that are permissible for a licensed attorney of the State Bar of California, including pro bono legal services.

### (c) Requirements

For an attorney to qualify to practice law under this rule, the attorney must:

- (1) Be an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (2) Be married to, be in a civil union with, or be a registered domestic partner of, a Service Member, except that the attorney may continue to practice as a registered military spouse attorney for one year after the termination of the marriage, civil union, or domestic partnership as provided in (i)(1)(G);
- (3) Reside in California;
- (4) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
  - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
  - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character from the State Bar of California.

- (5) Comply with the rules adopted by the Board of Trustees relating to the State Bar Registered Military Spouse Attorney Program;
- (6) Practice law under the supervision of an attorney who is an active licensee in good standing of the State Bar of California who has been admitted to the practice of law for two years or more;
- (7) Abide by all of the laws and rules that govern licensees of the State Bar of California, including the Minimum Continuing Legal Education ("MCLE") requirements;
- (8) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered military spouse attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered military spouse attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- (9) Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

#### **(d) Application**

The attorney must comply with the following registration requirements:

- (1) Register as an attorney applicant, file an Application for Determination of Moral Character with the Committee of Bar Examiners, and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and
- (3) Submit to the State Bar of California a declaration signed by a qualifying supervising attorney. The declaration must attest:
  - (A) that the applicant will be supervised as specified in this rule; and
  - (B) that the supervising attorney assumes professional responsibility for any work performed by the registered military spouse attorney under this rule.

#### **(e) Application and Registration Fees**

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered military spouse attorney.

#### **(f) State Bar Registered Military Spouse Attorney Program**

The State Bar may establish and administer a program for registering registered military spouse attorneys under rules adopted by the Board of Trustees of the State Bar.

#### **(g) Supervision**

To meet the requirements of this rule, an attorney supervising a registered military spouse attorney:

- (1) Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (2) Must have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;
- (3) Must assume professional responsibility for any work that the registered military spouse attorney performs under the supervising attorney's supervision;

- (4) Must assist, counsel, and provide direct supervision of the registered military spouse attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered military spouse attorney, and review such activities with the supervised military spouse attorney, to the extent required for the protection of the client or customer;
- (5) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered military spouse attorney before their filing, and must read and approve any documents prepared by the registered military spouse attorney before their submission to any other party;
- (6) Must agree to assume control of the work of the registered military spouse attorney in the event the registration of the military spouse attorney is terminated, in accordance with applicable laws; and
- (7) May, in his or her absence, designate another attorney meeting the requirements of (g)(1) through (g)(6) to provide the supervision required under this rule.

**(h) Duration of Practice**

A registered military spouse attorney must renew his or her registration annually and may practice for no more than a total of five years under this rule.

**(i) Termination of Military Spouse Attorney Registration**

- (1) Registration as a registered military spouse attorney is terminated
  - (A) upon receipt of a determination by the Committee of Bar Examiners that the registered military spouse attorney is not of good moral character;
  - (B) for failure to annually register as a registered military spouse attorney and submit any related fee set by the State Bar;
  - (C) for failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar;
  - (D) if the registered military spouse attorney no longer meets the requirements under (a)(3) of this section;
  - (E) upon the imposition of any discipline by the State Bar of California or any other professional or occupational licensing authority, including administrative or stayed suspension;
  - (F) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a licensee of the State Bar of California;
  - (G) if the Service Member is no longer an active member of the United States Uniformed Services or is transferred to another state, jurisdiction, territory outside of California, except that if the Service Member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the Service Member is assigned to a location with dependents authorized; or
  - (H) one year after the date of termination of the registered military spouse attorney's marriage, civil union, or registered domestic partnership.
- (2) The supervising attorney of registered military spouse attorney suspended by these rules will assume the work of the registered military spouse attorney in accordance with applicable laws.

**(j) Inherent Power of Supreme Court**

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

**(k) Effect of Rule on Multijurisdictional Practice**

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not licensees of the State Bar of California.

*Rule 9.41.1 adopted by the Supreme Court effective March 1, 2019.*

## TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

### DIVISION 3. NON-LICENSEE ATTORNEYS

#### Chapter 4. Foreign Legal Consultants

##### Rule 3.400 Definitions

- (A) A “Registered Foreign Legal Consultant” is a person who meets the eligibility requirements of Rule of Court 9.44 of the California Rules of Court (“Rule 9.44”) and is registered by the State Bar as a Foreign Legal Consultant.
- (B) “Registered” means that the State Bar has issued a certificate of registration to a person it deems eligible to practice law as a Foreign Legal Consultant.

*Rule 3.400 adopted effective July 1, 2010.*

##### Rule 3.401 Application

- (A) To practice law as a Registered Foreign Legal Consultant, a person who meets the eligibility requirements of the Rule 9.44 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the required certificate and the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered Foreign Legal Consultant<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines (the Schedule);
  - (3) meet State Bar requirements for acceptable moral character, which are set forth in the instructions for Application for Registered Foreign Legal Consultant;
  - (4) submit a letter of recommendation from an authorized representative of the professional body having final disciplinary jurisdiction or a judge of the highest law court or court of original jurisdiction attesting to his or her professional qualifications in the foreign jurisdiction.
- (B) An application to practice law as a Registered Foreign Legal Consultant may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rule of Court 9.44.

- (C) Upon a showing of undue hardship by the applicant, the State Bar may waive or vary this rule's requirement of the letter of recommendation attesting to the applicant's professional qualifications.

*Rule 3.401 adopted effective July 1, 2010.*

#### Rule 3.402 Duties of Registered Foreign Legal Consultants

A Foreign Legal Consultant must

- (A) annually renew registration as a Registered Foreign Legal Consultant and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) report to the State Bar within thirty days any change in eligibility or the security for claims required by these rules;
- (C) at all times maintain the security for claims required by these rules and upon demand promptly provide the State Bar with current evidence of security for claims;
- (D) provide legal advice in California exclusively regarding the law of a foreign jurisdiction where he or she is licensed to practice law and which is identified in the Application To Register as a Foreign Legal Consultant;
- (E) use the title "Registered Foreign Legal Consultant" and no other in connection with activities performed as a Registered Foreign Legal Consultant;
- (F) not claim in any way to be a licensee of the State Bar of California;
- (G) maintain an address of record and a current e-mail address with the State Bar; and
- (H) otherwise comply with Rule 9.44 and these rules.

*Rule 3.402 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.403 Security for claims

A Registered Foreign Legal Consultant must provide evidence of security for claims for pecuniary losses resulting from acts, errors, or omissions in the rendering of legal services. The security assets must be maintained at all times, and the State Bar may require current evidence of security for claims at any time. The evidence

- (A) may be a certificate of insurance, a letter of credit, a written guarantee, or a written agreement executed by the applicant;

- (B) must be provided in a form acceptable to the State Bar; and
- (C) must be computed in United States dollars.

*Rule 3.403 adopted effective July 1, 2010.*

#### Rule 3.404 Insurance as security for claims

If insurance serves as security for claims, it must be acceptable to the State Bar and provide the Registered Foreign Legal Consultant a minimum amount of annual insurance and a maximum deductible. These amounts are specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

- (A) If the insurance excludes the cost of defense, the Registered Foreign Legal Consultant may reduce the minimum amount of annual insurance as specified in the Schedule.
- (B) If the insurance provides for a deductible greater than that specified in the Schedule, the Registered Foreign Legal Consultant must provide a letter of credit or a written agreement as evidence of security for the deductible.
- (C) If the insurance is provided by an insurer outside California, the Registered Foreign Legal Consultant must promptly provide, upon request of the State Bar, a copy of the insurance policy and a translation if the policy is not in English.

*Rule 3.404 adopted effective July 1, 2010.*

#### Rule 3.405 Letter of credit as security for claims

If a letter of credit serves as security for claims, the Registered Foreign Legal Consultant must maintain the letter of credit at all times in the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

*Rule 3.405 adopted effective July 1, 2010.*

#### Rule 3.406 Written guarantee as security for claims

If a written guarantee serves as security for claims, the Registered Foreign Legal Consultant must maintain the written guarantee at all times for a minimum amount in favor of the State Bar. The amount is specified in the Schedule for a single claim and for all claims.

- (A) The guarantor must be a California law firm or law corporation, an active licensee of the State Bar, or a financial institution.
- (B) The written guarantee must be supported by an independent accountant's certified financial statements and subsidiary records evidencing that tangible net

worth for the most recent fiscal year is equivalent to the minimum amount required for security for claims, exclusive of intangible assets such as good will, licenses, patents, trademarks, trade names, copyrights, and franchises. Net worth may include fifty percent of earned fees that have not been billed and billed fees that have not been collected.

*Rule 3.406 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.407 Written agreement as evidence of security for claims

If a Foreign Legal Consultant's written agreement serves as security for claims, the agreement must be for the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

*Rule 3.407 adopted effective July 1, 2010.*

#### Rule 3.408 Suspension of registration as a Foreign Legal Consultant

- (A) Registration as a Foreign Legal Consultant is suspended
- (1) for failure to annually register as a Foreign Legal Consultant and submit any related fee and penalty by the date set forth in the Schedule of Charges and Deadlines;
  - (2) for failure to otherwise comply with or meet the eligibility requirements of Rule 9.44(c) (3), (4), (5), (6), (7), (8), (9), and (10), these rules or with the laws or standards of professional conduct applicable to a licensee of the State Bar.
- (B) A Foreign Legal Consultant suspended under these rules is not permitted to practice law during the suspension.
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

*Rule 3.408 adopted effective July 1, 2010; amended effective March 1, 2019.*

## Rule 3.409 Termination of Registration

- (A) Registration as a Foreign Legal Consultant terminates
- (1) for failure to meet the eligibility requirements of Rule 9.44(c)(1) or Rule 9.44(c)(2);
  - (2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;
  - (3) upon admission to the State Bar;
  - (4) upon repeal of Rule 9.44 or termination of the Foreign Legal Consultants program; or
  - (5) upon request.
- (B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Foreign Legal Consultant in order to practice law in California.
- (C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

*Rule 3.409 adopted effective July 1, 2010; amended effective March 1, 2019.*

## Rule 3.410 Reinstatement after termination

An attorney terminated as a Registered Foreign Legal Consultant who seeks reinstatement must meet all eligibility and application requirements of these rules. Reinstatement is effective from the date of compliance.

*Rule 3.410 adopted effective July 1, 2010.*

## Rule 3.411 Public information

State Bar records for attorneys permitted to practice law as Foreign Legal Consultants are public to the same extent as licensee records.

*Rule 3.411 adopted effective July 1, 2010; amended effective March 1, 2019.*



# California Rules of Court

(Revised July 1, 2020)

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## Rule 9.44. Registered foreign legal consultant

### (a) Definition

A "registered foreign legal consultant" is a person who:

- (1) Is admitted to practice and is in good standing as an attorney or counselor-at-law or the equivalent in a foreign country; and
- (2) Has a currently effective certificate of registration as a registered foreign legal consultant from the State Bar.

*(Subd (a) amended effective January 1, 2007.)*

### (b) State Bar registered foreign legal consultant program

The State Bar must establish and administer a program for registering foreign attorneys or counselors-at-law or the equivalent under rules adopted by the Board of Trustees of the State Bar.

*(Subd (b) amended effective January 1, 2019; previously amended effective January 1, 2007.)*

### (c) Eligibility for certification

To be eligible to become a registered foreign legal consultant, an applicant must:

- (1) Present satisfactory proof that the applicant has been admitted to practice and has been in good standing as an attorney or counselor-at-law or the equivalent in a foreign country for at least four of the six years immediately preceding the application and, while so admitted, has actually practiced the law of that country;
- (2) Present satisfactory proof that the applicant possesses the good moral character requisite for a person to be licensed as a licensee of the State Bar of California and proof of compliance with California Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (3) Agree to comply with the provisions of the rules adopted by the Board of Trustees of the State Bar relating to security for claims against a foreign legal consultant by his or her clients;
- (4) Agree to comply with the provisions of the rules adopted by the Board of Trustees of the State Bar relating to maintaining an address of record for State Bar purposes;
- (5) Agree to notify the State Bar of any change in his or her status in any jurisdiction where he or she is admitted to practice or of any discipline with respect to such admission;
- (6) Agree to be subject to the jurisdiction of the courts of this state with respect to the laws of the State of California governing the conduct of attorneys, to the same extent as a licensee of the State Bar of California;
- (7) Agree to become familiar with and comply with the standards of professional conduct required of licensees of the State Bar of California;
- (8) Agree to be subject to the disciplinary jurisdiction of the State Bar of California;

- (9) Agree to be subject to the rights and obligations with respect to attorney client privilege, work-product privilege, and other professional privileges, to the same extent as attorneys admitted to practice law in California; and
- (10) Agree to comply with the laws of the State of California, the rules and regulations of the State Bar of California, and these rules.

*(Subd (c) amended effective January 1, 2019; previously amended effective January 1, 2007.)*

#### **(d) Authority to practice law**

Subject to all applicable rules, regulations, and statutes, a registered foreign legal consultant may render legal services in California, except that he or she may not:

- (1) Appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer;
- (2) Prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;
- (3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident or any instrument relating to the administration of a decedent's estate in the United States;
- (4) Prepare any instrument in respect of the marital relations, rights, or duties of a resident of the United States, or the custody or care of the children of a resident; or
- (5) Otherwise render professional legal advice on the law of the State of California, any other state of the United States, the District of Columbia, the United States, or of any jurisdiction other than the jurisdiction named in satisfying the requirements of (c) of this rule, whether rendered incident to preparation of legal instruments or otherwise.

*(Subd (d) amended effective January 1, 2007.)*

#### **(e) Failure to comply with program**

A registered foreign legal consultant who fails to comply with the requirements of the State Bar Registered Foreign Legal Consultant Program will have her or his certification suspended or revoked under rules adopted by the Board of Trustees of the State Bar.

*(Subd (e) amended effective January 1, 2019; previously amended effective January 1, 2007.)*

#### **(f) Fee and penalty**

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

*(Subd (f) amended effective January 1, 2007.)*

#### **(g) Inherent power of Supreme Court**

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

*(Subd (g) amended effective January 1, 2007.)*

*Rule 9.44 amended effective January 1, 2019; adopted as rule 988 effective December 1, 1993; previously amended and renumbered effective January 1, 2007.*

## TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

### DIVISION 3. NON-LICENSEE ATTORNEYS

#### Chapter 1. Multijurisdictional Practice

#### Article 2. Registered Legal Aid Attorneys

##### Rule 3.360 Definitions

- (A) A “Registered Legal Aid Attorney” is an attorney who meets the eligibility requirements of Rule 9.45 of the California Rules of Court (“Rule 9.45”) and is registered by the State Bar as a Registered Legal Aid Attorney.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Legal Aid Attorney.
- (C) An “eligible legal aid organization” is an entity or law school that meets the requirements of Rule of Court 9.45(a)(1).

*Rule 3.360 adopted effective July 1, 2010; amended effective March 1, 2019.*

##### Rule 3.361 Application

- (A) To apply to register as a Registered Legal Aid Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.45 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered Legal Aid Attorney<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines;
  - (3) meet State Bar requirements for acceptable moral character; and
  - (4) submit a Declaration signed by the attorney from the eligible legal aid organization who will be providing the required supervision.

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rule of Court 9.44.

- (B) An application to practice law as a Registered Legal Aid Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

*Rule 3.361 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.362 Duties of Registered Legal Aid Attorney

An attorney employed as Registered Legal Aid Attorney must

- (A) annually renew registration as a Registered Legal Aid Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of five years as a Registered Legal Aid Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.45;
- (D) report a change of attorney supervisor in accordance with State Bar requirements;
- (E) use the title “Registered Legal Aid Attorney” and no other in connection with activities performed as a Registered Legal Aid Attorney;
- (F) not claim in any way to be a licensed attorney of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney’s employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
  - (1) a change in status in any jurisdiction where admitted to practice law and engaged in the practice of law, such as transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent;
  - (2) termination of employment with the eligible legal aid organization; or
  - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (I) submit a new application to register as a Registered Legal Aid Attorney before beginning employment with a new eligible legal aid organization; and
- (J) otherwise comply with the requirements of Rule 9.45 and these rules.

*Rule 3.362 adopted effective July 1, 2010; amended effective March 1, 2019.*

### Rule 3.363 Duties of employer

An employer who meets the requirements of Rule 9.45 for an eligible legal aid organization must

- (A) complete the Application for Approval as Eligible Legal Aid Organization and be approved by the State Bar as an eligible employer;
- (B) complete a Declaration signed by the supervising attorney of the Eligible Legal Aid Organization before employing a Registered Legal Aid Attorney, attesting that it
  - (1) is an eligible legal aid organization;
  - (2) agrees to supervise the Registered Legal Aid Attorney (“attorney”) and otherwise comply with the requirements of Rule 9.45 and these rules;
  - (3) deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
  - (4) agrees to notify the State Bar of California, in writing, within thirty days if
    - (a) the attorney has terminated employment;
    - (b) the attorney is no longer eligible for employment as required by Rule 9.45 and these rules;
    - (c) the supervising attorney no longer meets the requirements of these rules;
    - (d) its status as an eligible legal aid organization has changed; or
    - (e) it has changed its office address.

*Rule 3.363 adopted effective July 1, 2010; amended effective March 1, 2019.*

### Rule 3.364 Suspension of a Registered Legal Aid Attorney registration

- (A) Registration as a Legal Aid Attorney is suspended
  - (1) for failure to annually register as a Registered Legal Aid Attorney and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;

- (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule 9.45 and to pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;
  - (3) upon voluntary transfer to inactive status, or the functional equivalent in any jurisdiction where admitted to practice law;
  - (4) for failure to comply the laws or standards of professional conduct applicable to a licensee of the State Bar; or
  - (5) for failure to meet the eligibility requirements of Rule 9.45(c)(3), (4), (5), (6), and (7).
- (B) An attorney suspended under these rules is not permitted to practice law during the suspension.
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

*Rule 3.364 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.365 Termination of Registration

##### Permission to practice law as a Registered Legal Services Attorney terminates

- (A) Registration as a Legal Aid Attorney terminates
- (1) for failure to meet the eligibility requirements of Rule 9.45(c)(1) or Rule 9.45(c)(2);
  - (2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;
  - (3) upon admission to the State Bar;
  - (4) upon repeal of Rule 9.45 or termination of the Registered Legal Aid Attorney program; or
  - (5) upon request.

- (B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Legal Aid Attorney in order to practice law in California.
- (C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

*Rule 3.365 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.366 Reinstatement after termination

An attorney terminated as a Registered Legal Aid Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

*Rule 3.366 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.367 Public information

State Bar records for attorneys permitted to practice law as Registered Legal Aid Attorneys are public to the same extent as records of licensed attorneys.

*Rule 3.367 adopted effective July 1, 2010; amended effective March 1, 2019.*



# California Rules of Court

(Revised July 1, 2020)

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## Rule 9.45. Registered legal aid attorneys

### (a) Definitions

The following definitions apply in this rule:

- (1) "Eligible legal aid organization" means any of the following:
  - (A) A nonprofit entity in good standing in California and in the state in which it is incorporated, if other than California, that provides legal aid in civil matters, including family law and immigration law, to indigent and disenfranchised persons, especially underserved client groups, such as the elderly, persons with disabilities, people of color, juveniles, and limited English proficient persons; or
  - (B) A nonprofit law school approved by the American Bar Association located in California or accredited by the State Bar of California that provides legal aid as described above in subdivision (A).
  - (C) Entities that receive IOLTA funds pursuant to Business and Professions Code, section 6210, et seq., are deemed to be eligible legal aid organizations.
- (2) "Active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:
  - (A) Is a licensee in good standing of the entity governing the practice of law in each jurisdiction in which the attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and
  - (B) Remains an active licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered legal aid attorney in California.

*(Subd (a) amended effective March 1, 2019; adopted as subd (j) effective November 15, 2004; previously relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

### (b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule may practice law in California only while working, with or without pay, at an eligible legal aid organization, as defined in this rule, and, at that institution and only on behalf of its clients or customers, may engage, under supervision, in all forms of legal practice that are permissible for a licensee of the State Bar of California.

*(Subd (b) amended effective March 1, 2019; adopted as subd (a) effective November 15, 2004; previously amended and relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

### (c) Requirements

For an attorney to qualify to practice law under this rule, the attorney must:

- (1) Be an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;

- (2) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
  - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination;  
and
  - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- (3) Comply with the rules adopted by the Board of Trustees relating to the State Bar Registered Legal Aid Attorney Program;
- (4) Practice law under the supervision of an attorney who is employed by the eligible legal aid organization and who is a licensee in good standing of the State Bar of California;
- (5) Abide by all of the laws and rules that govern licensees of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- (6) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered legal aid attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered legal aid attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- (7) Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

*(Subd (c) amended and renumbered effective March 1, 2019; adopted as subd (b) effective November 15, 2004; previously relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

**(d) Application**

The attorney must comply with the following registration requirements:

- (1) Register as a legal aid attorney; submit a separate application for each eligible legal aid organization; file an Application for Determination of Moral Character with the State Bar of California; and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of an attorney at an eligible legal aid organization a during the time he or she practices law as a registered legal aid attorney in California; and
- (3) Submit to the State Bar of California a declaration signed by a qualifying supervisor on behalf of the from each eligible legal aid organization in California. The declaration must attesting:
  - (i) that the applicant will work, with or without pay, as an attorney for the organization;
  - (ii) that the applicant will be supervised as specified in this rule;
  - (iii) that the eligible legal aid organization and the supervising attorney assume professional responsibility for any work performed by the applicant under this rule;
  - (iv) that the organization will notify the State Bar of California within 30 days of the cessation of the applicant's employment with that employer in California; and
  - (v) that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.

*(Subd (d) amended effective March 1, 2019; adopted as subd (c) effective November 15, 2004; previously relettered effective January 1, 2007.)*

**(e) Duration of practice**

A registered legal aid attorney must renew his or her registration annually and may practice for no more than a total of five years under this rule.

*(Subd (e) amended effective March 1, 2019; adopted as subd (d) effective November 15, 2004; previously relettered effective January 1, 2007.)*

**(f) Application and registration fees**

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered legal aid attorneys.

*(Subd (f) amended effective March 1, 2019; adopted as subd (e) effective November 15, 2004; previously amended and relettered effective January 1, 2007.)*

**(g) State Bar Registered Legal Aid Attorney Program**

The State Bar may establish and administer a program for registering California legal aid attorneys under rules adopted by the Board of Trustees of the State Bar.

*(Subd (g) amended effective March 1, 2019; adopted as subd (f) effective November 15, 2004; previously relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

**(h) Supervision**

To meet the requirements of this rule, an attorney supervising a registered legal aid attorney:

- (1) Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (2) Must have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;
- (3) Must assume professional responsibility for any work that the registered legal aid attorney performs under the supervising attorney's supervision;
- (4) Must assist, counsel, and provide direct supervision of the registered legal aid attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered legal aid attorney, and review such activities with the supervised registered legal aid attorney, to the extent required for the protection of the client or customer;
- (5) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered legal aid attorney before their filing, and must read and approve any documents prepared by the registered legal aid attorney before their submission for execution; and
- (6) May, in his or her absence, designate another attorney meeting the requirements of (1) through (5) to provide the supervision required under this rule.

*(Subd (h) amended and renumbered effective March 1, 2019; adopted as subd (g) effective November 15, 2004; previously relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

**(i) Inherent power of Supreme Court**

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

*(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)*

**(j) Effect of rule on multijurisdictional practice**

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not licensees of the State Bar of California.

*(Subd (j) amended effective January 1, 2019; adopted as subd (i) effective November 15, 2004; previously relettered effective January 1, 2007.)*

*Rule 9.45 amended effective March 1, 2019; adopted as rule 964 by the Supreme Court effective November 15, 2004; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2019.*

## TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

### DIVISION 3. NON-LICENSEE ATTORNEYS

#### Chapter 1. Multijurisdictional Practice

#### Article 3. Registered In-House Counsel

##### Rule 3.370 Definitions

- (A) An attorney registered as Registered In-House Counsel is an attorney who meets the eligibility requirements of Rule 9.46 of the California Rules of Court (“Rule 9.46”) and is registered by the State Bar as Registered In-House Counsel.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as Registered In-House Counsel.
- (C) A “qualifying institution” is a corporation, a partnership, an association, or other legal entity that meets the requirements of Rule of Court 9.46(a)(1).
- (D) “Reside in California” as used in Rule 9.46(c)(8) means to live or be located in California on more than a temporary or transient basis.

*Rule 3.370 adopted effective July 1, 2010; amended effective March 1, 2019.*

##### Rule 3.371 Application

- (A) To apply to register as Registered In-House Counsel, an attorney who meets the eligibility and employment requirements of Rule 9.46 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered In-House Counsel<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines;
  - (3) meet State Bar requirements for acceptable moral character; and

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rule of Court 9.46(d).

- (4) submit a Declaration signed by an officer, a director, or a general counsel of Qualifying Institution.<sup>4</sup>
- (B) An application to practice law as Registered In-House Counsel may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact in the application.

*Rule 3.371 adopted effective July 1, 2010; amended effective March 1, 2019.*

### Rule 3.372 Duties of Registered In-House Counsel

An attorney employed as Registered In-House Counsel must

- (A) annually renew registration as Registered In-House Counsel and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.46;
- (C) use the title "Registered In-House Counsel" in connection with activities performed as Registered In-House Counsel;
- (D) not claim in any way to be a licensed attorney of the State Bar of California;
- (E) maintain an address of record with the State Bar, which must be the current California office address of the attorney's employer and a current e-mail address;
- (F) report to the State Bar within thirty days
  - (1) a change in status in any jurisdiction where admitted to practice law and engaged in the practice of law, such as transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent;
  - (2) termination of employment with the qualifying institution; or
  - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (G) submit a new application to register as Registered In-House Counsel before beginning employment with a new qualifying institution;<sup>5</sup> and
- (H) otherwise comply with the requirements of Rule 9.46 and these rules.

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<sup>4</sup> Rule of Court 9.46(a)(1).

<sup>5</sup> Rule of Court 9.46(a)(1).

*Rule 3.372 adopted effective July 1, 2010; amended effective March 1, 2019.*

### Rule 3.373 Duties of employer

An employer who meets the requirements of Rule 9.46 for a qualifying institution must

- (A) complete the Application for Approval as Qualifying Institution and be approved by the State Bar as a qualifying employer;
- (B) complete a Declaration signed by an officer, a director, or a general counsel of the Qualifying Institution, before employing a Registered In-House Counsel, attesting that it
  - (1) is a qualifying institution;
  - (2) deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
  - (3) agrees to notify the State Bar of California, in writing, within thirty days if
    - (a) the attorney has terminated employment;
    - (b) the attorney is no longer eligible for employment as required by Rule 9.46 and these rules;
    - (c) its status as a qualifying institution has changed; or
    - (d) it has changed its office address.

*Rule 3.373 adopted effective July 1, 2010; amended effective March 1, 2019.*

### Rule 3.374 Suspension of Registered In-House Counsel

- (A) Registration as In-House Counsel is suspended
  - (1) for failure to annually register as Registered In-House Counsel and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;
  - (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule 9.46 and pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;
  - (3) upon voluntary transfer to inactive status, or the functional equivalent in any jurisdiction where admitted to practice; or

- (4) for failure to comply with the laws or standards of professional conduct applicable to a licensee of the State Bar; or
  - (5) for failure to meet the eligibility requirements of Rule 9.46(c), (3), (4), (5), (6), and (7).
- (B) An attorney suspended under these rules is not permitted to practice law.
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

*Rule 3.374 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.375 Termination of Registration

- (A) Registration as In-House Counsel terminates
- (1) for failure to meet the eligibility requirements of Rule 9.46(c)(1) or Rule 9.46(c)(2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;
  - (2) upon admission to the State Bar;
  - (3) upon repeal of Rule 9.46 or termination of the Registered In-House Counsel program; or
  - (4) upon request.
- (B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as In-House Counsel in order to practice law in California.
- (C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

*Rule 3.375 adopted effective July 1, 2010; amended effective March 1, 2019.*

#### Rule 3.376 Reinstatement after termination

An attorney terminated as Registered In-House Counsel who seeks reinstatement must meet all eligibility and application requirements of Rule 9.46 and these rules.

*Rule 3.376 adopted effective July 1, 2010; amended effective March 1, 2019*

#### Rule 3.377 Public information

State Bar records for attorneys permitted to practice law as Registered In-House Counsel are public to the same extent as licensed attorney records.

*Rule 3.377 adopted effective July 1, 2010; amended effective March 1, 2019.*



# California Rules of Court

(Revised July 1, 2020)

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## Rule 9.46. Registered in-house counsel

### (a) Definitions

The following definitions apply to terms used in this rule:

- (1) "Qualifying institution" means a corporation, a partnership, an association, or other legal entity, including its subsidiaries and organizational affiliates, which has an office located in California. Neither a governmental entity nor an entity that provides legal services to others can be a qualifying institution for purposes of this rule. A qualifying institution must:
  - (A) Employ at least 5 full time employees; or
  - (B) Employ in California an attorney who is an active licensee in good standing of the State Bar of California.
- (2) "Active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:
  - (A) Is a licensee in good standing of the entity governing the practice of law in each jurisdiction in which the attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and
  - (B) Remains an active licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency, other than California, while practicing law as registered in-house counsel in California.

*(Subd (a) amended effective March 1, 2019; adopted as subd (j) effective November 15, 2004; previously relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

### (b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is:

- (1) Permitted to provide legal services in California only to the qualifying institution that employs him or her;
- (2) Permitted to provide *pro bono* legal services under supervision of a California attorney for either eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1), or the qualifying institution that employs him or her;
- (3) Not permitted to make court appearances in California state courts or to engage in any other activities for which *pro hac vice* admission is required if they are performed in California by an attorney who is not a licensee of the State Bar of California; and
- (4) Not permitted to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution, except as described in subdivision (b)(2).

*(Subd (b) amended effective March 1, 2019; adopted as subd (a) effective November 15, 2004; previously amended and relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

### **(c) Requirements**

For an attorney to practice law under this rule, the attorney must:

- (1) Be an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (2) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
  - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
  - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- (3) Comply with the rules adopted by the Board of Trustees relating to the State Bar Registered In-House Counsel Program;
- (4) Practice law exclusively for a single qualifying institution, except that, while practicing under this rule, the attorney may provide pro bono services through eligible legal aid organizations;
- (5) Abide by all of the laws and rules that govern licensees of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- (6) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered in-house counsel's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered in-house counsel's compliance group is required to report in less than thirty-six months, the MCLE requirement will be reduced proportionally; and
- (7) Reside in California.

*(Subd (c) amended effective March 1, 2019; adopted as subd (b) effective November 15, 2004; previously relettered effective January 1, 2007; previously amended effective January 1, 2019.)*

### **(d) Application**

The attorney must comply with the following registration requirements:

- (1) Register as an in-house counsel; submit an application for the qualifying institution; file an Application for Determination of Moral Character with the State Bar of California; and comply with Rules of Court, rule 9.9.5. governing attorney fingerprinting;
- (2) Submit a supplemental form identifying the eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1) and the supervising attorney, through which an in-house counsel intends to provide *pro bono* services, if applicable;
- (3) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than on behalf of the qualifying institution during the time he or she is registered in-house counsel in California, except if supervised, a registered in-house counsel may provide pro bono services through eligible legal aid organization; and
- (4) Submit to the State Bar of California a declaration signed by an officer, a director, or a general counsel of the applicant's employer, on behalf of the applicant's employer. The declaration must attest:
  - (i) that the applicant is employed as an attorney for the employer;
  - (ii) that the nature of the employment conforms to the requirements of this rule;

- (iii) that the employer will notify the State Bar of California within 30 days of the cessation of the applicant's employment in California; and
- (iv) that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.

*(Subd (d) amended effective March 1, 2019; adopted as subd (c) effective November 15, 2004; previously relettered effective January 1, 2007.)*

**(e) Duration of practice**

A registered in-house counsel must renew his or her registration annually. There is no limitation on the number of years in-house counsel may register under this rule. Registered in-house counsel may practice law under this rule only for as long as he or she remains employed by the same qualifying institution that provided the declaration in support of his or her application. If an attorney practicing law as registered in-house counsel leaves the employment of his or her employer or changes employers, he or she must notify the State Bar of California within 30 days. If an attorney wishes to practice law under this rule for a new employer, he or she must first register as in-house counsel for that employer.

*(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)*

**(f) Application and registration fees**

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered in-house counsel.

*(Subd (f) relettered effective March 1, 2019; adopted as subd (f) effective November 15, 2004; previously amended and relettered as subd (g) effective January 1, 2007.)*

**(g) State Bar Registered In-House Counsel Program**

The State Bar must establish and administer a program for registering California in-house counsel under rules adopted by the Board of Trustees.

*(Subd (g) relettered effective March 1, 2019; adopted as subd (g) effective November 15, 2004; previously amended and relettered as subd (h) effective January 1, 2007; previously amended effective January 1, 2019.)*

**(h) Inherent power of Supreme Court**

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

*(Subd (h) relettered effective March 1, 2019; adopted as subd (h) effective November 15, 2004; previously amended and relettered as subd (i) effective January 1, 2007.)*

**(i) Effect of rule on multijurisdictional practice**

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not licensees of the State Bar of California.

*(Subd (i) relettered effective March 1, 2019; adopted as subd (i) effective November 15, 2004; previously relettered as subd (j) effective January 1, 2007; previously amended effective January 1, 2019.)*

*Rule 9.46 amended effective March 1, 2019; adopted as rule 965 by the Supreme Court effective November 15, 2004; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2019.*



# California Rules of Court

(Revised July 1, 2020)

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## Rule 9.42. Certified law students

### (a) Definitions

- (1) A "certified law student" is a law student who has a currently effective certificate of registration as a certified law student from the State Bar.
- (2) A "supervising attorney" is a licensee of the State Bar who agrees to supervise a certified law student under rules established by the State Bar and whose name appears on the application for certification.

*(Subd (a) amended effective January 1, 2019; previously amended effective January 1, 2007.)*

### (b) State Bar certified law student program

The State Bar must establish and administer a program for registering law students under rules adopted by the Board of Trustees of the State Bar.

*(Subd (b) amended effective January 1, 2019; previously amended effective January 1, 2007.)*

### (c) Eligibility for certification

To be eligible to become a certified law student, an applicant must:

- (1) Have successfully completed one full year of studies (minimum of 270 hours) at a law school accredited by the American Bar Association or the State Bar of California, or both, or have passed the first year law students' examination;
- (2) Have been accepted into, and be enrolled in, the second, third, or fourth year of law school in good academic standing or have graduated from law school, subject to the time period limitations specified in the rules adopted by the Board of Trustees of the State Bar; and
- (3) Have either successfully completed or be currently enrolled in and attending academic courses in evidence and civil procedure.

*(Subd (c) amended effective January 1, 2019.)*

### (d) Permitted activities

Subject to all applicable rules, regulations, and statutes, a certified law student may:

- (1) Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the certified law student:
  - (A) Obtains the approval of the supervising attorney to engage in the activities;
  - (B) Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the certified law student; and
  - (C) Performs the activities under the general supervision of the supervising attorney;
- (2) Appear on behalf of the client in depositions, provided that the certified law student:
  - (A) Obtains the approval of the supervising attorney to engage in the activity;

- (B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney); and
  - (C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student;
- (3) Appear on behalf of the client in any public trial, hearing, arbitration, or proceeding, or before any arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, provided that the certified law student:
- (A) Obtains the approval of the supervising attorney to engage in the activity;
  - (B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney);
  - (C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student; and
  - (D) As a condition to such appearance, either presents a copy of the consent form to the arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, or files a copy of the consent form in the court case file; and
- (4) Appear on behalf of a government agency in the prosecution of criminal actions classified as infractions or other such minor criminal offenses with a maximum penalty or a fine equal to the maximum fine for infractions in California, including any public trial:
- (A) Subject to approval by the court, commissioner, referee, hearing officer, or magistrate presiding at such public trial; and
  - (B) Without the personal appearance of the supervising attorney or any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney, but only if the supervising attorney or the designated attorney has approved in writing the performance of such acts by the certified law student and is immediately available to attend the proceeding.

*(Subd (d) amended effective January 1, 2007.)*

#### **(e) Failure to comply with program**

A certified law student who fails to comply with the requirements of the State Bar certified law student program must have his or her certification withdrawn under rules adopted by the Board of Trustees of the State Bar.

*(Subd (e) amended effective January 1, 2019; previously amended effective January 1, 2007.)*

#### **(f) Fee and penalty**

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

*(Subd (f) amended effective January 1, 2007.)*

#### **(g) Inherent power of Supreme Court**

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

*(Subd (g) amended effective January 1, 2007.)*

*Rule 9.42 amended effective January 1, 2019; adopted as rule 983.2 by the Supreme Court effective December 29, 1993; previously amended and renumbered effective January 1, 2007.*

## TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

### DIVISION 1. PROSPECTIVE LICENSEES

#### Chapter 1. Practical Training of Law Students

##### Rule 3.1 Practical Training of Law Students Program

Practical Training of Law Students is a program that allows a supervised law student certified by the State Bar to negotiate and appear on behalf of a client in the limited circumstances permitted by Rule of Court 9.42 and these rules.<sup>1</sup>

*Rule 3.1, adopted effective July 1, 2010.*

##### Rule 3.2 Eligibility

- (A) To be considered for the State Bar program for Practical Training of Law Students a law student must meet the eligibility requirements of Rule of Court 9.42(c).
- (B) Other qualifications notwithstanding, a person is ineligible to apply for certification who
  - (1) is licensed to practice law in any jurisdiction; or
  - (2) has not taken the first California Bar Examination for which he or she is eligible.

*Rule 3.2, adopted effective July 1, 2010.*

##### Rule 3.3 Application

- (A) To apply to be a certified law student, an eligible applicant must
  - (1) register as a general applicant for admission to the practice of law in California;<sup>2</sup> and
  - (2) submit an Application for Practical Training of Law Students Program<sup>3</sup> with
    - (a) the fee<sup>4</sup> set forth in the Schedule of Charges and Deadlines;

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<sup>1</sup> Rule of Court 9.42(a).

<sup>2</sup> Rule 4.3(G) defines "general applicant." Rule 4.16(B) explains the Application for Admission.

<sup>3</sup> See Rule 4.16(B).

<sup>4</sup> Rule of Court 9.42(f).

- (b) a current e-mail address not to be disclosed on the State Bar’s Web site or otherwise to the public without the applicant’s consent;
  - (c) a Declaration of Law School Official attesting that the law student meets the eligibility requirements of these rules and is qualified to be a certified law student, absent any subsequent notification to the contrary that the official agrees to provide; and
  - (d) a Declaration of Supervising Attorney attesting that for a specified period the attorney will supervise the applicant as required by these rules.
- (B) Upon approval of the application, the State Bar issues a “Notice of Law Student Certification” (“notice”) stating that the applicant is a certified participant in the program for Practical Training of Law Students for the period stated in the notice.<sup>5</sup>

*Rule 3.3, adopted effective July 1, 2010.*

#### Rule 3.4 Permitted activities

- (A) A certified law student may engage only in the activities permitted by Rule of Court 9.42(d) under the conditions prescribed by that rule.
- (B) Nothing in this rule prohibits a certified law student from providing advice or representation that might be provided by anyone who is not a licensee of the State Bar of California.

*Rule 3.4, adopted effective July 1, 2010; amended effective January 25, 2019.*

#### Rule 3.5 Duties of certified law student

A certified law student must

- (A) act as a certified law student only during the period stated in the Notice of Law Student Certification;<sup>6</sup>
- (B) at all times comply with Rule of Court 9.42 and these rules;
- (C) maintain a current e-mail address with the State Bar;
- (D) upon ceasing to be eligible for the program, promptly inform the State Bar and cease any activity that a certified law student is permitted to perform; and

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<sup>5</sup> See Rule 3.8.

<sup>6</sup> See Rule 3.8.

(E) not claim in any way to be a licensee of the State Bar of California.

*Rule 3.5, adopted effective July 1, 2010; amended effective January 25, 2019.*

### Rule 3.6 Supervising Attorney

(A) “Supervising Attorney” is an active licensee of the State Bar of California in good standing who agrees to supervise a certified law student as required by these rules.<sup>7</sup> A licensee who is inactive, suspended, or subject to discipline, or who has resigned or been disbarred may not be a Supervising Attorney. In these rules, “Supervising Attorney” may also refer to a government agency attorney whom the Supervising Attorney delegates to supervise the permitted activities of a certified law student.

(B) A Supervising Attorney must

- (1) be an active licensee of the State Bar of California who has practiced law in California or taught law in a law school as a full-time occupation for at least the two years before supervising a certified law student;
- (2) supervise the permitted activities of a certified law student as specified by Rule 9.42(d);
- (3) personally assume professional responsibility for any activity a certified law student performs pursuant to these rules;
- (4) provide training and counsel that prepares a certified law student to satisfactorily perform an activity permitted by these rules in a manner that best serves the interest of a client;
- (5) read, approve, and sign any document prepared by the certified law student for a client;
- (6) supervise at one time no more than five certified law students or twenty-five if employed full-time to supervise law students in a law school or government training program; and
- (7) promptly notify the State Bar that he or she no longer meets the requirements of these rules or that his or her supervision is ending before the period stated in the Notice of Certification.

*Rule 3.6, adopted effective July 1, 2010; amended effective January 25, 2019.*

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<sup>7</sup> Rule of Court 9.42(a)(2).

### Rule 3.7 Designation as certified law student

- (A) A certified law student may use the title “Certified Law Student” and no other in connection with activities performed as a certified law student.
- (B) On written materials prepared pursuant to these rules, a certified law student must use the title Certified Law Student with his or her name and provide the name of his or her Supervising Attorney.

*Rule 3.7, adopted effective July 1, 2010.*

### Rule 3.8 Duration of certification

- (A) Subject to the exceptions set forth in this rule, a certified law student may perform an activity that complies with these rules for the period stated in the Notice of Law Student Certification and only while the supervising attorney identified in the application supervises the student. A request to change the supervising attorney requires a new application.
- (B) A student who graduates from law school during the period stated in the Notice of Law Student Certification and then takes the first California Bar Examination for which he or she is eligible may participate in the program until the State Bar releases results for that examination.
- (C) Certification terminates before the end of the period stated in the Notice of Law Student Certification if
  - (1) the certified law student no longer meets the eligibility requirements of these rules;
  - (2) the certified law student requests that certification terminate on an earlier date;
  - (3) the certified law student fails to take the first California Bar Examination for which he or she is eligible; or
  - (4) the State Bar revokes certification.<sup>8</sup>

*Rule 3.8, adopted effective July 1, 2010.*

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<sup>8</sup> See Rule 3.9.

### Rule 3.9 Revocation of certification

The State Bar may revoke certification for noncompliance with any applicable rule or law.<sup>9</sup> The State Bar must provide the certified law student a written notice of revocation. The revocation is effective ten days from the date of its transmission.

*Rule 3.9, adopted effective July 1, 2010.*

### Rule 3.10 Request for review of revocation

A certified law student whose certification has been revoked may request review of the revocation. The request must be in writing and received by the State Bar no more than fifteen days from the date of transmission of the notice. Within sixty days of receiving the request, the State Bar must provide the certified law student with a written determination affirming or denying the revocation. The determination constitutes the final action of the State Bar.

*Rule 3.10, adopted effective July 1, 2010.*

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<sup>9</sup> Rule of Court 9.42(e).

## ALABAMA

The Supreme Court of Alabama issued an [order](#) on July 12 announcing that **the July exam will proceed as scheduled and that an additional exam will be administered beginning on September 30**. On May 8, the Court issued an [order](#) making certain temporary exceptions to the Rules Governing Admission to the Alabama State Bar and making **temporary exceptions to the Alabama Rule for Legal Internship by Law Students**, which allows third-year law students to perform many functions of a licensed attorney under the supervision of an attorney licensed in Alabama. The May 8 order allows any applicant for the July 2020 bar exam to participate as a student intern, and it allows participation to the earlier of (1) the student intern's date of admission to the Alabama State Bar, or (2) the date of release of results for the February 2021 Alabama bar exam.

IN THE SUPREME COURT OF ALABAMA

19-20/118

**In re: July 2020 Alabama Bar Examination**

ORDER

The Court having considered the COVID-19 pandemic, and its potential impact on applicants for the July 2020 administration of the Alabama Bar Exam,

IT IS HEREBY ORDERED that the Alabama State Bar comply with any public health restrictions in place on the dates of administration of the July 2020 Alabama Bar Examination ("the July examination"), and take any other necessary precautions during administration of the exam;

IT IS FURTHER ORDERED that the Alabama State Bar shall administer an alternate Alabama Bar Examination, beginning on September 30, 2020 ("the September examination"). An administrative schedule and deadlines associated with the September examination shall be announced by the Alabama State Bar;

IT IS FURTHER ORDERED that any individual who has applied for the July 2020 Alabama Bar Examination in accordance with Rule II.C or Rule II.E of the Rules Governing Admission to the Alabama State Bar (hereafter "applicant" or "applicants") shall file a declaration of the examination (July or September) for which the applicant is seeking admission ("the declared examination"). Such declaration shall be on a form prescribed by the Alabama State Bar and filed with the Alabama State Bar on or before July 21, 2020. Any applicant who fails to file said declaration by the deadline provided herein shall be considered for admission to the July examination only.

IT IS FURTHER ORDERED that applicants shall be eligible for the following temporary exceptions to the Rules Governing Admission to the Alabama State Bar:

1. Applicants shall have the opportunity to postpone their application from the declared examination to the February 2021 Alabama Bar Examination. Any such postponement must be made in accordance with the

provisions of Rule II.G of the Rules Governing Admission to the Alabama State Bar, provided that no postponement fee is required and applicants who postponed an application from the February 2020 Alabama Bar Examination are eligible for an additional postponement;

2. An applicant who has earned an acceptable transfer or carry over score in accordance with Rules VI(B).C(2)-(4) of the Rules Governing Admission to the Alabama State Bar, may elect to use the score for either the declared examination or the February 2021 Alabama Bar Examination, provided that the score is not outdated prior to the July 2020 Alabama Bar Examination. Any transferred or carried over score that is used for the declared examination and becomes outdated prior to the February 2021 Alabama Bar Examination shall be deemed unacceptable for the February 2021 Alabama Bar Examination;
3. An applicant who has earned an acceptable Multistate Professional Responsibility Examination (MPRE) score in accordance with Rule VI(B).E of the Rules Governing Admission to the Alabama State Bar, shall be permitted to use the score for either the declared examination or the February 2021 Alabama Bar Examination, provided that the score is not outdated prior to the July 2020 Alabama Bar Examination. Any MPRE score that is used for the declared examination and becomes outdated prior to the February 2021 Alabama Bar Examination shall be deemed unacceptable for the February 2021 Alabama Bar Examination;

IT IS FURTHER ORDERED that applicants who fail to achieve a passing score on the July examination shall not be considered for admission to the September examination, but said applicants shall be given the opportunity to re-apply for the February 2021 Alabama Bar Examination in accordance with the provisions of Rule II.F of the Rules Governing Admission to the Alabama State Bar;

IT IS FURTHER ORDERED that applicants shall be eligible to participate as student interns, as defined by the Alabama

## ARIZONA

In a July 1 [news release](#), the Arizona Supreme Court announced that it will offer **a remote exam on October 5-6 for local admission only in addition to the in-person UBE exam still scheduled to take place in July.** Applicants who are registered for the July exam and those who requested a refund or who transferred their July application to the February 2021 exam may choose to take the October remote exam.

On April 6, the Arizona Supreme Court issued an order authorizing the **emergency adoption of court rule changes allowing law school students and recent graduates the limited ability to practice law** in Arizona under the supervision of an attorney licensed in Arizona. A link to the order is available in Chief Justice Robert M. Brutinell's [letter](#) to 2020 law graduates.



Arizona Supreme Court No. R-20-0007

Page 2 of 20

TO:

Rule 28 Distribution

David K Byers

## ATTACHMENT<sup>1</sup>

### Arizona Rules of the Supreme Court

#### Rule 39. Temporary Authorizations to Practice Law

(a) – (b) [No change in text.]

#### (c) Law Students Practice and Law Graduates

(1) Purpose. The purpose of this rule is to provide law students and recent law school graduates with supervised instruction and training in the practice of law for a limited time, and to facilitate volunteer opportunities for those individuals in pro bono contexts.

#### (2) Definitions:

“Law school” means a law school either provisionally or fully accredited by the American Bar Association.

“Certified limited practice student” is a law student ~~or a graduate of an accredited~~ a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association who holds a ~~current~~ currently effective Arizona Supreme Court ~~certification~~ Certification as a certified limited practice student.

“Certified limited practice graduate” is a law graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice graduate.

“Dean” means the dean, the academic associate dean, or the dean’s designee of the accredited law school where the law student is enrolled or the law graduate was enrolled on graduation.

“Period of supervision” means the dates for which the supervising attorney has declared, on the application for certification or recertification, that he or she will be responsible for any work performed by the certified limited practice student or the certified limited practice graduate under his or her supervision.

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<sup>1</sup> Additions are shown by underscoring and deletions are shown by ~~strike-through~~.

“Supervising attorney” is an attorney authorized to practice law in Arizona who has practiced law or taught law in an accredited law school as a full-time occupation for at least two years, and agrees in writing to supervise the certified limited practice student or certified limited practice graduate pursuant to under these rules, and is identified as the supervising attorney whose name appears on in the application for certification or recertification. The supervising attorney may designate a deputy or other staff attorney to supervise the certified limited practice student or certified limited practice graduate when permitted by these rules.

~~“Designated attorney” is, exclusively in the case of government agencies, any deputy assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.~~

*(23) General Provisions.*

(A) Limited Bar Membership. To the extent a law student or law graduate is engaged in the practice of law under this rule, the law student or law graduate shall, for the limited purpose of performing professional services authorized by this rule, be deemed an active member of the State Bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

(B) Nonapplicability of Attorney Discipline Rules to Terms of the Certification. The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a certified limited practice student or certified limited practice graduate pursuant to these rules. Termination of certification shall be without prejudice to the privilege of the law student or law graduate to apply for admission to practice law if the law student or law graduate is in other respects qualified for such admission.

(C) Effect of Certification on Application for Admission to Bar. The certification of a law student or law graduate shall not be considered as an advantage or a disadvantage to the law student or law graduate in an application for admission to the State Bar.

(D) Privileged Communications. The rules of law and of evidence relating to

privileged communications between attorney and client shall govern communications made or received by and among supervising and designated attorneys, certified limited practice students, and certified limited practice graduates.

(2 4) Law Students

~~(A) General Statement and Eligibility~~ Law Student Eligibility for Limited Practice Certification. ~~A student enrolled in an approved law school, or a recent graduate of such a school who has applied to take the bar examination, may apply to be certified as a limited practice student under this rule. To be eligible to become a certified limited practice student, the student~~ an applicant must:

~~(A*i*)~~ have successfully completed a minimum of two semesters of legal studies, or the equivalent academic hour credits; amounting to at least two semesters, or the equivalent academic hour credits if the law school or the student is on some basis other than a semester, at an accredited law school;

~~(B*ii*)~~ neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered; however, this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law student, nor shall it or prevent the any such lawyer or agency from making such charges for its services as it may properly require requesting compensation or remuneration for legal services as otherwise authorized;

~~(C*iii*)~~ certify in writing that the student has read, and is familiar with, and will be governed by the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona statutes relating to the conduct of attorneys; and

~~(D*iv*)~~ be certified by the dean of the accredited law school where the student is enrolled, or was enrolled upon graduation, as being in good academic standing, or of good character, and as having either successfully completed or being currently enrolled in and attending academic courses in civil procedure, criminal law, evidence, and professional responsibility;

(3) ~~\_\_\_\_\_~~ Filing Requirements. (B) Application to become a Certified Limited Practice Student or Extend the Certification Period.

~~(A)~~ (Ai) All applications to become a certified limited practice student or to extend the period of for certification as a limited practice student must be submitted to the clerk of the Court on a form provided by the clerk of the Court, to the clerk, with. ~~All all the information requested on the form, together with any designated fee must be provided.~~

~~(B)~~ (Bii) The application for certification or extension must include the signature of the student be signed by the applicant, the dean ~~or the dean's designee~~ of the law school in which the student applicant is enrolled ~~or was a recent graduate~~, and the supervising attorney.

~~(C)~~ (Ciii) The ~~student~~ applicant must attest that he or she meets all the requirements of the this rules; ~~agrees to and shall~~ will immediately notify the clerk of the Court ~~in the event~~ if he or she no longer meets the requirements of the rules; and ~~that he or she has read, is familiar with,~~ and will ~~be governed~~ abide by the Arizona Rules of Professional Conduct and these rules.

~~(D)~~ (Div) The dean ~~or dean's designee~~ of the accredited law school in which the applicant is enrolled ~~or was a recent graduate~~ must attest that the applicant meets the requirements of these rules; and, to the best of the dean's knowledge, is that he or she will immediately notify the clerk of the Court if the student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice student no longer meets the requirements of these rules.

~~(E)~~ (Ey) The supervising attorney must specify the period of time during which he or she will be responsible for supervise supervising the ~~student~~ applicant and attest that he or she has read and will abide by the Arizona Rules of Professional Conduct, these rules, and will assume responsibility under the requirements of these rules.

~~(F)~~ (F) Requests to change or add a supervising attorney or to extend the period of certification must be submitted on a form provided by the clerk.

(Gvi) The clerk of the Court will issue the notice of certification and send a copy of the certification to the law school and the State Bar.

(4) (C) ~~Scope of Authority~~ Permitted Activities and Requirements of a Certified Limited Practice Student; Presence of Supervising or Designated Attorney.

(Ai) Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person ~~if the person on whose behalf the student is appearing~~ who has consented in writing to that appearance ~~and if the supervising attorney has also indicated in writing provided written approval of that appearance.~~ In each case, the ~~The~~ written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge ~~of the court or the presiding officer of the administrative tribunal.~~ In addition, and the certified limited practice student ~~shall orally~~ must advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. ~~Notwithstanding anything set forth below, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct.~~ A certified limited practice student may appear in the following matters:

(ii) Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must physically appear with the certified limited practice student in the following circumstances:

(ia) ~~Civil Matters.~~ In any civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if unless the person on whose behalf an appearance is being made consents to the absence of the supervising lawyer's attorney absence or designated attorney;

(b) In any civil case in superior court or before any administrative tribunal;

(ic) ~~Criminal Matters on Behalf of the State.~~ In any criminal matter case on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated

~~attorney) must be personally present except when such appearance is in justice, municipal, or magistrate courts of the state if the case is in the superior court or any appellate court;~~

- (~~iii~~d) ~~Felony Criminal Defense Matters.~~ In any felony criminal defense matter case in justice, municipal, and magistrate courts, and any criminal matter case in superior court;~~; the supervising attorney (or designated attorney) must be personally present throughout the proceedings.~~
  
- (~~iv~~e) ~~Misdemeanor Criminal Defense Matters.~~ In any misdemeanor criminal defense matter case in justice, municipal, and magistrate courts, ~~the supervising attorney (or designated attorney) is not required to be personally present in court, so long as unless the person on whose behalf an the appearance is being made consents to the absence of the supervising attorney's absence or designated attorney; however, the supervising attorney or designated attorney must be physically present during trial; and~~
  
- (~~v~~f) ~~Appellate Oral Argument.~~ A certified limited practice student ~~may participate in~~ In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but the student may appear only in the physical presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.
  
- (g) Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be physically present.
  
- (~~B~~iii) ~~Other Client Representation Activities.~~ Under the ~~general supervision of the supervising attorney (or designated attorney) but outside the supervisor's physical presence,~~ a certified limited practice student may:
  - (~~i~~a) prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney (or designated attorney);

(~~ii~~b) prepare briefs, motions, ~~abstracts~~ and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney (~~or designated attorney~~);

(~~iii~~c) ~~provide~~ assistance ~~to~~ indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all ~~such~~ assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (~~or designated attorney~~);

(~~iv~~d) ~~render~~ give legal advice and perform other appropriate legal services, but only ~~after prior consultation with and upon the~~ express consent of the supervising attorney (~~or designated attorney~~).

(Civ) Other Non-Representation Activities. ~~A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the State Bar, subject to the approval by the supervising attorney (or designated attorney).~~ In connection with a volunteer legal services program and at the invitation ~~and~~ or request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

(~~ia~~a) the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

(~~ib~~b) the student's supervising attorney is associated with the particular volunteer legal services program;

(~~ic~~c) the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

(D) Use of the Title “Certified Limited Practice Student.”

(i) A certified limited practice student may use the title “Certified Limited Practice Student” only in connection with activities performed pursuant to these rules.

(ii) When a certified limited practice student’s name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney or designated attorney; and otherwise comply with these rules.

(iii) A certified limited practice student shall not hold himself or herself out as an active member of the State Bar.

(iv) Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

~~(5)~~ (E) Requirements and Duties of the Supervising Attorney. The supervising attorney must:

~~(A) be an attorney authorized to practice law in Arizona and have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;~~

~~(B) supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed full-time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than, fifty (50) certified students~~

~~(C) supervise and assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;~~

~~(D) assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper practical~~

training of the certified limited practice student and the protection of the client;

~~(Eiii) read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified limited practice student prior to before the filing thereof, and read and approve any documents which shall be prepared by the certified limited practice student for execution by any person (exclusively in the case of government agencies, If a designated attorney may, in the place of the supervising attorney, performs the obligation set forth in this subparagraph, but this duty in place of the supervising attorney, the supervising attorney shall still provide general supervision);~~

~~(F) provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide general supervision); and~~

~~(G) in the case of a certified student who is participating in the clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.~~

~~(Hiv) promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease prior to before the date indicated on the application form certification.~~

~~(5) *Discipline Jurisdiction.* The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a limited practice student pursuant to this rule.~~

(F) Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice student during the period of certification, the certified limited practice student must designate a substitute

supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice student. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Conduct and will comply with the requirements of these rules.

(7G) Duration and Termination of Certification. Certification of a certified limited practice student will ~~commence~~ begin on the date ~~indicated on a notice of specified in the~~ certification and remain in effect for the period specified ~~on~~ in the ~~notice of~~ certification unless sooner terminated ~~pursuant to~~ by the earliest of the following occurrences:

(A*i*) ~~Termination by the Student.~~ The certified limited practice student ~~may~~ requests termination of the certification in writing or ~~notify~~ notifies the clerk of the Court that he or she no longer meets the requirements of ~~this~~ these rules; ~~and in~~ In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.

(B*ii*) ~~Termination by the Supervising Attorney.~~ The supervising attorney ~~may~~ notify notifies the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease ~~prior to~~ before the date specified in the notice of certification. In such event, the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar; ~~and~~ the dean may issue a modified certification reflecting the substitution of a new supervising attorney, ~~as necessary.~~

(C*iii*) ~~Termination by the Dean.~~ A certification of student limited practice ~~may be terminated by~~ the dean any time, with or without cause and ~~without~~ notice or hearing, by filing files notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. ~~In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.~~

~~(D) Failure to Take or Pass the Bar Examination. A certification of student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible.~~

~~(Eiv) Termination by the Arizona Supreme Court. A certification of student limited practice may be terminated by the Arizona Supreme Court at any time, without or without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court.~~

~~(v) A certification of student limited practice shall be terminated if One or more of the requirements for the certification no longer exists or the certified limited practice student, or supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.~~

~~(8) Subsequent Attorney Admission. If a student certified under this rule is subsequently admitted to the practice of law in Arizona, that student's certification of student limited practice will be superseded by the Arizona license to practice law.~~

### (5) Law Graduates

(A) Law Graduate Eligibility for Limited Practice Certificate. To be eligible to become a certified limited practice graduate, an applicant must:

(i) have graduated from an accredited law school;

(ii) neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice graduate from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law graduate, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

(iii) certify in writing that the law graduate has read and is familiar with the

Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys;

- (iv) be certified by the dean of the accredited law school where the law graduate was enrolled on graduation as having graduated in good academic standing and being of good character;
- (v) not been convicted of a serious offense as defined in A.R.S. § 13-706; and
- (vi) submit to the Committee on Character and Fitness an application in the form supplied by the Committee within 90 days of the issuance of a juris doctor degree to the applicant.

(B) Application to Become a Certified Limited Practice Graduate

- (i) All applications to become a certified limited practice graduate must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee.
- (ii) The application for certification must be signed by the applicant, the dean of the law school where the applicant was enrolled on graduation, and the supervising attorney.
- (iii) The applicant must attest that he or she meets all of the requirements of this rule, will immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules, and has read and will abide by the Arizona Rules of Professional Conduct and these rules.
- (iv) The dean of the law school where the applicant was enrolled on graduation must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice graduate no longer meets the requirements of these rules.
- (v) The supervising attorney must specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read and will abide by, the Arizona Rules of Professional Conduct, these rules, and will assume responsibility under the

requirements of these rules.

(vi) The clerk of the Court will issue the notice of certification and send a copy of the certification to the law school and the State Bar.

(C) Permitted Activities and Requirements of a Certified Limited Practice Graduate; Presence of Supervising Attorney or Designated Attorney

(i) Court and Administrative Tribunal Appearances. A certified limited practice graduate may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has also provided written approval of that appearance. In each case, the written consent and approval must be filed in the case and be brought to the attention of the judge or the presiding officer. In addition, the certified limited practice graduate must advise the court at the law graduate's first appearance in the case of the certification to appear as a law graduate pursuant to these rules.

(ii) Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must physically appear with the certified limited practice graduate in the following circumstances:

(a) In any civil case in justice, municipal, and magistrate court unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

(b) In any civil case in superior court or before any administrative tribunal;

(c) In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

(d) In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

(e) In any misdemeanor criminal defense case unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

(f) In oral argument in the Arizona Supreme Court and the Arizona Court

of Appeals, but the graduate may appear only with the specific approval of the court for that case.

(g) Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

(iii) Other Client Representation Activities. Under the general supervision of the supervising attorney or designated attorney, but outside his or her presence, a certified limited practice graduate may:

(a) prepare pleadings and other documents to be filed in any matter in which the certified limited practice graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney if filed in the superior court, Arizona Court of Appeals, Arizona Supreme Court, or with an administrative tribunal;

(b) prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;

(c) assist indigent inmates of correctional institutions or other persons who request assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;

(d) give legal advice and perform other appropriate legal services, but only after consultation with and consent of the supervising attorney or designated attorney.

(iv) Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice graduate may appear as a law graduate volunteer to assist the proceeding in any civil matter, provided:

- (a) the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;
- (b) the certified limited practice graduate's supervising attorney is associated with the particular volunteer legal services program;
- (c) the certified limited practice graduate has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

(D) Use of the Title "Certified Limited Practice Graduate."

- (i) A certified limited practice graduate may use the title "Certified Limited Practice Graduate" only in connection with activities performed pursuant to these rules.
- (ii) When a certified limited practice graduate's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the law graduate is a certified limited practice graduate pursuant to these rules, state the name of the supervising attorney, be signed by the supervising attorney or designated attorney if required by these rules, and otherwise comply with these rules.
- (iii) A certified limited practice graduate shall not hold himself or herself out as an active member of the State Bar.
- (iv) Nothing in these rules prohibits a certified limited practice graduate from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

(E) Duties of the Supervising Attorney. The supervising attorney must:

- (i) supervise and assume professional responsibility for any work performed by the certified limited practice graduate while under his or her supervision;
- (ii) assist and counsel the certified limited practice graduate in the activities authorized by these rules and review such activities with the certified

limited practice graduate, all to the extent required for the proper training of the certified limited practice graduate and the protection of the client;

(iii) read and approve all pleadings, briefs, or other documents prepared by the certified limited practice graduate as required by these rules; sign any pleading, brief, or other document if required by these rules, and read and approve any document prepared by the certified limited practice graduate for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney must still provide general supervision;

(iv) assume professional responsibility for all pleadings, briefs, or other documents filed in any court or with an administrative tribunal by the certified limited practice graduate under his or her supervision;

(v) promptly notify the clerk of the Court in writing if his or her supervision of the certified limited graduate has or will cease before the date indicated on the certification.

(F) Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice graduate during the period of certification, the certified limited practice graduate must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice graduate. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Conduct and will comply with the requirements of these rules.

(G) Duration and Termination of Certification. Certification of a certified limited practice graduate shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

(i) The certified limited practice graduate requests termination of the certification in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the State Bar.

- (ii) The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice graduate will cease before the date specified in the certification. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the State Bar.
- (iii) The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.
- (iv) The Court at any time, with or without cause or notice or hearing, files notice of the termination with the clerk of the Court.
- (v) One or more of the requirements for certification no longer exists or the certified limited practice graduate or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the State Bar.
- (vi) The law graduate fails to take the first Arizona uniform bar examination or the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.
- (vii) The law graduate fails to pass the first Arizona uniform bar examination for which the law graduate is eligible or fails to obtain a score equal to or greater than the acceptable score established by the Committee on Examinations on the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.
- (viii) Thirty days after the Court notifies the law graduate that he or she has been approved for admission to practice law and is eligible to take the oath of admission.
- (ix) The Committee on Character and Fitness does not recommend to the Court that the law graduate be admitted to practice law.
- (x) The law graduate is denied admission to practice law by the Court.
- (xi). The law graduate is admitted to practice law.
- (xii) Expiration of 12 months from the date of the law graduate's graduation

from law school unless, before expiration of the 12-month period and for good cause shown by the law graduate, the Court extends the 12-month period.

**(d)** [No change in text.]

## ARKANSAS

On July 9, the Supreme Court of Arkansas issued an [order](#) confirming that **the exam will be administered as scheduled in July**. Also on July 9, the Court issued an [order](#) adopting an emergency temporary rule to allow candidates registered for the July exam who are unwilling or unable to sit for the exam in July to be permitted to **temporarily engage in the limited practice of law**. The Court had previously announced on April 30 that if the exam could not be administered in July, it would be rescheduled for September.

# SUPREME COURT OF ARKANSAS

No.

**Opinion Delivered:** July 9, 2020

IN RE ADOPTION OF ARKANSAS  
RULES GOVERNING ADMISSION  
TO THE BAR: RULE XV-A  
TEMPORARY SUPERVISED  
PRACTICE AND JULY 2020  
ARKANSAS BAR EXAMINATION

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## PER CURIAM

On this 10th day of July, 2020, upon the recommendation of the Arkansas Supreme Court Board of Law Examiners, the Court adopts Temporary Supervised Practice Rule XV-A of the Rules Governing Admission to the Bar. The Rule is adopted after the Court's consideration of the COVID-19 pandemic and its potential impact on applicants for the July 2020 Uniform Bar Exam being administered in Arkansas. In addition, based on the recommendation of the Board of Law Examiners, the Court further orders that

1. The July 2020 Arkansas Bar Exam will be administered as scheduled for all applicants properly and timely registered who wish to sit for the Exam.
2. Any properly and timely registered applicant for the July 2020 Bar Exam may have his or her application and fee transferred to the February 2021 Arkansas Bar Exam without penalty if written notice is given to the Executive Director of the Board by July 15, 2020.

# SUPREME COURT OF ARKANSAS

No.

Opinion Delivered: July 9, 2020

IN RE ARKANSAS RULES  
GOVERNING ADMISSION TO THE  
BAR: RULE XV-A TEMPORARY  
SUPERVISED PRACTICE

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## PER CURIAM

- A. Purpose. In recognition of the issues faced with the COVID-19 pandemic, the Arkansas Supreme Court adopts this emergency/temporary Rule to allow persons properly registered for the July 2020 Arkansas Bar Exam, who are unwilling or unable to sit for the July 2020 Exam because of the COVID-19 pandemic, to be permitted to temporarily engage in the limited practice of law.
- B. Activities. The following activities may be engaged in pursuant to this Temporary Supervised Practice Rule:
- (a) A temporary limited licensee may counsel a client with respect to legal issues, under the direct and ongoing supervision of the supervising attorney;
  - (b) Under the direct and ongoing supervision of the supervising attorney, a temporary limited licensee may prepare documents on behalf of a client, including documents that will be filed in a court or an administrative tribunal. The supervising attorney's signature must appear on any documents that will be filed in a court or an administrative tribunal; and,
  - (c) A temporary limited licensee may appear for any activity involved in the practice of law under the direct and ongoing supervision of the supervising attorney.

C. Requirements of Eligibility.

An individual may engage in the limited and supervised practice of law pursuant to the emergency Rule if:

- (a) The individual has submitted a timely application for admission by examination for the July 2020 Uniform Bar Exam in Arkansas;
- (b) The Board of Law Examiners has received affirmative certification from the law school from which the individual graduated certifying that (1) the applicant has received the juris doctor degree from that law school and (2) to the best of the law school's knowledge, the applicant has the character and fitness required to be a licensed attorney in the State of Arkansas;
- (c) The individual has never failed the Arkansas Bar Exam or any other jurisdiction's Bar Exam;
- (d) The individual has received a juris doctor degree from a law school accredited by the American Bar Association;
- (e) The individual is supervised by an attorney licensed by the Court to practice law in Arkansas; and
- (f) The individual agrees to abide by the Arkansas Rules of Professional Conduct.

D. Supervising Attorney. The attorney under whose supervision an individual may engage in the temporary limited practice of law permitted by this Rule:

- (a) Shall have been an active member of the Bar of Arkansas for at least five years;
- (b) Shall assume personal professional responsibility for ensuring that the work of the supervised individual is competent and compliant with the Arkansas Rules of Professional Conduct;

## COLORADO

On May 14, the Colorado Supreme Court [announced](#) that it **plans to administer the exam in July; if the exam is postponed, it will be held on September 30-October 1**. On July 9, the Court issued an [emergency rule](#) allowing graduates who wish to postpone taking the exam until February 2021 to engage in **limited practice under the supervision of a qualifying attorney**. Previously, the Court had announced an emergency limited license [rule](#) allowing recent law graduates to be certified for practice in the event the July exam would need to be postponed.

**Rule 205.8. Emergency Rule Concerning Certification for Limited Practice as a Graduate Before Admission By Examination**

(a) Effective Dates.

(1) This Rule shall take effect August 1, 2020 for applicants for admission who meet all eligibility requirements under this Rule and who notify the Office of Attorney Admissions in writing by July 20, 2020 that they are transferring their July 2020 Colorado bar examination registration to the February 2021 Colorado bar examination. Applicants who notify the Office of Attorney Admissions in writing after July 20, 2020 but no later than July 31, 2020 that they are disqualified from sitting for the July 2020 Colorado bar examination under the Office's examination protocols and medical screening questionnaire will be deemed to have met the notification deadline in this subsection. For applicants under this paragraph (a)(1), this Rule expires seven days after the last scheduled swearing-in ceremony corresponding with the Colorado bar examination held in February 2021.

(2) All other applicants who registered for the July 2020 Colorado bar examination are ineligible for certification under this Rule unless the July 2020 examination is postponed. If the July 2020 examination is postponed, this Rule shall take effect on August 1, 2020 and, for applicants registered for the July 2020 examination, expires seven days after the last scheduled swearing-in ceremony corresponding with the first Colorado bar examination that is held after the effective date of this Rule.

(3) In its discretion, the Supreme Court may extend the time limits set forth in this Rule.

(b) General Statement. In its discretion, the Supreme Court may certify an applicant for admission by the Colorado bar examination to be a certified limited practice graduate under the conditions and requirements of this Rule.

(c) Eligibility. An applicant for admission by the Colorado bar examination under C.R.C.P. 203.4 may apply to become a certified limited practice graduate under the procedures set forth in this Rule. Applicants who are eligible for temporary practice under C.R.C.P. 205.7(2)(b)(i)(A) may, but are not required to, be certified as a limited practice graduate under this Rule. To be eligible as a certified limited practice graduate, an applicant must demonstrate through a form, affidavit and any other evidence required by this Rule that the applicant:

(1) has submitted an application to the Office of Attorney Admissions pursuant to C.R.C.P. 203.4;

(2) has never been licensed to practice law in another state in the United States, the District of Columbia, or U.S. Territories;

(3) has graduated with a J.D. or LL.B. from a law school accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

(4) affirms an intent to practice law in Colorado under the supervision of a licensed attorney who meets the requirements of this Rule;

(5) has not yet taken the Colorado bar examination; and,

(6) has satisfied all other requirements for admission as a Colorado-licensed attorney, or the Office of Attorney Admissions has determined that the applicant may reasonably be expected to satisfy all such requirements prior to admission, except for obtaining a passing score of the Colorado bar examination.

(d) Filing Requirements and Effect of Registration.

(1) In order to perform the services set forth in this Rule, the applicant must request certification as a limited practice graduate through a form provided by the Clerk of the Supreme Court Office of Attorney Registration, with all the information requested on the form, together with a fee of \$50. The Clerk of the Supreme Court Office of Attorney Registration shall send a copy of all applications for graduate limited practice certification to the Office of Attorney Admissions to determine eligibility to provide services under this Rule.

(2) Upon being notified that the Office of Attorney Admissions has determined the applicant is eligible to be certified as a limited practice graduate, the applicant may register with the Clerk of the Supreme Court Office of Attorney Registration for supervised practice.

(A) The applicant shall affirm that the applicant has read, is familiar with, and will be governed by the Colorado Rules of Professional Conduct.

(B) The applicant must include with the registration the identity of the applicant's supervising attorney and an affidavit from the supervising attorney sufficient to establish that the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

(C) The applicant must include with the registration an attestation from the dean of the law school where the applicant was enrolled on graduation that the applicant meets the graduation requirements of this Rule, and, to the best of the dean's knowledge, is qualified by ability, training, and character to provide the services permitted by this Rule.

(3) The applicant must advise the Clerk of the Supreme Court Office of Attorney Registration immediately of any change in circumstances that renders the applicant ineligible for certification as a limited practice graduate.

(4) Nothing herein shall relieve an applicant of the continuing duty to inform the Office of Attorney Admissions of supplementary information and developments, including those relating to character and fitness, affecting the applicant's pending application for admission as a licensed attorney.

(5) Certification as a limited practice graduate confers no rights or presumptions bearing on the applicant's pending application for admission as a licensed attorney, and in no way restricts the Supreme Court's authority to determine an applicant's admission to the practice of law in Colorado.

(e) Supervision.

(1) An applicant may be certified as a limited practice graduate only if a supervising attorney who meets the requirements of this Rule, as determined by the Clerk of the Supreme Court Office of Attorney Registration and Attorney Regulation Counsel, has agreed to supervise the applicant. Under no circumstances may a certified limited practice graduate engage in the practice of law as a sole practitioner.

(2) The supervising attorney must through affidavit show that he or she:

(A) is admitted and in good standing in Colorado;

(B) has been engaged in the active practice of law for at least three of the past five years;

(C) is not the subject of any pending formal disciplinary or disability matters in any jurisdiction at the time of the applicant's registration under this Rule;

(D) expressly agrees to: assume all professional responsibility for the direct supervision for the professional work of the applicant, including the applicant's compliance with the Colorado Rules of Professional Conduct; provide any necessary assistance to the applicant to ensure the protection of the clients for whom the applicant provides services; either directly or through the services of another Colorado-licensed attorney associated with the supervising attorney's firm or organization, review, sign and file pleadings, briefs, and other legal documents that the applicant has prepared; and either directly or through the services of another Colorado-licensed attorney associated with the supervising attorney's firm or organization, be present for designated court appearances as required by this Rule or by order of any court or tribunal; and

(E) expressly agrees to notify the Clerk of the Supreme Court Office of Attorney Registration within seven days if the supervising attorney has terminated supervision of the applicant or if the supervising attorney becomes aware that the applicant no longer meets the requirements of a certified limited practice graduate.

(f) Termination of Certification. The privilege to engage in supervised practice through certification as a limited practice graduate under this Rule may be terminated by the Supreme Court at any time without notice or hearing and without any showing of cause, and also expires without action by the Court upon any of the following circumstances:

(1) the applicant's withdrawal of the application for admission under C.R.C.P. 203.4;

(2) the supervising attorney's withdrawal of an agreement to supervise the applicant, unless a substitute supervising attorney meeting the requirements of this Rule has filed an affidavit reflecting an agreement to supervise the applicant;

(3) the applicant's admission to practice law in any state, the District of Columbia, or U.S. Territory; or

(4) seven days after the Office of Attorney Admissions notifies, through publication or otherwise, the applicant that he or she did not achieve a passing score on the Colorado bar examination.

(g) **Services Permitted.** Under the supervision of and with the approval of the supervising attorney, and with the written consent of the person or entity on whose behalf the certified limited practice graduate is acting, a certified limited practice graduate may render the following services:

(1) A certified limited practice graduate may counsel and advise clients, negotiate in the settlement of claims and charges, represent clients in mediation and other non-litigation matters, and engage in the preparation and drafting of pleadings, briefs, memoranda, instruments, and other legal documents. Any communication, other than internal communications signed by the applicant, must include the designation "Certified Limited Practice Graduate" and also must be signed by the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney.

(2) A certified limited practice graduate may provide short-term limited legal services to a client as contemplated by Colo. RPC 6.5 by disclosing to both the legal services program and any individual participating in the program with whom the graduate makes contact that the graduate is a "Certified Limited Practice Graduate" and not a licensed attorney. A Colorado-licensed attorney must be available to assist the certified limited practice graduate in the provision of such services.

(3) A certified limited practice graduate may appear in the courts and administrative tribunals of this state, including court-sponsored mediation, subject to the following qualifications and limitations:

(A) All required consents to the certified limited practice graduate's appearance in a matter shall be brought to the attention of the judge or presiding officer;

(B) Appearances, pleadings, motions, briefs and other documents to be filed with a court prepared by the applicant must include the designation "Certified Limited Practice Graduate," and also must be signed and filed by the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney;

(C) In criminal cases in which the defendant has not been charged with a felony, and in civil or criminal contempt proceedings, all prior to appeal: the certified limited practice graduate may participate as long as the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney is available, but not necessarily physically present in the courtroom, in the event that the client in question wants to consult with a licensed attorney. However, a supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney must be physically present in the courtroom if the proceeding is a testimonial motions hearing or trial;

(D) In all other civil cases, the certified limited practice graduate may conduct all pretrial, trial, and post-trial proceedings, other than appellate proceedings, with the supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney physically present, unless the judge or presiding officer orders that the certified limited practice graduate may participate without the presence of a licensed attorney and the client consents to the absence of a licensed attorney;

(E) In matters before appellate courts, the certified limited practice graduate may prepare briefs and other appellate filings, subject to the signature and filing requirements of this section. Upon motion by the supervising attorney or other attorney associated with the same firm or organization as the supervising attorney, the certified limited practice graduate may request authorization to argue the matter before the appellate court but, in all cases, the moving attorney must be present at the argument.

(F) A court or presiding officer may at any time and in any proceeding require the supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney to be physically present in a proceeding with a certified limited practice graduate.

(h) Compensation. A certified limited practice graduate rendering services authorized by this Rule shall not request or accept any compensation from the person for whom the certified limited practice graduate renders the services. The certified limited practice graduate may be compensated as an employee of a firm or other organization, and may request such compensation consistent with other law.

(i) Disciplinary Complaints.

(1) Any disciplinary complaint or request for investigation concerning a certified limited practice graduate should be directed to the Attorney Regulation Counsel. The Attorney Regulation Counsel may pursue immediate suspension of the certification of the limited practice graduate on a discipline or disability basis through petition to the Supreme Court, in exercise of its plenary authority. The Court in its discretion may request that the Presiding Disciplinary Judge serve as a special master for purposes of conducting any evidentiary hearing that the Court deems

necessary. Nothing herein shall limit the authority of the Supreme Court to suspend or revoke certification of the limited practice graduate pursuant to subsection (f) of this Rule.

(2) The Attorney Regulation Counsel shall have jurisdiction over any requests for investigation against both the certified limited practice graduate and the supervising attorney, and may also refer all information pertaining to the certified limited practice graduate to the Office of Attorney Admissions and the Character and Fitness Committee. The Attorney Regulation Counsel may disclose to the supervising attorney any requests for investigation pertaining to the certified limited practice graduate.

(j) Public Information. The Clerk of the Supreme Court Office of Attorney Registration may disclose the identity and registered business contact information of both a certified limited practice graduate and that person's supervising attorney, and disclose the dates such certification was effective and is terminated.

(k) Use of the title "Certified Limited Practice Graduate."

(1) A certified limited practice graduate may use the title "Certified Limited Practice Graduate" only in connection with services performed pursuant to this Rule.

(2) A certified limited practice graduate shall not hold himself or herself out to anyone as a licensed attorney.

(3) Nothing in this Rule prohibits a certified limited practice graduate from describing his or her participation in this program on a resume, biographical summary, or application seeking employment as long as the description is not false, deceptive, or misleading.

**Amended and Adopted by the Court, En Banc, this 9th day of July, 2020, effective immediately.**

**By the Court:**

**Monica M. Márquez  
Justice, Colorado Supreme Court**

**RULE CHANGE 2020(15)**  
**RULES GOVERNING ADMISSION TO THE**  
**PRACTICE OF LAW IN COLORADO**

**Rule 205.8. Emergency Rule Concerning Certification for Limited Practice as a Graduate Before Admission By Examination**

(a) Duration of Rule. If the July 2020 Colorado bar examination is postponed, this Rule shall take effect on the date such postponement is announced by the Office of Attorney Admissions and expires seven days after the swearing-in ceremony following the first Colorado bar examination that is held after the effective date of this Rule or when otherwise repealed by the Court. The Court, in its discretion, may extend the time limits set forth in this Rule.

(b) General Statement. In its discretion, the Supreme Court may certify an applicant for admission by the Colorado bar examination to be a certified limited practice graduate under the conditions and requirements of this Rule.

(c) Eligibility. An applicant for admission by the Colorado bar examination under C.R.C.P. 203.4 may apply to become a certified limited practice graduate under the procedures set forth in this Rule. Applicants who are eligible for temporary practice under C.R.C.P. 205.7(2)(b)(i)(A) may, but are not required to, be certified as a limited practice graduate under this Rule. To be eligible as a certified limited practice graduate, an applicant must demonstrate through a form, affidavit and any other evidence required by this Rule that the applicant:

(1) has submitted an application to the Office of Attorney Admissions pursuant to C.R.C.P. 203.4;

(2) has never been licensed to practice law in another state in the United States, the District of Columbia, or U.S. Territories;

(3) has graduated with a J.D. or LL.B. from a law school accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

(4) affirms an intent to practice law in Colorado under the supervision of a licensed attorney who meets the requirements of this Rule;

(5) has not yet had an opportunity to take the Colorado bar examination, or deferred such opportunity in 2019 to serve a judicial clerkship; and,

(6) has satisfied all other requirements for admission as a Colorado-licensed attorney, or the Office of Attorney Admissions has determined that the applicant may reasonably be expected to satisfy all such requirements prior to admission, except for obtaining a passing score of the Colorado bar examination.

(d) Filing Requirements and Effect of Registration.

(1) In order to perform the services set forth in this Rule, the applicant must request certification as a limited practice graduate through a form provided by the Clerk of the Supreme Court Office of Attorney Registration, with all the information requested on the form, together with a fee of

\$50. The Clerk of the Supreme Court Office of Attorney Registration shall send a copy of all applications for graduate limited practice certification to the Office of Attorney Admissions to determine eligibility to provide services under this Rule.

(2) Upon being notified that the Office of Attorney Admissions has determined the applicant is eligible to be certified as a limited practice graduate, the applicant may register with the Clerk of the Supreme Court Office of Attorney Registration for supervised practice.

(A) The applicant shall affirm that the applicant has read, is familiar with, and will be governed by the Colorado Rules of Professional Conduct.

(B) The applicant must include with the registration the identity of the applicant's supervising attorney and an affidavit from the supervising attorney sufficient to establish that the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

(C) The applicant must include with the registration an attestation from the dean of the law school where the applicant was enrolled on graduation that the applicant meets the graduation requirements of this Rule, and, to the best of the dean's knowledge, is qualified by ability, training, and character to provide the services permitted by this Rule.

(3) The applicant must advise the Clerk of the Supreme Court Office of Attorney Registration immediately of any change in circumstances that renders the applicant ineligible for certification as a limited practice graduate.

(4) Nothing herein shall relieve an applicant of the continuing duty to inform the Office of Attorney Admissions of supplementary information and developments, including those relating to character and fitness, affecting the applicant's pending application for admission as a licensed attorney.

(5) Certification as a limited practice graduate confers no rights or presumptions bearing on the applicant's pending application for admission as a licensed attorney, and in no way restricts the Supreme Court's authority to determine an applicant's admission to the practice of law in Colorado.

(e) Supervision.

(1) An applicant may be certified as a limited practice graduate only if a supervising attorney who meets the requirements of this Rule, as determined by the Clerk of the Supreme Court Office of Attorney Registration and Attorney Regulation Counsel, has agreed to supervise the applicant. Under no circumstances may a certified limited practice graduate engage in the practice of law as a sole practitioner.

(2) The supervising attorney must through affidavit show that he or she:

(A) is admitted and in good standing in Colorado;

(B) has been engaged in the active practice of law for at least three of the past five years;

(C) is not the subject of any pending formal disciplinary or disability matters in any jurisdiction at the time of the applicant's registration under this Rule;

(D) expressly agrees to: assume all professional responsibility for the direct supervision for the professional work of the applicant, including the applicant's compliance with the Colorado Rules of Professional Conduct; provide any necessary assistance to the applicant to ensure the protection of the clients for whom the applicant provides services; either directly or through the services of another Colorado-licensed attorney associated with the supervising attorney's firm or organization, review, sign and file pleadings, briefs, and other legal documents that the applicant has prepared; and either directly or through the services of another Colorado-licensed attorney associated with the supervising attorney's firm or organization, be present for designated court appearances as required by this Rule or by order of any court or tribunal; and

(E) expressly agrees to notify the Clerk of the Supreme Court Office of Attorney Registration within seven days if the supervising attorney has terminated supervision of the applicant or if the supervising attorney becomes aware that the applicant no longer meets the requirements of a certified limited practice graduate.

(f) Termination of Certification. The privilege to engage in supervised practice through certification as a limited practice graduate under this Rule may be terminated by the Supreme Court at any time without notice or hearing and without any showing of cause, and also expires without action by the Court upon any of the following circumstances:

(1) the applicant's withdrawal of the application for admission under C.R.C.P. 203.4;

(2) the supervising attorney's withdrawal of an agreement to supervise the applicant, unless a substitute supervising attorney meeting the requirements of this Rule has filed an affidavit reflecting an agreement to supervise the applicant;

(3) the applicant's admission to practice law in any state, the District of Columbia, or U.S. Territory; or

(4) seven days after the Office of Attorney Admissions notifies, through publication or otherwise, the applicant that he or she did not achieve a passing score on the Colorado bar examination.

(g) Services Permitted. Under the supervision of and with the approval of the supervising attorney, and with the written consent of the person or entity on whose behalf the certified limited practice graduate is acting, a certified limited practice graduate may render the following services:

(1) A certified limited practice graduate may counsel and advise clients, negotiate in the settlement of claims and charges, represent clients in mediation and other non-litigation matters, and engage in the preparation and drafting of pleadings, briefs, memoranda, instruments, and other legal documents. Any communication, other than internal communications signed by the applicant, must include the designation “Certified Limited Practice Graduate” and also must be signed by the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney.

(2) A certified limited practice graduate may provide short-term limited legal services to a client as contemplated by Colo. RPC 6.5 by disclosing to both the legal services program and any individual participating in the program with whom the graduate makes contact that the graduate is a “Certified Limited Practice Graduate” and not a licensed attorney. A Colorado-licensed attorney must be available to assist the certified limited practice graduate in the provision of such services.

(3) A certified limited practice graduate may appear in the courts and administrative tribunals of this state, including court-sponsored mediation, subject to the following qualifications and limitations:

(A) All required consents to the certified limited practice graduate’s appearance in a matter shall be brought to the attention of the judge or presiding officer;

(B) Appearances, pleadings, motions, briefs and other documents to be filed with a court prepared by the applicant must include the designation “Certified Limited Practice Graduate,” and also must be signed and filed by the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney;

(C) In criminal cases in which the defendant has not been charged with a felony, and in civil or criminal contempt proceedings, all prior to appeal: the certified limited practice graduate may participate as long as the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney is available, but not necessarily physically present in the courtroom, in the event that the client in question wants to consult with a licensed attorney. However, a supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney must be physically present in the courtroom if the proceeding is a testimonial motions hearing or trial;

(D) In all other civil cases, the certified limited practice graduate may conduct all pretrial, trial, and post-trial proceedings, other than appellate proceedings, with the supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney physically present, unless the judge or presiding officer orders that the certified limited practice graduate may participate without the presence of a licensed attorney and the client consents to the absence of a licensed attorney;

(E) In matters before appellate courts, the certified limited practice graduate may prepare briefs and other appellate filings, subject to the signature and filing requirements of this section. Upon motion by the supervising attorney or other attorney associated with the same firm or organization as the supervising attorney, the certified limited practice graduate may request authorization to argue the matter before the appellate court but, in all cases, the moving attorney must be present at the argument.

(F) A court or presiding officer may at any time and in any proceeding require the supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney to be physically present in a proceeding with a certified limited practice graduate.

(h) Compensation. A certified limited practice graduate rendering services authorized by this Rule shall not request or accept any compensation from the person for whom the certified limited practice graduate renders the services. The certified limited practice graduate may be compensated as an employee of a firm or other organization, and may request such compensation consistent with other law.

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(1) Any disciplinary complaint or request for investigation concerning a certified limited practice graduate should be directed to the Attorney Regulation Counsel. The Attorney Regulation Counsel may pursue immediate suspension of the certification of the limited practice graduate on a discipline or disability basis through petition to the Supreme Court, in exercise of its plenary authority. The Court in its discretion may request that the Presiding Disciplinary Judge serve as a special master for purposes of conducting any evidentiary hearing that the Court deems necessary. Nothing herein shall limit the authority of the Supreme Court to suspend or revoke certification of the limited practice graduate pursuant to subsection (f) of this Rule.

(2) The Attorney Regulation Counsel shall have jurisdiction over any requests for investigation against both the certified limited practice graduate and the supervising attorney, and may also refer all information pertaining to the certified limited practice graduate to the Office of Attorney Admissions and the Character and Fitness Committee. The Attorney Regulation Counsel may disclose to the supervising attorney any requests for investigation pertaining to the certified limited practice graduate.

(j) Public Information. The Clerk of the Supreme Court Office of Attorney Registration may disclose the identity and registered business contact information of both a certified limited practice graduate and that person's supervising attorney, and disclose the dates such certification was effective and is terminated.

(k) Use of the title "Certified Limited Practice Graduate."

(1) A certified limited practice graduate may use the title “Certified Limited Practice Graduate” only in connection with services performed pursuant to this Rule.

(2) A certified limited practice graduate shall not hold himself or herself out to anyone as a licensed attorney.

(3) Nothing in this Rule prohibits a certified limited practice graduate from describing his or her participation in this program on a resume, biographical summary, or application seeking employment as long as the description is not false, deceptive, or misleading.

**Rule 205.8. Emergency Rule Concerning Certification for Limited Practice as a Graduate Before Admission By Examination**

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(b) General Statement. In its discretion, the Supreme Court may certify an applicant for admission by the Colorado bar examination to be a certified limited practice graduate under the conditions and requirements of this Rule.

(c) Eligibility. An applicant for admission by the Colorado bar examination under C.R.C.P. 203.4 may apply to become a certified limited practice graduate under the procedures set forth in this Rule. Applicants who are eligible for temporary practice under C.R.C.P. 205.7(2)(b)(i)(A) may, but are not required to, be certified as a limited practice graduate under this Rule. To be eligible as a certified limited practice graduate, an applicant must demonstrate through a form, affidavit and any other evidence required by this Rule that the applicant:

(1) has submitted an application to the Office of Attorney Admissions pursuant to C.R.C.P. 203.4;

(2) has never been licensed to practice law in another state in the United States, the District of Columbia, or U.S. Territories;

(3) has graduated with a J.D. or LL.B. from a law school accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

(4) affirms an intent to practice law in Colorado under the supervision of a licensed attorney who meets the requirements of this Rule;

(5) has not yet had an opportunity to take the Colorado bar examination, or deferred such opportunity in 2019 to serve a judicial clerkship; and,

(6) has satisfied all other requirements for admission as a Colorado-licensed attorney, or the Office of Attorney Admissions has determined that the applicant may reasonably be expected to satisfy all such requirements prior to admission, except for obtaining a passing score of the Colorado bar examination.

(d) Filing Requirements and Effect of Registration.

(1) In order to perform the services set forth in this Rule, the applicant must request certification as a limited practice graduate through a form provided by the Clerk of the Supreme Court Office of Attorney Registration, with all the information requested on the form, together with a fee of

§50. The Clerk of the Supreme Court Office of Attorney Registration shall send a copy of all applications for graduate limited practice certification to the Office of Attorney Admissions to determine eligibility to provide services under this Rule.

(2) Upon being notified that the Office of Attorney Admissions has determined the applicant is eligible to be certified as a limited practice graduate, the applicant may register with the Clerk of the Supreme Court Office of Attorney Registration for supervised practice.

(A) The applicant shall affirm that the applicant has read, is familiar with, and will be governed by the Colorado Rules of Professional Conduct.

(B) The applicant must include with the registration the identity of the applicant's supervising attorney and an affidavit from the supervising attorney sufficient to establish that the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

(C) The applicant must include with the registration an attestation from the dean of the law school where the applicant was enrolled on graduation that the applicant meets the graduation requirements of this Rule, and, to the best of the dean's knowledge, is qualified by ability, training, and character to provide the services permitted by this Rule.

(3) The applicant must advise the Clerk of the Supreme Court Office of Attorney Registration immediately of any change in circumstances that renders the applicant ineligible for certification as a limited practice graduate.

(4) Nothing herein shall relieve an applicant of the continuing duty to inform the Office of Attorney Admissions of supplementary information and developments, including those relating to character and fitness, affecting the applicant's pending application for admission as a licensed attorney.

(5) Certification as a limited practice graduate confers no rights or presumptions bearing on the applicant's pending application for admission as a licensed attorney, and in no way restricts the Supreme Court's authority to determine an applicant's admission to the practice of law in Colorado.

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(1) An applicant may be certified as a limited practice graduate only if a supervising attorney who meets the requirements of this Rule, as determined by the Clerk of the Supreme Court Office of Attorney Registration and Attorney Regulation Counsel, has agreed to supervise the applicant. Under no circumstances may a certified limited practice graduate engage in the practice of law as a sole practitioner.

(2) The supervising attorney must through affidavit show that he or she:

(A) is admitted and in good standing in Colorado;

(B) has been engaged in the active practice of law for at least three of the past five years;

(C) is not the subject of any pending formal disciplinary or disability matters in any jurisdiction at the time of the applicant's registration under this Rule;

(D) expressly agrees to: assume all professional responsibility for the direct supervision for the professional work of the applicant, including the applicant's compliance with the Colorado Rules of Professional Conduct; provide any necessary assistance to the applicant to ensure the protection of the clients for whom the applicant provides services; either directly or through the services of another Colorado-licensed attorney associated with the supervising attorney's firm or organization, review, sign and file pleadings, briefs, and other legal documents that the applicant has prepared; and either directly or through the services of another Colorado-licensed attorney associated with the supervising attorney's firm or organization, be present for designated court appearances as required by this Rule or by order of any court or tribunal; and

(E) expressly agrees to notify the Clerk of the Supreme Court Office of Attorney Registration within seven days if the supervising attorney has terminated supervision of the applicant or if the supervising attorney becomes aware that the applicant no longer meets the requirements of a certified limited practice graduate.

(f) Termination of Certification. The privilege to engage in supervised practice through certification as a limited practice graduate under this Rule may be terminated by the Supreme Court at any time without notice or hearing and without any showing of cause, and also expires without action by the Court upon any of the following circumstances:

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(1) A certified limited practice graduate may counsel and advise clients, negotiate in the settlement of claims and charges, represent clients in mediation and other non-litigation matters, and engage in the preparation and drafting of pleadings, briefs, memoranda, instruments, and other legal documents. Any communication, other than internal communications signed by the applicant, must include the designation “Certified Limited Practice Graduate” and also must be signed by the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney.

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(C) In criminal cases in which the defendant has not been charged with a felony, and in civil or criminal contempt proceedings, all prior to appeal: the certified limited practice graduate may participate as long as the supervising attorney or another Colorado-licensed attorney associated with the same firm or organization as the supervising attorney is available, but not necessarily physically present in the courtroom, in the event that the client in question wants to consult with a licensed attorney. However, a supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney must be physically present in the courtroom if the proceeding is a testimonial motions hearing or trial;

(D) In all other civil cases, the certified limited practice graduate may conduct all pretrial, trial, and post-trial proceedings, other than appellate proceedings, with the supervising attorney or other Colorado-licensed attorney associated with the same firm or organization as the supervising attorney physically present, unless the judge or presiding officer orders that the certified limited practice graduate may participate without the presence of a licensed attorney and the client consents to the absence of a licensed attorney;

(E) In matters before appellate courts, the certified limited practice graduate may prepare briefs and other appellate filings, subject to the signature and filing requirements of this section. Upon motion by the supervising attorney or other attorney associated with the same firm or organization as the supervising attorney, the certified limited practice graduate may request authorization to argue the matter before the appellate court but, in all cases, the moving attorney must be present at the argument.

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(2) The Attorney Regulation Counsel shall have jurisdiction over any requests for investigation against both the certified limited practice graduate and the supervising attorney, and may also refer all information pertaining to the certified limited practice graduate to the Office of Attorney Admissions and the Character and Fitness Committee. The Attorney Regulation Counsel may disclose to the supervising attorney any requests for investigation pertaining to the certified limited practice graduate.

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(k) Use of the title "Certified Limited Practice Graduate."

(1) A certified limited practice graduate may use the title “Certified Limited Practice Graduate” only in connection with services performed pursuant to this Rule.

(2) A certified limited practice graduate shall not hold himself or herself out to anyone as a licensed attorney.

(3) Nothing in this Rule prohibits a certified limited practice graduate from describing his or her participation in this program on a resume, biographical summary, or application seeking employment as long as the description is not false, deceptive, or misleading.

**Amended and Adopted by the Court, En Banc, April 23, 2020, effective immediately.**

**By the Court:**

**Monica M. Márquez  
Justice, Colorado Supreme Court**

## GEORGIA

On July 20, the Supreme Court of Georgia [announced](#) that it was **canceling the in-person exam scheduled for September 9-10** and that it would instead administer an **online exam on October 5-6**. The Court had previously announced on April 17 that the July exam would be rescheduled for September 9-10. The Court also **adopted a temporary rule allowing recent law school graduates to become provisionally admitted to practice law prior to taking the bar exam**. The new rule also provides a process for lawyers admitted to the bar of another state who have recently moved to Georgia to obtain provisional admission.

# Latest News

## Supreme Court of Georgia Approves Provisional Admission to the Practice of Law - FORMS NOW AVAILABLE

To view the Supreme Court Order on Provisional Admission to the Practice of Law in Georgia click here (<https://www.gabaradmissions.org/SCOrder>).

On April 17, 2020, the Supreme Court of Georgia issued an order authorizing Provisional Admission to the Practice of law for certain recent law graduates and applicants licensed in another United States jurisdiction. The Court's order allows eligible applicants to practice law under certain conditions while preparing for the Georgia bar examination or awaiting his or her examination results.

### ELIGIBILITY

#### Recent Law Graduates

An applicant who graduated with a J.D. or qualifying LL.M. degree from a law school approved by the American Bar Association in the 18 months preceding the filing of his or per Petition for Provisional Admission and who:

- has never failed the bar examination in any jurisdiction;
- has current certification fo fitness from the Board to Determine Fitness of Bar Applicants;
- is certified by the dean or a member of the faculty of the law school from which he or she graduated as competent to practice law under supervision [An original letter from the dean or a faculty member certifying a petitioner's competence to practice law under supervision must be submitted to the Office of Bar Admissions by the law dean or faulty member via electronic mail directed to [gabaradmissions@gasupreme.us](mailto:gabaradmissions@gasupreme.us) or regular mail directed to the Office of Bar Admissions] and
- has not yet sat for the Georgia bar examination or has taken the Georgia bar examination and has not yet been notified of his or her score

is eligible for provisional admission.

CLICK HERE (<https://www.gabaradmissions.org/recent-law-graduate>) for the Petition for Provisional Admission for Recent Law Graduates

#### Lawyers Admitted in Another U.S. Jurisdiction

An applicant who is currently admitted by examination to the practice of law in another U.S. jurisdiction, who plans to sit for the Georgia bar examination, and who:

- is in good standing in every jurisdiction in which he or she is admitted;
- is not the subject of any pending disciplinary proceedings in any jurisdiction;
- has current certification of fitness form the Board to Determine Fitness of Bar Applicants; and
- is ineligible for admissions without examination under Part c of the Rules Governing Admission to the Practice of Law in Georgia

is eligible for provisional admission.

[CLICK HERE \(https://www.gabaradmissions.org/provisional-attorney\)](https://www.gabaradmissions.org/provisional-attorney) for the Petition for Provisional Admission for Lawyers Admitted in Another U.S. Jurisdiction

## Duration of Provisional Admission

Authorization to engage in the practice of law pursuant to the Court's Provisional Admission Order expires 30 days after release of the results of the second Georgia bar examination for which an applicant could have sat after submitting a Petition for Provisional Admission. In addition, authority to practice under supervision will automatically expire if an applicant:

- fails to register or sit for the second Georgia bar examination after such person submits his or her Petition for Provisional Admission;
- has his or her fitness certification suspended or revoked by the Board to Determine Fitness of Bar Applicants; or
- fails the Georgia bar examination.

## Process for Seeking and Registering For Provisional Admission

Applicants who seek provisional admission must submit to the Board of Bar Examiners a Petition for Provisional Admission, as well as all required documents establishing their eligibility for provisional admission.

Upon determination by the Board of Bar Examiners that an applicant is eligible for provisional admission, it will issue to the applicant: (1) a Certificate of Provisional Admission for the applicant's use; and (2) a written oath, which the applicant will promptly execute and return to the Office of Bar Admissions for filing. [CLICK HERE \(https://www.gabaradmissions.org/provisional-oath\)](https://www.gabaradmissions.org/provisional-oath) to view the Oath of Persons Provisionally Admitted to the Practice of Law.

Once the signed oath is filed with the Office of Bar Admissions, the applicant must register with the State Bar of Georgia and satisfy all State Bar of Georgia registration requirements.

[CLICK HERE \(https://www.gabar.org/membership/howtojoin/provisional.cfm\)](https://www.gabar.org/membership/howtojoin/provisional.cfm) to view information from the State Bar of Georgia regarding Provisional Admission.

**All documents to be submitted to the Board of Bar Examiners or the Office of Bar Admissions should be mailed to:**

**Office of Bar Admissions  
Nathan Deal Judicial Center  
330 Capitol Square, S.E., L200  
Atlanta, GA 30334**

[Click here to view all latest news \(allnews.action\)](#)

## IDAHO

On July 20, the Idaho Supreme Court directed the Idaho State Bar to administer **a remote exam on October 5-6 in addition to the July exam**. The Court also issued an emergency [order](#) **extending the term for legal intern licenses** until October 31, 2021.

# In the Supreme Court of the State of Idaho

IN RE: IDAHO BAR COMMISSION )  
RULES 226 AND 203 )

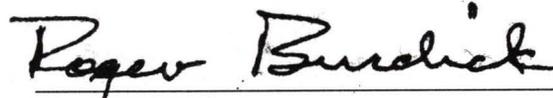
EMERGENCY ORDER

In light of health and safety concerns caused by COVID19 the court enters the following order:

- 1.) All provisions of this order apply to 2020 graduates only, all other limited licensees must continue to follow all provisions of existing Idaho Bar Commission Rule (IBCR) 226 as published in 2020-21 Desk Book.
- 2.) 2020 graduates who qualify for a legal intern license pursuant to existing IBCR 226 will have said limited license extended to October 31, 2021.
- 3.) The limited intern license will be terminated if the individual fails a bar examination in Idaho or any other state or is admitted to practice law in any other state, as well as any other provision of IBCR 226(k).
- 4.) Any applicant who has paid for the July 2020 examination may transfer any bar exam fee to another Idaho bar examination during 2020 or 2021. There will be no refunds pursuant to IBCR 203(c)(3).

IT IS SO ORDERED.

DATED this 20 day of July, 2020.



Roger Burdick,  
Chief Justice, Idaho Supreme Court

ATTEST:



Clerk

## ILLINOIS

The Illinois Supreme Court announced in a May 1 [press release](#) that the exam is **postponed until September 9-10**. The Court also entered an [order](#) temporarily relaxing rules to allow the Illinois Board of Admissions to the Bar the flexibility to prepare for and administer the exam in September, details of which are found on the Board's [announcements page](#). On July 2, the Court issued a [press release](#) and [order](#) announcing **amendments to its student practice rule** temporarily expanding the class of employers eligible to supervise new law school graduates.

IN THE  
SUPREME COURT OF ILLINOIS

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In re:

)  
)  
) Illinois Courts Response to  
) COVID-19 Emergency/  
) Temporary Performance of  
) Legal Services by Law  
) Graduates  
)

M.R.30370

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Order

In the exercise of the general administrative and supervisory authority over the courts of Illinois conferred on this Court pursuant to Article VI, Section 16 of the Illinois Constitution of 1970 (Ill. Const. 1970, art. VI, sec. 16), and in view of the outbreak of the novel coronavirus (COVID-19),

IT IS HEREBY ORDERED:

Effective immediately and until further order of the Court, Illinois Supreme Court Rule 711 is temporarily amended to add paragraph (g) as follows (new material is underscored):

**(g) Temporary Provisions Relating to the COVID-19 Pandemic.**

**(1) Rationale.** In light of the disruption to society, the national economy, and the legal system caused by the COVID-19 pandemic, including postponement of the July 2020 Illinois bar examination, this paragraph provides temporary accommodations for certain law graduates whose ability to seek admission to the bar has been delayed for reasons outside of their control.

**(2) Eligibility.** These temporary provisions apply to

(A) December 2019 and all 2020 Juris Doctor graduates of law schools accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association (“ABA accredited law schools”) and

(B) Juris Doctor graduates of ABA accredited law schools from prior years who have been serving as judicial law clerks since their graduation who have not yet taken a bar examination in any jurisdiction but who have successfully completed all educational requirements to be eligible to take the Illinois bar examination and have submitted an application to take the September

2020 or February 2021 Illinois bar examinations (“covered graduate”).

**(3) Services permitted.** After a covered graduate has completed the process established in paragraph (g)(7), the covered graduate may perform the services described in paragraph (c) without application to the Administrative Director. Nothing in Rule 711 is intended to preclude a covered graduate from providing services otherwise permitted under the Rules of Professional Conduct 5.3 or 5.5, provided those services are performed under the supervision of an attorney licensed in Illinois and in good standing.

**(4) Compensation.** A covered graduate rendering services authorized by this rule shall not request or accept any compensation from the person for whom the covered graduate renders the services, but may receive compensation from an agency or organization described in paragraph (g)(5).

**(5) Organizations through which services may be performed.** The services authorized by this rule may only be carried on in the course of the covered graduate’s work with one or more of the following organizations or programs:

(A) a legal aid bureau, legal assistance program, organization, or clinic chartered by the State of Illinois or approved by a law school approved by the American Bar Association;

(B) the office of the public defender;

(C) a law office of the State or any of its subdivisions; or

(D) a private law office or other legal department or organization with one or more attorneys, under the supervision of a licensed attorney who meets the requirements of paragraph (g)(6).

**(6) Supervision.** If in a private law office or other legal department or organization that qualifies under paragraph (g)(5)(D), a supervising attorney must:

(A) have been an active member in good standing with the Illinois Attorney Registration and Disciplinary Commission or an equivalent authority in another U.S. jurisdiction for the previous five years and have been an active member in good standing with the Illinois Attorney Registration and Disciplinary Commission for the previous two years;

(B) not be the subject of a pending disciplinary proceeding in any jurisdiction;

(C) maintain malpractice insurance coverage that includes coverage for any covered graduate for at least the minimum amount specified in Rule 722(b)(1);

(D) not supervise more than two covered graduates at one time;

(E) commit to involve the covered graduate in pro bono work as defined in Rule 756(f); and

(F) acknowledge that the supervising attorney is responsible for the covered graduate pursuant to Illinois Rules of Professional Conduct 5.1 and 5.3.

In addition, any supervising attorney is strongly encouraged to complete a training

program that would enhance the supervising attorney's skills in supervising covered graduates.

**(7) Process for a covered graduate to obtain Rule 711(g) status.**

(A) A covered graduate shall:

(i) secure an offer from an organization listed in paragraph (g)(5);

(ii) complete the Application for Authorization to Perform Legal Services Under Illinois Supreme Court Rule 711(g), which is available [here](#), including having the supervising attorney complete the pertinent section(s) of the form; and

(iii) submit the completed Application via e-mail to the dean of the covered graduate's law school.

(B) The dean of the covered graduate's law school shall:

(i) review the Application and verify that the dean has issued or would be willing to issue to the Illinois Board of Admissions to the Bar a "Certification of Juris Doctorate" free of any qualification or information that reflects adversely on the covered graduate's character and fitness;

(ii) verify that the supervising attorney meets the requirements of paragraph (g)(6); and

(iii) sign and return the approved Application to the covered graduate via e-mail and send copies to the supervising attorney, the Administrative Office of the Illinois Courts, and the Minimum Continuing Legal Education (MCLE) Board.

(C) Upon receipt of the approved Application from the dean, the covered graduate shall be authorized to perform legal services pursuant to this Rule 711(g). The approved application shall serve as proof that the covered graduate is so authorized.

**(8) Changing supervisors.** If a covered graduate's supervising attorney from an organization permitted under paragraph (g)(5) is no longer able to continue, or if the covered graduate working in an organization permitted under paragraph (g)(5) wishes to change supervising attorneys, the covered graduate must obtain a new supervising attorney and follow the provisions of paragraph (g)(7), including the requirement in paragraph (g)(7)(B)(ii) that the dean of the covered graduate's law school has verified the new supervising attorney meets the requirements of paragraph (g)(6).

**(9) MCLE requirement for covered graduates.** Within 60 days of beginning work under Rule 711(g), the covered graduate must complete six hours of the Basic Skills MCLE course required by Rule 793(c)(1) and then submit an online compliance report of these hours to the MCLE Board. During each subsequent 90-day period of providing services under Rule 711(g), the covered graduate must complete an additional 3 hours of MCLE courses and submit an online compliance report of these hours to the MCLE Board.

**(10) Complying with ethics and professional rules.** Covered graduates operating under the permission of Rule 711(g) are subject to the disciplinary authority of the Illinois Attorney Registration and Disciplinary Commission and the courts of this State, and each covered graduate must comply with all ethics and related rules of Illinois, including but not limited to rules requiring truthful and non-misleading advertising or other public statements concerning the covered graduate's limited authority to perform legal services pursuant to Rule 711(g).

**(11) Mandatory disclosures.**

(A) A covered graduate operating under permission of Rule 711(g) must disclose, in a clear and prominent manner, the covered graduate's limited authority to perform legal services by using the following language: "Performing legal services pursuant to Supreme Court Rule 711(g) pending admission to the Illinois State Bar."

(B) In the initial consultation with a prospective client, either a covered graduate operating under permission of Rule 711(g) or the supervising attorney must inform the prospective client of the covered graduate's temporary authorization to perform legal services pending admission to the Illinois State Bar; in addition, the supervising attorney, by direct contact with the client, must

(i) obtain the client's consent to be represented by the covered graduate and

(ii) provide the client with the supervising attorney's name, ARDC number, and contact information.

(C) When filing documents with a court or agency, interacting with counsel for another party, participating in alternative dispute resolution processes, or providing other permitted legal services, a covered graduate operating under permission of Rule 711(g) must provide the supervising attorney's name, ARDC number, and contact information to judges and other attorneys with whom the covered graduate interacts.

**(12) Termination of eligibility.** A covered graduate's Rule 711(g) authorization to perform legal services will terminate upon the earlier of:

(A) receiving results he or she failed the first bar examination taken after establishing Rule 711(g) licensure,

(B) the covered graduate's admission to the Illinois State Bar,

(C) the withdrawal of the supervising attorney or organization from the relationship with the covered graduate for cause, or

(D) termination by the Supreme Court of Illinois.

Under any circumstance, the covered graduate's authorization to perform legal services will terminate no later than November 4, 2021.

**(13) Reporting requirement.** Each law school dean who participates in the process to assist one or more covered graduate under paragraph (g)(7) will collect data on the implementation of Rule 711(g) and provide a report to the Administrative Office of the Illinois Courts no later than December 31, 2021. Such data shall be compiled in a form and manner prescribed by the Administrative

Office of the Illinois Courts and may include but shall not be limited to:

(A) the total number of Applications for Authorization to Perform Legal Services Under Illinois Supreme Court Rule 711(g) received by the dean,

(B) the total number of Applications for Authorization to Perform Legal Services Under Illinois Supreme Court Rule 711(g) approved by the dean,

(C) the total number of Applications for Authorization to Perform Legal Services Under Illinois Supreme Court Rule 711(g) not approved by the dean, and the reasons for such non-approval,

(D) the total number of covered graduates performing legal services with organizations identified in Rule 711(g)(5)(A), (B), or (C),

(E) the total number of covered graduates performing legal services with organizations identified in Rule 711(g)(5)(D),

(F) the impact Rule 711(g) has on the ability of graduates to secure permanent employment following graduation, and

(G) the impact Rule 711(g) has on existing public interest employers that employ Rule 711 license holders on a temporary basis, such as legal assistance clinics, non-profit legal aid organizations, and government agencies.

Amended effective May 27, 1969; amended July 1, 1985, effective August 1, 1985; amended July 3, 1986, effective August 1, 1986; amended June 19, 1989, effective August 1, 1989; amended June 12, 1992, effective July 1, 1992; amended October 10, 2001, effective immediately; amended December 5, 2003, effective immediately; amended February 10, 2006, effective immediately; amended June 18, 2013, eff. July 1, 2013; amended June 8, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; temporarily amended July 2, 2020, eff. immediately.

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Court, this 2nd day of July, 2020.

*Carolyn Taft Gosbell* Clerk,  
Supreme Court of the State of Illinois

# Announcements

## JULY 2020 EXAM POSTPONED TO SEPTEMBER 9-10

**JULY 2020 BAR EXAM: The Illinois Supreme Court announced that the July 2020 bar examination will not be administered on July 28-29, 2020. Click here to read the Court's announcement:**

<https://courts.illinois.gov/Media/PressRel/2020/050120.pdf> (<https://courts.illinois.gov/Media/PressRel/2020/050120.pdf>)

**The examination has been rescheduled to WEDNESDAY-THURSDAY, SEPTEMBER 9-10, 2020. The deadlines contained in Illinois Supreme Court Rule 706, and administrative deadlines set by the Illinois Board of Admissions to the Bar, are amended as follows:**

**Fees Already Submitted for July 2020:** Applications submitted and fees paid for the July 2020 bar exam will be automatically continued to the **September 9-10, 2020 administration date.**

**Final Exam Application Deadline:** The final deadline for registering for the Illinois bar examination now scheduled for September 9-10, 2020, is extended to **June 15, 2020.**

**Refund or Transfer to February 2021:** Make a written request to your processor, explaining your inability to sit for the September 9-10, 2020 exam and extenuating circumstances. Requests will be evaluated on a case-by-case basis. *Any request for a refund must be made by 12 p.m. on July 28, 2020.* Thereafter, only transfers of fees to February 2021 will be given.

**Deadline to submit Nonstandard Testing Forms and Documents:** The deadline is extended to **June 15, 2020.**

**MBE Transfer Receipt:** Applications to sit for the one-day exam with a transferred MBE score must have the MBE score submitted by **June 30, 2020.**

**Laptop Registration:** The laptop registration open period will be **July 8-22.**

**Dean's Certificate receipt:** Dean's certificates must be submitted by **July 31, 2020.**

**Administrative Accommodation Filing Deadline:** The deadline to submit Administrative Accommodation requests will be **August 1, 2020.**

September 2020 bar applicants should carefully monitor this website and their user home pages for further developments. Also monitor the National Conference of Bar Examiners information at:

<http://www.ncbex.org/> (<http://www.ncbex.org/>) or <http://www.ncbex.org/ncbe-covid-19-updates/>  
(<http://www.ncbex.org/ncbe-covid-19-updates/>)

*Click here to view all announcements » (allnews.action)*

## INDIANA

According to a May 7 [announcement](#), the Indiana Supreme Court handed down an [order](#) ordering the Indiana State Board of Law Examiners to **conduct a one-day remotely administered exam on July 28**. The exam will consist of the Indiana Essay Examination and a series of short answer questions on topics tested on the Multistate Bar Examination.

The Indiana Supreme Court issued an [order](#) on April 8 **amending the time limitations of its graduate legal intern rule**. The order allows anyone who graduated from law school after November 2019 to potentially serve as a graduate legal intern until the February 2021 bar exam, provided they have not failed any exam prior to that date.

# In the Indiana Supreme Court

In the Matter of the July 2020 Indiana Bar  
Examination.

Supreme Court Case No.  
20S-CB-300

## Order



On April 8, 2020, the Court entered an Order in which it indicated that it would announce its plan for the administration of the July 2020 Indiana bar examination on or before May 8, 2020. As a result of the circumstances surrounding the COVID-19 pandemic, it is unclear whether the State Board of Law Examiners will be able to safely administer a two-day, in-person Indiana bar examination on July 28-29, 2020 as scheduled or at any later date in calendar year 2020.

The Supreme Court therefore ORDERS that the Indiana State Board of Law Examiners shall conduct a one-day bar examination administered remotely on Tuesday, July 28, 2020. The examination shall consist of the Indiana Essay Examination and a series of short answer questions on the topics tested on the Multistate Bar Examination.

The Multistate Professional Responsibility Examination (MPRE) is administered and managed by the National Conference of Bar Examiners (NCBE). Applicants who have not yet taken the MPRE should look for updates on that test from the NCBE.

Additional information regarding delivery of the online bar examination, including plans for proctoring, will be provided by the State Board of Law Examiners to bar exam applicants, law schools, bar review courses and other interested parties by May 28, 2020.

Done at Indianapolis, Indiana, on May 7, 2020.



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Loretta H. Rush  
Chief Justice of Indiana

## KENTUCKY

On July 9, the Supreme Court of Kentucky issued a [press release](#) and an [order](#) canceling the July and September 30-October 1 exams and announcing that it would administer **a remote exam on October 5-6**. Kentucky has entered into **reciprocal agreements with the District of Columbia, Maryland, Massachusetts, New Jersey, and Tennessee for the portability of scores earned on the remote exam**. On May 13, the Court also issued a temporary [order](#) allowing **the temporary practice of law under supervision**, pending admission. Announcement about the remote October exam follows a May 11 [order](#) stating that the Kentucky Office of Bar Admissions would administer the exam in July as well as offer an additional administration of the exam on September 30-October 1. The Court had previously issued an April 15 [press release](#) in which it had announced that it planned to administer the exam in July, and that if it could not administer the exam in July, the exam would be rescheduled for September.

# Supreme Court of Kentucky

2020-50

## AMENDED ORDER

### **IN RE: ADMINISTRATION OF 2020 BAR EXAMINATIONS**

This Order replaces in its entirety Administrative Order 2020-35. Because of ongoing concerns with the novel coronavirus (COVID-19) and to protect the health and safety of bar applicants, employees, and volunteers, and under Section 116 of the Constitution and Supreme Court Rule 2.000, et seq., the Supreme Court hereby ORDERS the following measures to be implemented with respect to administration of the upcoming 2020 bar examinations:

1. The in-person bar examinations scheduled for July 28-29 and September 30-October 1 are cancelled.
2. The Kentucky Office of Bar Admissions (“KYOBA”) will administer a remote bar examination offered by the National Conference of Bar Examiners on October 5-6. In addition, the KYOBA will develop interactive instructional videos on significant aspects of Kentucky law, which each applicant will be required to complete successfully in order to receive a certificate to practice law.
3. All applicants currently registered for either in-person exam will automatically be registered for the remote exam.
4. As soon as reasonably possible, the KYOBA will notify all applicants of the security, technology, and procedural requirements for the remote bar examination.
5. All applicants for the bar examination are eligible for Supervised Practice of Law Pending Admission under Supreme Court Administrative Order 2020-51.

6. Except as expressly set forth in this Order, existing Rules of the Kentucky Supreme Court and bar examination rules and protocols of the National Conference of Bar Examiners and the KYOBA remain in full force and effect.

This Order shall be effective upon entry and until further Order of this Court.

Entered this 9th day of July 2020.

  
CHIEF JUSTICE

All sitting; all concur.

## MASSACHUSETTS

On July 1, the Massachusetts Supreme Judicial Court and the Massachusetts Board of Bar Examiners announced that **a remotely administered exam will be offered in lieu of the UBE on October 5-6**. Massachusetts has entered into **reciprocal agreements with the District of Columbia, Kentucky, Maryland, New Jersey, and Tennessee for the portability of scores earned on the remote exam**. In an April 23 [press release](#) and [plan](#), the Court and the Board also announced an **expanded opportunity for graduates to appear in court under its student practice rule**.

The Massachusetts Supreme Judicial Court and the Massachusetts Board of Bar Examiners had previously announced in a March 30 [press release](#) that the exam would be postponed until fall 2020, and the press release was updated on April 6 to [announce](#) that the exam would be held on September 30-October 1. In the April 23 [press release](#), the Court and the Board had announced a [plan](#) for the exam to proceed, noting that if the Uniform Bar Exam could not be conducted safely in person on September 30-October 1, an alternative exam would be administered remotely to grant admission only to Massachusetts. On May 4, the Board had released a [notice](#) with a plan for prioritizing seating arrangements for the September 30-October 1 exam in anticipation of a limited number of available seats for the exam.

# Supreme Judicial Court

## Information for Law School Graduates Regarding Measures in Response to the COVID-19 Pandemic

April 2020

### 1. INFORMATION REGARDING THE BAR EXAMINATION

#### The Uniform Bar Exam

The July 2020 Massachusetts administration of the Uniform Bar Exam has been postponed and will be held on September 30 and October 1, 2020. Unless prohibited by continuing limitations on large gatherings due to the COVID-19 pandemic, and unless the Board of Bar Examiners (“BBE”) determines that the exam cannot safely be administered even with the incorporation of social distancing and safety procedures, the exam will be administered at the Hynes Convention Center in Boston and additional venues as needed.

The BBE will expedite Uniform Bar Exam grading and the character and fitness evaluation process with the expectation of providing bar results by mid-December. Bar applicants who achieve a passing total scaled score of 270 or higher on the Uniform Bar Exam and meet the character and fitness standards set out in Board of Bar Examiners Rule V will be formally admitted to the bar during the week of January 11, less than two months later than they would have been admitted had the exam been administered in July. If an applicant has a pressing need to be admitted in late December or earlier in January, the applicant can arrange with the Clerk of the Supreme Judicial Court for the County of Suffolk (Clerk) to be sworn in.

#### Alternative Bar Exam

In the event that limitations on large gatherings or safety concerns prevent the BBE from administering the Massachusetts Uniform Bar Exam on September 30 and October 1, 2020, the BBE will devise an online means to test applicants for Massachusetts bar admission, with the test administered remotely on those same dates. To be clear, the alternative exam will be available only if the BBE cannot administer the Uniform Bar Exam, and will apply only to admission to the Massachusetts bar. If applicants wish to take the Uniform Bar Exam to be admitted to the bars of other states, they may do so at a later date or in a different state. The BBE will also expedite grading and the character and fitness evaluation process if the alternative bar exam is offered, with successful bar applicants to be formally admitted to the bar in late December or early January.

## 2. INFORMATION REGARDING S.J.C. RULE 3:03, STUDENT PRACTICE

### Temporary Expansion of SJC Rule 3:03

Currently, Supreme Judicial Court Rule 3:03 permits graduating law students who meet three criteria to appear with appropriate supervision before various courts and administrative agencies on behalf of the Commonwealth (including all prosecuting offices), indigent defendants assigned counsel by the Committee for Public Counsel Services (CPCS), and indigent clients assigned counsel by a legal service agency. This permission extends until the announcement of the results of the first bar examination following graduation and, for those who passed the exam, until they are admitted to the bar or six months from the date of the examination, whichever is sooner. Nothing in the rule prohibits a recent law graduate under Rule 3:03 from receiving fixed and regular compensation from a government agency or legal assistance program who has employed the recent graduate.

The three criteria for Rule 3:03 certification are: (1) the graduate has successfully completed a course for credit in evidence or trial practice, (2) the graduate's character, legal ability, and training has been approved by the dean of his or her law school, and (3) the dean's approval has been filed with the Clerk at least three months before graduation from law school. Because there may be recent law graduates who have or will accept employment by the Commonwealth, CPCS, or a legal services agency upon graduation, but who are not presently "Rule 3:03 certified," the Supreme Judicial Court has issued a temporary order allowing Massachusetts law school deans to file with the Clerk the student practitioner certification request form for spring 2020 law graduates with the approvals required by Rule 3:03 at any time before graduation. All other provisions of Rule 3:03 remain applicable.

## MINNESOTA

The Minnesota State Board of Law Examiners made an updated [announcement](#) on May 20 confirming that it will **administer the exam in July and on September 9-10**. The Board also advised applicants they could transfer to the February 2021 or July 2021 examination without filing a new application. On June 5, 2020, the Minnesota Supreme Court issued an [order](#) granting the Board's petition to adopt **expanded Supervised Practice Rules**. The Rules become effective July 1 and provide additional supervised practice options for recent graduates. These Rules replace the Court's current Student Practice Rules.

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8002

**ORDER ADOPTING SUPERVISED PRACTICE RULES**

The Minnesota State Board of Law Examiners filed a petition on April 20, 2020, proposing amendments to the Student Practice Rules to broaden the scope of those rules by allowing recent law school graduates to practice under the supervision of a Minnesota licensed lawyer in good standing. The Board also proposes to re-title the rules as the Supervised Practice Rules and re-organize provisions within those rules.

We opened a public comment period. The comments filed unanimously support the Board's proposed amendments to broaden the rules governing practice under the supervision of a Minnesota licensed lawyer in good standing. These proposed amendments will provide flexibility for recent law school graduates, while also enhancing the transition from law school to the licensed practice of law. Thus, we will adopt the Supervised Practice Rules as proposed by the Board of Law Examiners.

Two comments, filed by the New Lawyers Section of the Hennepin County Bar Association and the New Lawyers Section of the Minnesota State Bar Association, proposed additional amendments to the rules to expand the scope of the authorized supervised practice beyond recent law school graduates who are taking the bar examination for the first time.<sup>1</sup>

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<sup>1</sup> The Sections also propose changes to the administration of the July 2020 bar examination, but the current Student Practice Rules do not govern the administration of that exam, and the Board of Law Examiners has not proposed amendments to the Rules for

The proposed expansion of these rules, to encompass additional situations in which an applicant for admission to the Minnesota bar may be taking a written examination, implicates regulatory matters beyond the Supervised Practice Rules. Thus, further review and study by the Board of Law Examiners is appropriate before making a final decision on these suggested changes. With that additional input, the Board of Law Examiners can provide recommendations to the court as the Board deems appropriate.

IT IS HEREBY ORDERED that the petition of the Board of Law Examiners is granted. The Supervised Practice Rules as attached here are adopted effective as of July 1, 2020. The Supervised Practice Rules shall supersede the Student Practice Rules as of the effective date.

Dated: June 5, 2020

BY THE COURT:



Lorie S. Gildea  
Chief Justice

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Admission to the Bar to change the administration of that exam. *See* Minn. R. Admission to the Bar 6.A. Thus, we do not address these proposed changes further here.

**FILED**

## **SUPERVISED PRACTICE RULES**

April 20, 2020

### **Rule 1. Purpose.**

The Minnesota Board of Law Examiners (Board) administers these Rules to ensure that law students and recent graduates certified under these Rules have sufficient legal education and adequate supervision to perform lawyering tasks in an effective and confidential manner, while protecting the interests of the client.

**OFFICE OF  
APPELLATE COURTS**

### **Rule 2. Definitions.** In these Rules,

- A. "Eligible law student" means a student who:
  - 1. is duly enrolled at the time of certification in a law school approved by the American Bar Association (ABA);
  - 2. has completed legal studies equivalent to at least two semesters of full-time study prior to certification;
  - 3. has been certified by the dean or designee of the law school as:
    - a. being of good academic standing; and
    - b. qualified to participate either in a paid or unpaid capacity in a practice placement or clinical program in order to provide legal services to clients as a law student practitioner.
- B. "Eligible recent graduate" means a person who meets the following criteria:
  - 1. has graduated from an ABA approved law school within the previous 18 months;
  - 2. has been certified by the dean or designee of the law school as qualified to participate, either in a paid or unpaid capacity, in supervised legal employment or placement to provide legal services to clients as a supervised practitioner.
- C. "Jurisdiction" means the District of Columbia or any state or territory of the United States.
- D. "Law student practitioner" means an individual certified under these Rules who is a current law student.
- E. "Student observer" means a student certified under these Rules to observe any and all professional activities of a member of the bar as part of an academic program or course for academic credit, including client communication. Communication between the client and the student shall be privileged under the same rules that govern attorney-client privilege and work product doctrine, and the presence of a student during communication between the lawyer and the client shall not, standing alone, waive these evidentiary privileges.
- F. "Supervising lawyer" means a member of the Minnesota bar in good standing who accepts responsibility for a law student practitioner or supervised practitioner.

- G. "Supervised practitioner" means an individual certified under these Rules who has graduated from an ABA approved law school within the previous 18 months.

**Rule 3. Scope of Representation.** A law student practitioner or supervised practitioner may perform, under the supervision of a supervising lawyer, all functions that a lawyer may perform in representing and appearing on behalf of a client.

**Rule 4. Obligations of Law School.**

- A. Certification: A law school seeking to certify or recertify eligible law students or recent graduates under these Rules shall file with the Board a statement signed by the dean or dean's designee stating the following:
1. The name of each eligible law student or recent graduate;
  2. Verification that the individual is either in good academic standing or has graduated from the law school;
  3. For eligible recent graduates, the date on which the graduate's degree was conferred;
  4. For eligible law students, confirmation that the student has completed the equivalent of at least two semesters of full-time study;
  5. The name of the supervising lawyer who has agreed to supervise the individual's work; in the case of an entity, the name of the contact at the legal employer that will verify that all work is properly supervised;
  6. For student observers, confirmation that the placement is part of an academic program or course for academic credit;
  7. A statement that the law school will notify the Board in writing upon notice that any of the following have occurred:
    - a. The law student practitioner or student observer is placed on academic probation;
    - b. The law student practitioner graduates from law school;
    - c. The supervising lawyer advises the school that the employment or placement of the law student or supervised practitioner has ended.
    - d. The law school becomes aware that the supervised practitioner:
      1. Has failed the bar examination any jurisdiction; or
      2. Has been admitted to the bar of any jurisdiction.
- B. Continuing Obligation: A law school shall provide written notice to the Board within 30 days of becoming aware of any event noted in Rule 4A(7).
1. If a law student practitioner graduates, the law school shall advise the Board if the certification should convert from law student practitioner to supervised practitioner and, if so, provide the date of conferral and confirmation that there is ongoing employment with the same or a new supervising lawyer.

**Rule 5. Obligations of Supervising Lawyer.**

- A. When supervising a law student practitioner or supervised practitioner, the supervising attorney shall:
  - 1. Assume personal professional responsibility for and supervision of the law student or supervised practitioner;
  - 2. Sign all pleadings;
  - 3. Ensure the law student or supervised practitioner is identified to the client and the tribunal and knowingly accepted by both;
  - 4. Appear with the law student or supervised practitioner in all trials and all other proceedings, except in a proceeding where the client and judge or judicial officer waives the appearance after accepting the representation made by the supervising lawyer that the law student or supervised practitioner is prepared to proceed alone;
  - 5. Provide appropriate supervision and assistance as needed;
  - 6. Send written notice to the law school and the Board if the supervising lawyer terminates the supervisory relationship with the law student or supervised practitioner for any reason; and
  - 7. Abide by all obligations set forth in these Rules.
- B. When supervising a student observer, the supervising attorney shall ensure that the student observer has:
  - 1. Been identified as a student and accepted by the client; and
    - a. Signed a statement certifying the student observer will maintain the confidentiality that a lawyer is required to maintain under Rule 1.6 of the Minnesota Rules of Professional Conduct.

**Rule 6. Obligations of Law Student Practitioner.**

- A. Once certified, the law student practitioner shall take the following actions:
  - 1. Identify himself or herself to each client and tribunal as a law student practitioner and proceed only if accepted by both;
  - 2. Comply with the supervised practice requirements outlined in Rule 5A;
  - 3. Comply with Minnesota Rules of Professional Conduct;
  - 4. Request recertification through his or her law school before the expiration of certification, if eligible; and
  - 5. Ensure that his or her law school files notice to the Board of his or her graduation and, if eligible, requests recertification as a supervised practitioner.

**Rule 7. Obligations of Supervised Practitioner.**

- A. Once certified, the supervised practitioner shall take the following actions:
1. Identify himself or herself to each client and tribunal as a supervised practitioner and proceed only if accepted by both;
  2. Comply with the supervised practice requirements outlined in Rule 5A;
  3. Comply with the Minnesota Rules of Professional Conduct; and
  4. Notify his or her law school if he or she:
    - a. Registers and takes the bar examination in any jurisdiction;
    - b. Fails the bar examination in any jurisdiction; or
    - c. Is admitted in any jurisdiction.

**Rule 8. Obligations of Student Observer.**

A student observer shall sign and abide by a statement certifying that the student will maintain the confidentiality that a lawyer is required to maintain under Rule 1.6 of the Minnesota Rules of Professional Conduct.

**Rule 9. Obligations of the Board.**

- A. The Board shall:
- a. Review the certification applications filed by the law school to confirm eligibility under these Rules;
  - b. Provide written notice to the law school confirming certification;
  - c. Post to the website a list of law student practitioners and supervised practitioners and the date that certification is scheduled to expire;
  - d. Maintain a list of student observers approved under these Rules; and
  - e. Provide written notice to the law school and remove from the website the names of law student practitioners and supervised practitioners whose licenses have expired or terminated under these Rules.

**Rule 10. Period of Certification; Recertification.**

If otherwise eligible under these Rules and not precluded by Rule 11:

- A. A law student practitioner may be initially certified for a period of 12 months, and may renew certification for a period of 12 months;
- B. A law student practitioner may be recertified as a supervised practitioner upon graduation from law school; and
- C. A supervised practitioner may be certified for a period of 18 months from the date of degree conferral.

**Rule 11. Termination of Certification.**

- A. Certification as a law student practitioner terminates when the first of the following occurs:
  - a. Twelve months has elapsed from the most recent certification;
  - b. The law school, placement entity, or supervising lawyer sends written notice to the Board that the supervising lawyer is no longer willing to supervise the law student practitioner;
  - c. The student practitioner resigns or is terminated from the qualifying position; or
  - d. The law school places the law student on academic probation.
- B. Certification as a supervised practitioner terminates when the first of the following occurs:
  - a. The law school, placement entity, or the supervising lawyer sends written notice to the Board that the supervising lawyer is no longer willing to supervise the supervised practitioner;
  - b. The supervised practitioner resigns or is terminated from the qualifying position;
  - c. The supervised practitioner is admitted to the bar in any jurisdiction;
  - d. The supervised practitioner fails the bar examination in any jurisdiction; or
  - e. 18 months has elapsed from the date of degree conferral.
- C. Certification as a student observer terminates when the course ends or the student is placed on academic probation.

## MISSOURI

The Missouri Supreme Court [announced](#) on July 9 that the exam is proceeding as scheduled in July. The Court had previously announced that in the event the exam could not be administered in July, it would be held on September 9-10. On April 28, the Missouri Board of Law Examiners announced that the Missouri Supreme Court issued an [order](#) temporarily modifying its law student practice rule to extend the certification time period.

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**⚠ COVID-19 alerts from Missouri courts:**

**⚠ Please read court-specific notices.** To determine the status of a particular proceeding, please check the case's docket entries in Case.net, ask your attorney or contact the local clerk's office.

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## Order dated April 28, 2020, re: July 2020 Uniform Bar Examination



# Supreme Court of Missouri en banc

April 28, 2020

Effective April 28, 2020

In re: July 2020 Uniform Bar Examination

### ORDER

On March 13, 2020, national and state emergencies were declared following the classification of COVID-19 as a pandemic. In response, the National Conference of Bar Examiners (NCBE) has provided two alternative testing dates in 2020<sup>[1]</sup> for jurisdictions unable to administer a July bar exam. The Missouri Board of Law Examiners (Board) administers the Uniform Bar Exam (UBE) and the process for admission to The Missouri Bar pursuant to Rule 8. At this time, the Missouri bar exam is proceeding as scheduled on July 28 and 29, 2020, and the final application deadline is June 1, 2020.

Consistent with this Court's previous orders regarding COVID-19 and in furtherance of the ongoing efforts to mitigate the detrimental effects of the pandemic, the Supreme Court of Missouri adopts the following temporary modifications to Rule 8 related to the administration of the July 2020 UBE and Rule 13 related to law student certifications. The modifications apply only to properly filed applicants for the July 2020 administration of the UBE in Missouri.

1. Regulation 3 of Rule 8.07 is modified temporarily to permit July 2020 exam applicants to postpone taking the examination and to carry forward the application fee to the scheduled examination in February 2021 without requiring payment of a postponement fee. To be eligible for fee waiver, applicants must submit written notice of postponement to the Board on or before June 15, 2020.

2. Rule 13.03(a)(1) is modified to permit active law student certifications to remain in effect until the announcement of the results of the February 2021 bar examination, and for any student who passes that examination, the certification shall continue in effect until the date he or she is admitted to the bar. Certifications for students taking a bar exam held either in July 2020 or on the alternative 2020 date will remain in effect until announcement of the results for that exam, and for any student who passes that examination, the certification shall continue in effect until the date he or she is admitted to the bar.

3. To prevent the number of applicants for the Missouri July 2020 UBE from exceeding the available seating capacity for testing, the Board may, at its discretion, impose a maximum number of applications allowed to be submitted, no fewer than 760 if testing under normal conditions and fewer if health directives require limited seating, and shall post a notice on the Board's website upon implementation. Applications properly filed after the Board's notice shall be accepted in the order received, up to the maximum number, with equal priority afforded to Missouri residents, graduates of ABA-approved law schools located in Missouri or a contiguous state, licensed attorneys for an employer located in Missouri, and recipients of an offer of employment as a licensed attorney for an employer located in Missouri. No application to retake the exam shall be accepted for filing after the Board's notice if the applicant has sat for four or more prior administrations of the Missouri bar exam.

4. If official national, state, or local orders in effect as of June 15, 2020, prevent testing under normal conditions, the Board may, at its discretion, limit the number of examinees to ensure the test is administered safely and in accordance with official health directives. Applicants shall be approved for testing, up to the maximum number, according to the order a properly filed application was received, with equal priority afforded to Missouri residents, graduates of ABA-approved law schools located in Missouri or a contiguous state, licensed attorneys for an employer located in Missouri, and recipients of an offer of employment as a licensed attorney for an employer located in Missouri. Applicants who have sat for four or more prior administrations of the Missouri bar exam will not be allowed to test if the Board imposes limits on the number of examinees. Applicants not allowed to test because of limits imposed on the number of examinees shall be allowed to carry forward the application fee to the next scheduled examination without assessment of additional postponement fees.

5. In accordance with Centers for Disease Control and Prevention (CDC) guidance and to prevent the spread of COVID-19, applicants for the July 2020 examination will not be allowed into the testing area if they

a. traveled to any foreign country within the 20 days prior to the exam;

b. reside or have close contact with someone who traveled to any foreign country within the 20 days prior to the exam;

- c. have been asked to self-quarantine by any doctor, hospital or health agency within the 30 days prior to the exam;
- d. have a fever or are sick;
- e. have been diagnosed with, or have had contact with, anyone who has been diagnosed with COVID-19 within the 20 days prior to the exam; or
- f. reside in a jurisdiction outside of Missouri that is subject to an official travel advisory in effect within 30 days of the scheduled date of the bar examination. Official travel advisories include, but are not limited to, those issued by the CDC, World Health Organization, or state and local governments.

Applicants denied admission to the exam for the reasons set forth in paragraph five shall be allowed to carry forward the application fee to the next scheduled examination without assessment of additional postponement fees.

6. In the event the bar examination cannot be administered on July 28 and 29, 2020, the exam will be held on September 9 – 10, 2020, and the application fee paid by properly filed July applicants will be valid either for the examination held on the rescheduled date or for the February 2021 examination, but not both. Applicants will be required to select the September 2020 or February 2021 testing date and notify the Board within 15 days after notice is posted rescheduling the exam. Properly filed applicants who provide timely notice of selection will not be required to submit another application either for the September 2020 or February 2021 administration. Applicants have a continuing duty to update or amend the July 2020 application if changes occur with respect to any information submitted.

Day – to – Day

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GEORGE W. DRAPER III  
Chief Justice

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[1] September 9-10 and September 30-October 1.

## MONTANA

Montana is still planning to **administer the exam in July as scheduled**. On June 17, the Montana Supreme Court issued an [order](#) approving **temporary rules to allow provisional admission to the bar** for certain eligible candidates who are unable or unwilling to sit for the bar amid the COVID-19 pandemic.

## IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 11-0244

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IN RE RULES FOR ADMISSION  
TO THE BAR OF MONTANAO R D E R

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On June 5, 2020, the State Bar of Montana Board of Trustees filed a petition in support of Temporary Rules for Admission to the Bar of Montana.

After consideration of the proposed amendments, the Court has determined to issue an expedited order given the unusual circumstances prompting this request, the fact that the date of the Montana Uniform Bar Exam is July 28-29, 2020, and the need for this Court to act expeditiously.

IT IS ORDERED that the Petition to Adopt Temporary Rules for the Admission to the Bar of Montana is GRANTED, and the attached Rules are ADOPTED, effective immediately.

This Order and the attached Rules shall be posted on the Court's website. In addition, the Clerk is directed to provide copies of this Order and attached Rules to the State Law Library, to Todd Everts and Connie Dixon at Montana Legislative Services, to Chad Thomas and the Thomson Reuters Rules department at Thomson Reuters, to Patti Glueckert and the Statute Legislation department at LexisNexis, and to the State Bar of Montana, with the request that the State Bar provide notice of the revised Rules on its website and in the next available issue of the *Montana Lawyer*.

DATED this 17th day of June, 2020.

/S/ MIKE McGRATH  
/S/ JAMES JEREMIAH SHEA  
/S/ LAURIE McKINNON  
/S/ BETH BAKER  
/S/ INGRID GUSTAFSON  
/S/ DIRK M. SANDEFUR  
/S/ JIM RICE

## **TEMPORARY RULES FOR ADMISSION TO THE BAR OF MONTANA**

### **A. Purpose**

1. In light of the extraordinary circumstances created by the global pandemic of COVID-19, some candidates will be unable or unwilling to sit in person for the Montana Uniform Bar Examination and will choose to defer until the next administration of the exam.
2. Postponing the bar examination may impair the livelihoods of those persons as well as the lawyers and law firms who intended to employ those persons.
3. Through provisional admission of eligible persons, the Court seeks to mitigate the economic hardships for those candidates who are unable or unwilling to sit for the Montana bar examination while fulfilling the Court's responsibility to protect the public by ensuring that persons practicing law in Montana are competent to do so.

### **B. Eligible Persons**

1. A recent graduate of law school is eligible for provisional admission to the Montana State Bar if he or she:
  - a) Graduated from a law school accredited by the American Bar Association in the 18 months immediately preceding his or her application for provisional admission;
  - b) Has been certified as fit to practice law by the Montana Commission on Character and Fitness;
  - c) Has been certified by the dean of the law school from which he or she graduated as being of good character and competent legal ability;
  - d) Has not failed a bar examination in any jurisdiction; and
  - e) Has not been denied admission in any other jurisdiction.
2. A lawyer admitted to practice in another jurisdiction is eligible for provisional admission if he or she:
  - a) Has been admitted by examination to the practice of law in another jurisdiction in the United States, is in good standing in every jurisdiction in which he or she is admitted to the practice of law, and is not the subject of any pending disciplinary proceedings in any jurisdiction;

- b) Has been certified as fit to practice law by the Montana Commission on Character and Fitness;
- c) Has not been denied admission in any other jurisdiction; and
- d) Is not eligible for admission upon motion under Section V of these Rules, *Admission on Motion*.

**C. Application for Provisional Admission**

1. To seek provisional admission, an eligible person must submit an application to the Montana Board of Bar Examiners on a form issued by the Board for this purpose, along with any required documentation.
2. The applicant must have obtained a scaled score of 80 or higher on the Multistate Professional Responsibility Examination (MPRE) from any testing site:
  - a) No earlier than three years before the date of the applicant's provisional admission, or
  - b) No later than 12 months after the date of the applicant's provisional admission.
3. The applicant shall acknowledge in writing that, upon provisional admission, the applicant is subject to these Rules and the Montana Rules of Professional Conduct.
4. The applicant shall further acknowledge that any violation of these Rules or of the Montana Rules of Professional Conduct may subject the applicant to discipline by the Montana Office of Disciplinary Counsel and/or this Court, which may include:
  - a) Suspension of this provisional admission; and/or
  - b) Revocation of the applicant's certification of fitness by the Commission on Character and Fitness.

**D. Certificate of Provisional Admission**

1. Upon determination by the Montana Board of Bar Examiners that the applicant is eligible for provisional admission, the Bar Admissions Administrator shall issue the applicant a Certificate of Provisional Admission.
2. Prior to the applicant's provisional admission to the Montana Bar, he or she shall:
  - a) Sign the roll of attorneys kept by the Clerk of the Montana Supreme Court;
  - b) Sign the attorney ethics oath;

- c) Recite the oath prescribed by the Montana Supreme Court, which may be administered by any Montana district judge or Supreme Court justice or the Clerk of the Montana Supreme Court;
- d) Provide proof of insurance as required by section E(1); and
- e) Pay the following fees:
  - i. State of Montana license tax;
  - ii. State Bar of Montana fees and assessments; and
  - iii. Fees and assessments for the Office of Disciplinary Counsel and the Lawyers' Fund for Client Protection.

**E. Practice Requirements: Supervised Practice & Malpractice Insurance**

1. At all times, a person provisionally admitted to the Montana Bar shall be insured for legal malpractice.
2. At all times, a person provisionally admitted to the Montana Bar shall be supervised by a lawyer who
  - a) Was admitted to the Montana Bar no later than October 1, 2015;
  - b) Is an active member of the State Bar of Montana in good standing; and
  - c) Has never been the subject of public discipline.
3. A provisionally admitted lawyer shall disclose to each client at the outset of the representation that he or she is provisionally admitted and may practice only under supervision.
  - a) A provisionally admitted lawyer shall provide each client in writing the name of the lawyer supervising him or her, including the lawyer's firm name, mailing address, email address, telephone number, and Montana bar number.
  - b) Every document a provisionally admitted lawyer files in a Montana state or federal court or tribunal shall:
    - i. Expressly disclose that the person is provisionally admitted, and
    - ii. Shall identify the lawyer supervising the provisionally admitted person, including the supervising lawyer's firm name, mailing address, email address, telephone number, and Montana bar number.

4. A provisionally admitted lawyer appearing in a Montana court or administrative tribunal must file a document showing the supervising attorney's and client's written consent to the provisionally admitted lawyer's representation.

a) The provisionally admitted lawyer must orally advise the court at the initial appearance that he or she is certified to appear pursuant to this rule.

#### **F. Authorized Scope of Practice**

Subject to the limitations described *infra*, a person provisionally admitted to the Montana Bar may appear in courts of record, administrative tribunals, arbitration hearings, and other judicial and quasi-judicial proceedings in all civil and criminal matters.

1. In civil cases in any court or tribunal, the person on whose behalf an appearance is being made must consent to the supervising attorney's absence.
2. In any criminal matter in which the defendant does not have the right to counsel under a constitutional provision, statute, or rule of this court, the supervising attorney is not required to be personally present in court. However, if the defendant has the right to counsel, the supervising lawyer must be personally present throughout the proceedings.

#### **G. Publication**

The State Bar of Montana shall publish the names of all persons provisionally admitted to the Montana Bar, including in the Montana Lawyer.

#### **H. Termination of Provisional Admission**

1. A person's provisional admission shall terminate immediately if the provisionally admitted lawyer:
  - a. does not sit for either of the first two Montana Uniform Bar Examinations administered after the date these rules are adopted by the Montana Supreme Court;
  - b. fails the Montana Uniform Bar Examination; or
  - c. is sworn in as a full member of the Montana Bar.
2. A person who passes the Montana Uniform Bar Examination shall be provisionally admitted until the first of the following occurs:
  - a) 60 days pass after the Board of Bar Examiners releases the results of the Montana Uniform Bar Examination, or

- b) The person is sworn in as a full member of the Montana Bar.
- 3. If a provisionally admitted person becomes eligible for full admission to the Montana bar by admission on motion before his or her provisional admission expires, he or she shall promptly take the steps necessary to complete his or her full admission on motion.
- 4. The Montana Supreme Court has the authority to revoke or suspend any provisional admission for good cause shown upon the motion of the Montana Office of Disciplinary Counsel or the Montana Board of Bar Examiners, or upon proof of the provisional lawyer's violation of these Rules or of the Montana Rules of Professional Conduct.

**I. Automatic Expiration of These Rules**

- 1. Unless otherwise ordered by the Montana Supreme Court, these Temporary Rules of Admission to the Montana Bar will expire 60 days after the Board of Bar Examiners releases the results of the second Montana Uniform Bar Examination administered after the date these rules are adopted by the Montana Supreme Court.
- 2. The Montana Supreme Court may extend these rules as required by the continuing public health emergency and, if necessary, will do so by further order.

## NEW JERSEY

On July 15, the New Jersey Supreme Court issued a [press release](#) and [order](#) canceling the **September 9-10 exam and announcing that it would administer a remote exam on October 5-6**. New Jersey has entered into **reciprocal agreements with the District of Columbia, Kentucky, Maryland, Massachusetts, and Tennessee for the portability of scores earned on the remote exam**. This follows a previous [announcement](#) by the Court on April 6 that the exam would be postponed until fall 2020 and a subsequent announcement that the exam would be administered on September 9-10. An April 6 [order](#) issued by the Court **relaxes and expands Court rules to allow 2020 law school graduates to temporarily practice law under the supervision of experienced attorneys despite postponement of the exam**.

## SUPREME COURT OF NEW JERSEY

On April 6, 2020, the Court rescheduled the next administration of the bar examination from July 2020 to the Fall. Based on guidance from the New Jersey Department of Health and other authorities, it appeared unlikely that the COVID-19 pandemic would have abated to a degree that it would be prudent to administer the bar examination in July 2020.

Also on April 6, 2020, the Court temporarily expanded the provisions of Rule 1:21-3 for 2020 law school graduates who have not previously taken a bar examination. The Court authorized their temporary practice of law under specific conditions, including supervision by a New Jersey licensed attorney and certification by the Committee on Character.

Three months have elapsed since the Court took those steps. In the intervening time, nearly 2,000 candidates have applied to take New Jersey's Fall 2020 administration of the bar examination. Approximately 900 applicants are from out-of-state; roughly 150 are from states whose residents are subject to self-quarantine pursuant to the Governor's travel advisory.

Although New Jersey has made significant inroads to combat the effects of the COVID-19 pandemic, COVID-19 is gaining strength in many areas of the country and continues to be a serious threat to health and safety. Under the circumstances, and guided by the science, the Supreme Court has concluded it

is simply unsafe to gather 2,000 applicants, even across multiple coordinated locations, for an in-person bar examination.

Instead, the Court authorizes the Board of Bar Examiners (Board) to administer a “remote” bar examination this Fall. Like other court functions that have transitioned successfully to remote operations, a remote bar examination will maintain professional standards and public confidence at a time when health officials counsel against large, in-person events.

It is therefore ORDERED as follows:

1. The bar examination scheduled for September 9-10, 2020 as an in-person administration is cancelled in light of the COVID-19 pandemic. The Board is hereby authorized to administer a remotely proctored examination on October 5-6, 2020 (the “remote examination”), using questions prepared by the National Conference of Bar Examiners (NCBE), which shall satisfy the examination requirement of Rule 1:24-2 and Rule 1:27-1(a)(1). The remote examination shall test the same legal topics as the Uniform Bar Examination (UBE), and shall include the same testing components (e.g., the Multistate Performance Test (MPT), Multistate Essay Examination (MEE), and Multistate Bar Examination (MBE) questions), albeit at a reduced number of questions.

2. All other requirements for application and plenary admission to the bar remain in effect, including graduation from a law school approved by the American Bar Association and certification by the Committee on Character. See, e.g., R. 1:24-1 (Qualifications and requirements for application); R. 1:27-1 (Plenary admission).
3. The Board shall provide updates as soon as practicable on the Board's website and through communications directed to those who previously applied for the Fall 2020 examination.
4. Applicants who previously applied for the Fall 2020 examination shall be registered automatically for the remote examination to be administered on October 5-6, 2020. Should any such applicant wish to withdraw the application, the Board will provide such opportunity and will issue a refund of the application fee.
5. Any applicant who previously registered for the Fall 2020 examination and who elects not to take the remote examination shall be permitted to defer taking the bar examination until the next administration of an in-person examination. Any applicant who chooses to defer until an in-person examination is offered shall remain eligible to practice temporarily under supervision, as provided for in the Court's April 6, 2020 Order, provided that the applicant satisfies all other requirements

for temporary practice and ultimately applies for and sits for the first in-person administration of the bar examination offered in New Jersey.

6. All other aspects of the April 6, 2020 Order remain in effect. We repeat, for emphasis, that temporary authorization for 2020 graduates to practice under supervision does not confer on them either a plenary license or any vested or implied right to be licensed, as set forth in Rule 1:27-1 et seq., and further may be revoked by order of the Court.
7. Recognizing that the remote examination does not bestow on applicants a portable UBE score, the Board is authorized to enter into Memoranda of Understanding with other states offering the NCBE's remote examination on October 5-6, 2020, to provide for portability of scores earned on that examination, wherever possible.

For the Court,

A handwritten signature in blue ink, appearing to read "S. R. ...", is written over a horizontal line.

Chief Justice

Dates: July 15, 2020

## NEW YORK

On July 16, the New York State Board of Law Examiners, after consultation with the New York State Court of Appeals, [announced](#) **the cancellation of the exam scheduled for September 9-10**. The Court of Appeals has appointed a Working Group to evaluate administering a remote exam on October 5-6 and expects to **reach a recommendation by early August**. The Court also amended its rules, effective July 22, to further enhance a previously approved program designed to provide **temporary authorization for qualified law graduates to engage in the limited practice of law under the supervision of a qualified attorney**. The Court had previously announced in a March 27 [press release](#) that the exam would be rescheduled for fall 2020, with the Board subsequently announcing that the exam would be rescheduled for September 9-10.

**New Message from Chief Judge DiFiore - July 20th, 2020**

## COURT CALENDAR

<	Jul	>	2020	>		
Su	Mo	Tu	We	Th	Fr	Sa
28	29	30	1	2	3	<b>4</b>
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1
Today : Jul 23, 2020						

[Current Case Summaries](#)

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[\(About Court Sessions\)](#)

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[Transcript of the Chief Judge's Message](#)

### Notice to the Bar - Court of Appeals Operations - July 22, 2020

Court of Appeals Hall is now open for in-person filings in accordance with current Court system guidelines. Individuals filing papers in person will be screened at the Eagle Street entrance before entering Court of Appeals Hall. The Court will continue to accept submissions by mail and, as permitted by its Rules, electronically. Courtroom tours for visitors will not be available until further notice.

The Court is scheduled to hear in-person oral argument at Court of Appeals Hall during its September Session, following appropriate health safety protocols. At this time, it is anticipated that the courtroom will be closed to the general public. Oral argument will be webcast live.

Please check this website for notices of any further changes to the Court's schedule or procedures. The full notice to the bar can be accessed [here](#).

### Bar Examination & Temporary Practice Order Update - July 16, 2020

On July 16, 2020, the Board of Law Examiners made the difficult decision to cancel the September 9-10 administration of the bar examination in New York. The Board arrived at this decision after careful consideration of current conditions and with a singular focus on the health and safety of all participants. Unfortunately, the global pandemic presents a persisting threat in a growing number of states and therefore, at this juncture, an in-person exam is not yet a safe or practical option in New York.

The Court of Appeals commends the members of Board of Law Examiners, ably lead by Diane Bosse, for their tireless efforts to administer the bar exam under these difficult circumstances and for their considered decision to suspend the September exam. The Court is also appreciative of the input and cooperation of the Deans of New York's fifteen law schools, who generously

## Court-PASS

for normal course and Rule 500.11  
appeals, Certified Questions and  
Judicial Conduct Matters

## Companion Filing Upload Portal

for motions and Rule 500.10  
Jurisdictional Responses

## LIVE Oral Arguments WEBCAST

(Refer to Calendar for Date and Times)

[Oral Argument Archive](#)  
(including Transcripts and closed  
captioned video)

[Other Important Webcasts](#)

## Clerkship Opportunities

offered their facilities in order to make possible the Board's redesigned exam administration.

Because suspension of the September exam has always been a real possibility, the Court has proceeded on dual tracks: working towards a safe administration of the exam while simultaneously developing contingencies to ameliorate the effects of further postponement. As previously announced, the Chief Judge has approved a program designed to provide temporary authorization for qualified law graduates to engage in the supervised practice of law. To formally implement the program, the Court has amended its rules, effective July 22. As provided in the Court's amended rules, the temporary authorization program is available to all first-time takers of the bar examination employed in New York, including both J.D. and LL.M. candidates, irrespective of their graduation year. Once authorized, eligible candidates will be permitted to work under a qualified supervising attorney prior to their admission to the bar and to perform, subject to supervision, many of the functions of admitted attorneys across the State. Candidates may remain in the program through their formal admission to the bar, so long as candidates pass their first bar examination no later than 2021 and promptly seek admission to the bar following the release of exam results. The Court's order can be [accessed here](#).

A standardized and streamlined application process has been developed to enable candidates to swiftly secure temporary authorization to practice. Qualified candidates may apply for authorization through the department of the Appellate Division in which they expect to be certified for admission by the New York State Board of Law Examiners. Application forms and related information can be found on each Department's website. The Appellate Division will begin processing applications on July 22, when the Court's amended rules take effect.

In addition, the Chief Judge has assembled a Working Group, to be chaired by retired Court of Appeals Judge Howard A. Levine, to study the future of the bar exam in New York. The Working Group has been tasked with evaluating, in a comprehensive manner, the primary assessment tool for New York bar applicants (presently, the Uniform Bar Examination) as well as other proposed metrics for bar admission - including a fully remote bar exam and a diploma privilege, among other alternatives. Relevant considerations will include health and safety, feasibility, equality, security, and the reliability of each proposed alternative as an accurate measure of an applicant's proficiency. As its first priority, the Working Group will evaluate the emergency remote testing option to be offered by the NCBE on October 5-6 and endeavor to reach a recommendation by early August. This important work will explore innovative methods of adapting our professional licensure process in a responsible manner as we emerge from the most acute stages of this crisis.

Prior Bar Examination and Legal Education updates can be [accessed here](#).

### Notice to the Bar - 2021 Calendar of Sessions

The Court of Appeals has released its 2021 Calendar of Sessions. The schedule includes the appeal sessions as well as the Court's conference days, which are scheduled for June 17 and 18 and December 9 and 10. May 18 is a special primary election appeals session day.

The full Notice can be [accessed here](#).

### Amended 2020 Calendar of Sessions

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#### Court-PASS Docket

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#### Undecided Argued Appeals

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#### Undecided Civil Motions

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#### Certified Questions (500.27)

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#### New Case Filings

#### ▶ FREQUENTLY ASKED QUESTIONS

#### ▶ PRACTICE AIDS

#### ▶ COURT FORMS

#### ▶ COURT NEWS

#### ▶ ANNUAL RELEASES AND EVENTS

#### ▶ COURT EMPLOYMENT

#### ▶ LINKS OF INTEREST

### CONTACT INFORMATION

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20 Eagle Street  
Albany, New York 12207  
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The Court of Appeals has amended its 2020 Calendar of Sessions, changing argument dates for its September and October sessions. The revised calendar also reflects changes made to the March, April-May and June sessions to address the coronavirus public health emergency.

The full Notice can be [accessed here](#)

**Notice to the Bar - The Court has amended its Rules of Practice - Companion Submissions in Digital Format**

The Court has amended its Rules of Practice to require, for motions and responses to Rule 500.10 jurisdictional inquiries, submissions in digital format as companions to the printed papers filed and served in accordance with the Court's Rules of Practice. The Court has also amended its Rules of Practice to reduce the number of printed copies that must be filed for civil motions for leave to appeal, reargument motions, and papers in opposition to those motions. The amended Rules are effective May 27, 2020. Any responses to Rule 500.10 jurisdictional inquiries requested on or after May 27, 2020 and any motions returnable on or after June 1, 2020 must comply with the amended Rules. A full copy of the notice to the bar, and relevant portions of the proposed amended Rules, can be [accessed here](#).

**The Court has amended its Rules for the Registration of In-House Counsel (Part 522), effective April 15, 2020**

The Court has amended its Rules for the Registration of In-House Counsel (Part 522), effective April 15, 2020. The amendments permit part-time in-house counsel practice; clarify that there is no New York residency requirement under Part 522; expand the grace period for registering as in-house counsel; authorize a 90-day period to cure any past failures to register as in-house counsel; eliminate the reciprocity requirement for in-house counsel registration by foreign attorneys; eliminate the requirement that foreign attorneys be and remain members in good standing of their home jurisdiction bars if such membership is unavailable to in-house counsel, as is the case in a number of civil law jurisdictions; permit foreign attorneys to apply for registration as in-house counsel on the basis of affidavits if their home jurisdiction is unable to provide proof of good standing because of a lack of structure of legal oversight of in-house counsel in that jurisdiction; and permit foreign attorneys who are registered as in-house counsel to provide pro bono services under the direct supervision of a duly registered New York attorney. The full notice can be [accessed here](#).

**Excellence Initiative**

On February 8, 2016, Chief Judge DiFiore announced the Excellence Initiative, a detailed and comprehensive evaluation of current processes and procedures to determine what is working well and what needs to be improved in the New York State Unified Court System. For more information on this initiative, including how comments may be submitted to the Chief Judge, please see [Excellence Initiative](#).

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## OHIO

The Supreme Court of Ohio [announced](#) on May 13 that the exam will be **postponed until September 9-10**. The Court has also **expanded its Practice Pending Admission during the Admission to the Practice of Law Process** for recent law school graduates.

## Practice Pending Admission for Recent Graduates

On May 13, 2020, the Court announced that Gov. Bar R. I, Sec. 19, Practice Pending Admission During the Admission to the Practice of Law Process (PPA) shall be expanded to allow recent law school graduates to apply to the Court for temporary supervised practice. Applications for PPA will be available on the Office of Bar Admissions website. The Office of Bar Admissions will begin accepting PPA applications on Monday, June 15, 2020. Please refer to [In re July 2020 Bar Examination and expansion of PPA order](#).

### FAQ Application Materials

#### Frequently Asked Questions

##### 1. Who is eligible to submit a PPA application?

An applicant must satisfy the following requirements: 1) must be a December 2019 or 2020 graduate of an ABA accredited law school; 2) must satisfy the provisions of Gov. Bar R. I, Sec. 1-3 and have a Registration Application and Application to take the July 2020 administration of the bar exam already submitted to the Office of Bar Admissions; 3) must receive from the Board of Commissioners on Character and Fitness (Board) final approval of the applicant's character, fitness, and moral qualifications to practice; 4) must not have failed a bar examination in Ohio or any other jurisdiction.

##### 2. When can an applicant apply for PPA?

An applicant must receive final character and fitness approval from the Board before submitting an application for PPA. PPA applications will be available online as of June 1, 2020. The Office of Bar Admissions will begin accepting PPA applications as early as Monday, June 15, 2020.

##### 3. How does an applicant receive final approval from the Board?

Once an applicant receives provisional approval from the local bar association, the Office of Bar Admissions will submit the applicant for final Board approval.

##### 4. When will an applicant know they received final character and fitness approval?

The Office of Bar Admissions will send notice to the applicant informing them of the Board's decision. The Board will be reviewing applicant files and issuing final approvals on a continuing basis. If the Board issues final approval, the application materials and instructions for PPA will be provided. If an applicant does not receive final approval, the applicant will be notified and provided further information.

##### 5. When does PPA terminate?

PPA terminates upon one of the following: 1) on the Monday after the distribution of the results of the September 2020 Bar Examination if the applicant was unsuccessful; 2) if the applicant was successful on the September 2020 Bar Examination, the PPA shall continue in effect until they are admitted to the practice of law in Ohio as long as the applicant is admitted to the practice of law in Ohio within twelve months following the examination. If the applicant is not admitted within twelve months of the September 2020 Bar Examination, PPA will automatically terminate; 3) if the applicant withdraws or does not sit for the September 2020 Bar Examination; 4) upon the Board revoking final approval; 5) on the date the applicant is no longer

practicing under the supervision of an active Ohio attorney in good standing.

**6. What can an applicant do under PPA?**

An applicant can enter appearances, draft legal documents and pleadings, provide legal services to clients, engage in settlement discussions, and provide other counsel consistent with the practice of law in Ohio.

**7. Who may act as a supervising attorney?**

The Supervising Attorney must be an active Ohio attorney in good standing, who has been licensed in Ohio for at least three years. If an applicant is having trouble locating a supervising attorney, they may contact the lawyer to lawyer mentoring program at [lawyertolawyer@sc.ohio.gov](mailto:lawyertolawyer@sc.ohio.gov) or they may contact either the Ohio State Bar Association or their local bar association.

**8. Does this affect an applicant's legal intern license?**

If an applicant has been issued a Certified Legal Intern License, they are still subject to the rules and requirements of Gov. Bar R. 2 acting in that capacity.

**9. How should papers filed with a Court be signed?**

In addition to the PPA's name and attorney registration number, the supervising attorney's name and attorney registration number shall appear on all papers filed with a Court.

**10. How does an applicant know their PPA application was approved?**

Upon acceptance of a PPA application, the applicant will be issued an Ohio attorney registration number and will be designated as "Practice Pending Admission" in the attorney directory maintained by the Office of Attorney Services. The Office of Bar Admissions will send a certificate notifying you of your attorney registration number.

**11. What should an applicant do if they become subject to criminal charges or to a disciplinary investigation or sanction in any jurisdiction while authorized to practice pending admission?**

The applicant shall notify the Office of Disciplinary Counsel and the Office of Bar Admissions.

**12. What is the fee for PPA?**

There is no fee to apply for PPA.

**13. Is the applicant under a continuing duty to update the information contained in their applications after being granted PPA status?**

Yes, an applicant is under a continuing duty to update their application until admitted to the practice of law.

**14. Are there Attorney Registration or CLE requirements pursuant to Rules VI or X of the Rules Governing the Bar?**

No, these requirements do not exist until fully admitted to the practice of law in Ohio.

**15. Should the supervising attorney sign off on a pleading filed with the Court?**

No, the supervising attorney does not need to sign off on a pleading filed with the Court. The purpose for requiring the supervising attorney's name and attorney registration number on all documents is to inform the Court and/or opposing counsel who is working with the PPA applicant.

16. **Should the supervising attorney be present at all court proceedings?**

No, the supervising attorney does not need to be present at all court proceedings. This relationship is not a "supervisory" relationship, but more of a mentorship in which the supervising attorney provides guidance and support to the PPA applicant.

17. **Can the supervising attorney terminate the relationship if the PPA applicant refuses to take their advice?**

Yes, the supervising attorney can terminate the relationship at any time and for any reason.

18. **How does the supervising attorney terminate the relationship?**

The supervising attorney must notify, in writing, the PPA applicant and the Office of Bar Admissions that they are no longer acting as the applicant's supervising attorney.

19. **Can the applicant terminate the relationship?**

Yes, the applicant can terminate the relationship. The applicant must notify the supervising attorney and the Office of Bar Admissions in writing that the relationship is terminated. However, the applicant must find another supervising attorney or their PPA certification will be terminated.

20. **Where can a PPA applicant find more information and/or guidance about their practice?**

Both the Ohio State Bar Association and the Ohio Metropolitan Bar Associations have resources on their website to provide guidance to recent graduates. For more information provided by the OSBA, please visit their website at:

<https://www.ohiobar.org/membership/Practice-Resources/practice-pending-admission-for-law-school-graduates/>. For more information provided by the Ohio Metropolitan Bar Association, please see their **best practices guide**.

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## **Application Materials**

### **Practice Pending Admission Documents for Download**

1. **Application for Certification to Practice Pending Admission**
2. **Certification**
3. **Certification of Supervising Ohio Attorney**

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 PDF files may be viewed, printed, and searched using the free **Acrobat®** Reader. Acrobat Reader is a trademark of Adobe Systems Incorporated.

## PENNSYLVANIA

The Pennsylvania Board of Law Examiners [announced](#) on July 8 that the Board will administer a **remote exam on October 5-7**. The Board had previously announced, in an April 28 [press release](#), that the exam would be rescheduled to September 9-10. The Pennsylvania Supreme Court also issued an [order](#) on April 28 authorizing **a limited license for July 2020 bar exam applicants**.

**IN THE SUPREME COURT OF PENNSYLVANIA**

IN RE:ORDER PERMITTING LIMITED	:	O. 837
PRACTICE BY PERSONS UNABLE TO	:	
SIT FOR JULY 2020 PENNSYLVANIA	:	SUPREME COURT
BAR EXAMINATION BECAUSE OF	:	
COVID-19	:	OCKET

**ORDER<sup>1</sup>**

**PER CURIAM**

**AND NOW**, this 28th day of April, 2020, upon the recommendation of the Pennsylvania Board of Law Examiners,

**IT IS ORDERED** pursuant to Article V, Section 10 of the Constitution of Pennsylvania, and Rule 1952(A) of the Rules of Judicial Administration, that persons unable to sit for the July 2020 Pennsylvania bar examination because of COVID-19 shall be permitted to temporarily engage in the limited practice of law as follows:

**(a) Limited practice permitted.** The requirements for the limited practice of law by a person who is unable to sit for the July 2020 Pennsylvania Bar Examination because the administration of the bar examination has been postponed or cancelled because of the COVID-19 pandemic (a “2020 limited licensee”) include the following:

- (1) The 2020 limited licensee is a graduate from a law school that was ABA accredited at the time the 2020 limited licensee matriculated or graduated who (i) received without exception a *juris doctor* degree and (ii) has never failed the Pennsylvania bar examination.

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<sup>1</sup> This Order, as certified on April 28, 2020, replaces a previous version that was sent to the Prothonotary on April 27, 2020 and docketed, but was withdrawn prior to publication.

(2) The Pennsylvania Board of Law Examiners (the “Board”) has not determined that the 2020 limited licensee lacks the current character and fitness required to be a member of the bar of this Court.

(3) The 2020 limited licensee has filed an application to sit for the July 2020 Pennsylvania bar examination.

(4) The 2020 limited licensee shall be supervised by a member of the bar of this Court as described in this order and as certified as prescribed in Subdivision (c) of this order.

(5) The 2020 limited licensee shall agree to adhere to the Pennsylvania Rules of Professional Conduct and to submit to any applicable disciplinary authorities to the same extent as a generally licensed attorney.

(6) The 2020 limited licensee shall have submitted to the Board a declaration executed subject to a charge of perjury for false statements confirming that all of the foregoing requirements have been met and asking for certification as a 2020 limited licensee. The Board shall offer a form on which such a declaration may be submitted.

**(b) Bar Examination Application.** In order to be eligible for the benefits of this order, an applicant must have filed an application to sit for the Pennsylvania bar examination, and the Board must have received an affirmative certification from the law school from which the applicant was graduated certifying that (1) the applicant has been awarded without exception a *juris doctor* degree from that law school and (2) to the best of the law school’s knowledge, the applicant has the character and fitness required to be a member of the bar of this Court.

**(c) Supervising Attorney.** The attorney under whose supervision a 2020 limited licensee engages in the limited practice permitted by this order—

(1) Shall have been an actively practicing member of the bar of the Supreme Court of Pennsylvania for at least five years.

(2) Shall assume personal professional responsibility for ensuring that the 2020 limited licensee’s legal work is competent and compliant with the Pennsylvania Rules of Professional Conduct.

(3) Shall submit a certification to the Board naming the 2020 limited licensee and confirming that the supervising attorney agrees to comply with his or her obligations pursuant to this order with respect to the designated 2020 limited licensee.

(4) Shall not supervise more than two 2020 limited licensees under the provisions of this order.

**(d) Limited Practice Permitted.** Subject to the restrictions of this subdivision, a 2020 limited licensee may engage in the following activities:

(1) Under the direct and ongoing supervision of the supervising attorney, a 2020 limited licensee may counsel a client with respect to legal issues.

(2) Under the direct and ongoing supervision of the supervising attorney, a 2020 limited licensee may prepare documents on behalf of a client, including documents that will be filed in a court, administrative tribunal or agency of the Commonwealth. The supervising attorney's signature must appear on any documents that will be filed in a court, administrative tribunal or agency of the Commonwealth.

(3) Under the direct and ongoing supervision of the supervising attorney, a 2020 limited licensee may appear for any activity subsumed within the practice of law. The supervising attorney or another attorney who meets the qualifications of Subdivisions (c)(1) and (2) of this order must be present for any such proceeding.

A 2020 limited licensee shall disclose in any legally related communications that he or she is a "2020 Limited Licensee," and the 2020 limited licensee may not hold himself or herself out as an attorney generally admitted to the bar of this Court.

**(e) Duration.** Permission to engage in the limited practice of law pursuant to this order shall commence upon receipt by the applicant of a written certification from the Board that the Board has received (1) the applicant's declaration described in (a)(6) confirming satisfaction of the requirements of this order; (2) the supervising attorney's certification described in (c)(3); and (3) the law school's confirmation described in (b) that it has conferred a law degree on the applicant and that, to the best of the law school's knowledge, the applicant has the character and fitness required to be a member of the bar of this Court.

Permission to engage in the limited practice of law pursuant to this order shall terminate no later than (1) the date of the next Pennsylvania bar examination to be administered after the effective date of this order if the 2020 limited licensee does not sit for that examination or (2) the date on which the Board announces the results of the next Pennsylvania bar examination to be administered after the effective date of this order if the limited licensee does sit for that examination.

However, a person permitted to engage in the limited practice of law under this order who passes that next administration of the bar examination may continue to practice under this order until that person is formally admitted to the general practice of law.

In no event may any person engage in the limited practice of law under this order after the date that is six months after release of the results of the next Pennsylvania bar examination to be administered after the effective date of this order.

**(f) Additional limitation.** Time spent in the limited practice of law permitted by this order may not be counted for purposes of any Bar Admission Rule that permits general admission to the bar of the Supreme Court of Pennsylvania without examination, including but not limited to Rule 204.

A True Copy Patricia Nicola  
As Of 04/28/2020

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

## South Dakota

The Supreme Court of South Dakota entered an [order](#) on May 6 announcing that if NCBE materials are not available for the July exam administration, the South Dakota Board of Bar Examiners is authorized to develop and administer a 10-question essay exam on July 28. Applicants may instead opt to take the regular bar exam in February 2021. If public health orders necessitate canceling the July exam, the Board will administer the regular bar exam on the next available dates that NCBE makes its materials available. The order also **amends its supervised practice rule** to extend the certification term for graduates who have applied for the July exam.

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

ORDER AMENDING THE RULES AND REGULATIONS FOR ADMISSION OF  
ATTORNEYS TO PRACTICE LAW IN SOUTH DAKOTA DURING THE  
COVID-19 PANDEMIC

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WHEREAS on March 13, 2020, the South Dakota Supreme Court entered an Order Declaring Judicial Emergency to address health risks posed by the COVID-19 Pandemic;

WHEREAS mitigating the effects of COVID-19 is a high priority in the South Dakota Unified Judicial System;

WHEREAS, the Supreme Court by rule governs admission to the bar, S.D. Const. art. V, § 12; SDCL 16-3-9;

WHEREAS, the Supreme Court is committed to meeting the needs of South Dakota citizens for legal services, ensuring public protection through the licensure process, and minimizing the impact on law school graduates resulting from potential delays in licensure due to the COVID-19 Pandemic and “social distancing;”

NOW, THEREFORE, pursuant to the Court’s authority to govern admission to the bar, administer justice, and ensure the safety of applicants to the bar, court personnel and the public, certain rules and regulations governing admission to the bar must be suspended or amended immediately until further order of the Court,

IT IS HEREBY ORDERED THAT:

1. Because the NCBE may not provide MBE, MPT, and MEE bar exam materials to administer the bar examination on July 28-29, 2020,

Regulations 3, 4, and 7 of the South Dakota Board of Bar Examiners are amended to provide:

- A. In the event NCBE does not provide materials to allow the MBE, MPT, and MEE exams to be administered in July 2020, in lieu of using the MBE, MPT, and MEE, the Board of Bar Examiners is authorized to develop, administer, and grade a 10-question essay examination covering Indian Law and any of the topics tested by the MBE, MPT, and MEE. The essay exam will be administered on Tuesday, July 28, 2020. The passing score will be a general average of 75%.
- B. Only applicants who have filed an application postmarked on or before May 1, 2020 are eligible to take this essay examination.
- C. An applicant may opt to take the MPT/MEE/ILQ and MBE in February 2021 rather than the July 2020 essay. Pursuant to SDCL 16-16-13, application fees will transfer only to the February 2021 examination.
- D. The Board of Bar Examiners has broad discretion in administering the July 2020 examination and must give applicants notice of the time, venues, and any special circumstances necessitated by the COVID-19 pandemic. Administration of the July examination must comply with federal, state, and local public health orders so that examinees, staff, and volunteers are not placed at unreasonable risk. The Board will monitor the situation and is authorized to

cancel the July exam at any time before the examination if the situation warrants.

**SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED**

**MAY - 6 2020**

*Shirley A. Johnson-Lynch*  
Clerk

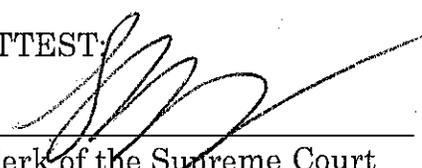
E. Should the July bar examination be cancelled, the Board is authorized to administer the MPT/MEE/ILQ and MBE on the next available dates that the NCBE makes such tests available under the conditions of 1(D) of this Order.

2. The provisions of SDCL 16-18-2.1 through 2.10 allow law students and graduates of the University of South Dakota School of Law and ABA approved law schools to work under the supervision of a licensed attorney until they are able to take the bar exam and obtain their results. The certification of the law school dean required by SDCL 16-18-2.1 cannot remain in effect in excess of eighteen months. For graduates who have applied for the July 2020 South Dakota bar examination, SDCL 16-18.2.3 is amended to provide that the term of the certification remains in effect until the expiration of the term fixed by the certificate of the dean or until three months after the announcement of results of the July 2020, September 2020, or February 2021 bar exam, depending on if the examination is administered, and whichever term is earlier.

THIS ORDER is effective immediately and until further order of the Court.

DATED at Pierre, South Dakota, this 6th day of May, 2020.

ATTEST:

  
Clerk of the Supreme Court  
(SEAL)

BY THE COURT:

  
David Gilbertson, Chief Justice

PARTICIPATING: Chief Justice David Gilbertson and Justices Janine M. Kern, Steven R. Jensen, Mark E. Salter and Patricia J. DeVaney.

## TENNESSEE

The Supreme Court of Tennessee issued an [order](#) on July 13 canceling the September 30-October 1 exam administration and announcing that it will instead administer a **remote exam on October 5-6**. Tennessee has entered into **reciprocity agreements with the District of Columbia, Kentucky, Maryland, Massachusetts, and New Jersey related to transfer of scores earned on the October exam**.

The announcement follows a July 2 [order](#) in which the Court had announced it was canceling the July exam and administering the exam on September 30-October 1. The July 2 order also indicated that **the Court will issue supplemental orders extending the time for which an applicant may practice pending admission or practice under supervision**. The Court had previously issued an April 2 [press release](#) announcing temporary rule changes to address ongoing concerns with the July 2020 bar exam; the rule changes included extending the time applicants can practice under supervision or pending admission. The Court had previously issued an April 17 [press release](#) and May 11 [order](#) indicating that the Tennessee Board of Law Examiners would offer the September 30-October 1 exam in addition to the July exam, which it had still planned to administer at that time.

# SUPREME COURT ORDERS CANCELLATION OF THE FALL 2020 BAR EXAMINATION AND APPROVES ADMINISTRATION OF ONLINE EXAMINATION

July 13, 2020

The Tennessee Supreme Court today ordered the cancellation of the Uniform Bar Examination in Tennessee scheduled for September 30-October 1, 2020, citing the current trajectory of the Covid-19 pandemic. Although stringent public health and safety protocols were planned for the administration of the examination, the Court decided that the in-person Fall Examination could not be safely administered with reasonable certainty. To mitigate delay and uncertainty, the Court ordered the Board of Law Examiners to administer an online, remotely-proctored alternative Admissions Assessment on October 5-6, 2020, that will be comprised of questions prepared by the National Conference of Bar Examiners ("NCBE"). The Admissions Assessment will be comprised of a Multistate Performance Test item, three Multistate Essay Examination questions, and 100 Multistate Bar Examination questions.

In entering its order, the Court recognized the hardships that COVID-19 has placed upon recent law school graduates, applicants to the Tennessee bar, and administrators. The Court also considered the interests of the applicants, the public, and the administration of justice relating to the licensing and admission of attorneys.

Applicants who pass the online bar examination will be eligible for admission in Tennessee. Although successful applicants will not earn a portable Uniform Bar Examination score, the Board of Law Examiners has entered into reciprocal agreements with the District of Columbia, Maryland, and Massachusetts for transfer of scores earned on the online examination as a qualifying score for admission in those jurisdictions and is working to establish similar agreements with other jurisdictions offering the same online examination.

"Balancing the need for recent law school graduates to be afforded an opportunity to complete the licensing process with the need to protect the public by establishing that new lawyers meet the basic competency required of attorneys in Tennessee must be part of the discussion as we move forward in the midst of a pandemic that limits social interaction," said Tennessee Supreme Court Chief Justice Jeff Bivins.

"The online remote testing option using NCBE materials is a wonderful option for our applicants and offers a legitimate assessment of competency. The materials from the NCBE have been pre-tested and are of the same quality as those used for the Uniform Bar Examination," said Bill Harbison, President of the Board of Law Examiners. "Applicants who have begun their bar preparation and study may continue on course as the same subject matter and testing materials will be used for the assessment."

Also, the Court ordered additional modifications to Tennessee Supreme Court Rule 7, section 11.03, extending the last day to withdraw a July 2020 application with a refund to September 1, 2020. It also modified sections 10.04 and 10.07, permitting practice under supervision or practice pending admission to continue until July 1, 2022, for July 2020 applicants.

A list of FAQs has been posted on the Board's website [here](#).

A copy of the order can be found [here](#).

## TEXAS

The Supreme Court of Texas issued an [order](#) on July 3 **canceling the July exam** and determining that the Texas Board of Law Examiners should instead **administer the exam on September 9-10 as well as administer an online exam on October 5-6**. This follows a previous April 28 [announcement](#) by the Board and [order](#) from the Court that had determined an additional administration of the exam would be offered on September 9-11 in addition to the July exam. The April 28 order also specifies **updated rules regarding the supervised practice of law by qualified law students and unlicensed law school graduates in Texas**.

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 20-9083

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## NINETEENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

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**ORDERED** that:

1. Since April 2020, the Court and the Board of Law Examiners (“Board”) have taken unprecedented steps to ensure that the bar examination can proceed and that applicants have a safe and successful experience.

a. On April 29, 2020, in Misc. Dkt. No. 20-9060, the Court, in consultation with the Board and the deans of Texas law schools, determined that the Board should offer the Texas bar examination as scheduled in July 2020, subject to change based on state and local orders and the guidance of public health authorities. In light of uncertainty regarding the duration of the COVID-19 pandemic and the public health measures necessary to impede the spread of the virus, the Court determined the Board should also offer an administration of the Texas bar examination in September 2020. In addition, recognizing the disruptions to personal and professional lives caused by the pandemic and that some applicants might prefer to delay examination beyond September 2020 due to personal health considerations, the Court preliminarily adopted updated Rules Governing the Supervised Practice of Law by Qualified Law Students and Qualified Unlicensed Law School Graduates in Texas (“Rules”).

b. On May 20, 2020, in Misc. Dkt. No. 20-9069, the Court gave final approval to the Rules, as amended in the Order, after the expiration of a public-comment period.

c. The Board implemented numerous safety protocols for the examinations based on advice from public health authorities regarding best practices for administering the examinations safely. On June 2, 2020, in Misc. Dkt. No. 20-9076, the Court shortened and reweighted the examinations as an additional measure to minimize risk and reduce applicants’ expenses.

2. In recent weeks, the state of the COVID-19 pandemic in Texas has changed significantly, and the Court and the Board have received numerous comments from the Texas law school deans, members of the Texas Bar, recent law school graduates, and other members of the public expressing concerns regarding the administration of the July 2020 bar examination and urging other options. The Court has reviewed the comments carefully and appreciates the thoughtful input provided.

3. Having considered the recent surge in COVID-19 cases in Texas and the related uncertainty regarding the availability of examination sites, the recommendation of the Board, and the numerous comments received, the Court has determined that the July 2020 bar examination should be canceled.

4. The Court is mindful of the impact that cancellation of the July 2020 bar examination will have on applicants, and the Court directs the Board to offer the following options for licensure in 2020 and to establish procedures for applicants to select, without additional expense, the option that best suits their individual circumstances.

a. The Board should administer an in-person examination as scheduled on September 9-10, 2020, subject to guidance from public health authorities. The Board should continue to consult regularly with public health authorities and explore all measures to make the in-person examination as safe as possible. The Board reports that it will likely release scores from the September bar examination within three weeks after it would normally release scores from the July bar examination.

b. The Board should administer an online examination on October 5-6, 2020, that includes: 100 Multistate Bar Examination questions, 1 Multistate Performance Test question, the Procedure and Evidence questions, and 12 Texas essays questions. The October bar examination will be weighted as determined by the Board. The Board reports that it will likely release scores from the October bar examination by December 4.

5. The Board will also establish procedures for new applicants who did not timely register for the September bar examination to register for that examination or the October examination.

6. The Court also notes that supervised practice under the Rules remains an option for those applicants who need or want to begin work before receiving their scores from the September or October examinations or who would prefer to wait to take the February 2021 bar examination. Given the interest shown in these issues by the deans and by leaders of local bar associations, the Court would welcome their assistance in identifying supervisors for applicants who need them.

7. Under the Court's April 29 order, an applicant may change his or her registration to the February 2021 bar examination without additional expense.

8. Although individual Justices may have preferences for additional options, a majority of the Court agrees upon these options.

9. The Clerk of the Supreme Court is directed to:

- a. post a copy of this Order on [www.txcourts.gov](http://www.txcourts.gov);
- b. file a copy of this Order with the Secretary of State; and
- c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

10. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order. The Texas law school deans are requested to take all reasonable steps to notify their affected students of this Order.

Dated: July 3, 2020

JUSTICE GUZMAN and JUSTICE LEHRMANN concur, noting that (1) discussions about altering licensing requirements for admission to the legal profession are important and ongoing through the Court's work with the ABA Commission on the Future of Legal Education; (2) eliminating a licensing requirement raises consumer-protection concerns, and any systemic reforms should not be undertaken without thorough vetting and input from all stakeholders, especially the public; (3) among the available alternatives to in-person testing, an online bar examination provides a reasonable and safe alternative that aligns more closely with our longstanding licensing requirements; (4) online testing has been successfully employed as an alternative to in-person testing by national testing organizations, like the College Board's Advanced Placement Program, and public and private schools throughout this State; and (5) the law school community should help fill the void for applicants who do not have access to reliable technology or adequate facilities to take an online test.

JUSTICE BOYD concurs in part, but would require the Board to offer and to allow each applicant to choose between (1) the in-person examination currently scheduled for July 2020, (2) the in-person examination currently scheduled for September 2020, (3) the October 2020 online examination described in this Order, (4) an apprenticeship-admission process, and (5) a diploma-privilege-

admission process, in addition to (6) the supervised-practice option to delay admission as described in this Order; and would in addition require that each applicant's State Bar of Texas license, membership records, and online attorney profile clearly indicate whether the applicant gained admission to the Bar through examination, apprenticeship, or a diploma privilege.

JUSTICE BLACKLOCK concurs but would also give all those currently scheduled to take the in-person July bar examination the option of doing so as planned.

JUSTICE BUSBY and JUSTICE BLAND concur but would also allow applicants to select an apprenticeship option providing for licensure upon completion of a period of supervised practice.

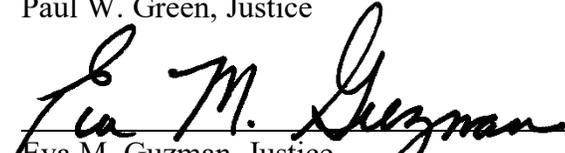
CHIEF JUSTICE HECHT and JUSTICE GREEN dissent and would direct the Board of Law Examiners to adopt a diploma privilege in lieu of the bar examination for those registered to take it in July and September 2020.

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Nathan L. Hecht, Chief Justice

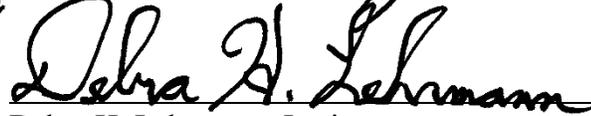
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Paul W. Green, Justice



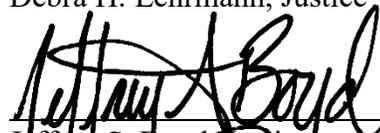
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Eva M. Guzman, Justice



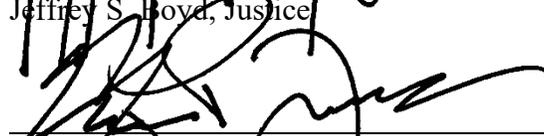
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Debra H. Lehrmann, Justice



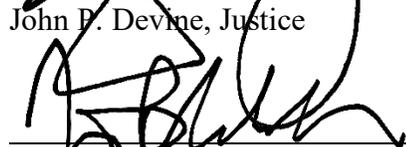
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Jeffrey S. Boyd, Justice



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John F. Devine, Justice



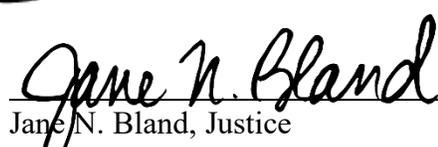
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James D. Blacklock, Justice



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J. Brett Busby, Justice



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Jane N. Bland, Justice

## VERMONT

On July 17, the Vermont Supreme Court issued an [order](#) **canceling the exam that had been scheduled for September 9-10** and announcing that it would administer a **remote exam on October 5-6**. The order also expands Vermont's student practice rule by **allowing candidates who choose to delay taking the exam until February 2021 to continue to practice as legal interns**. Cancellation of the July exam and rescheduling to September 9-10 had previously been [announced](#) by the Court on April 6.

STATE OF VERMONT  
SUPREME COURT  
JULY TERM, 2020

**Order Promulgating Amendments to Administrative Order No. 49**

Pursuant to the Vermont Constitution, Chapter II, § 30 and Administrative Order No. 48, it is hereby ordered:

1. That ¶ 6(d) of Administrative Order No. 49 be amended to read as follows (new matter underlined; deleted matter struck through):

**6. Email filings and service:**

- d. In the Supreme Court, notwithstanding the provisions of V.R.A.P. 25, V.R.C.P. 5, and any other rules relating to the filing of motions, documents, and briefs with the Supreme Court:
  - i. Parties may file motions and other documents other than briefs by email. Filings must be sent as an attachment to jud.supremecourt@vermont.gov and the subject line should contain the Supreme Court docket number.
  - ii. The requirements to file paper copies of appellate briefs and printed cases in V.R.A.P. 31 and 32 are suspended. Appellate briefs and printed cases will be considered filed when transmitted as an attachment by email to jud.supremecourtbriefs@vermont.gov as required by V.R.A.P. 32. Parties must file one paper copy of all appellate briefs and printed cases within 7 days of submitting the electronic copy. Notwithstanding this general suspension of the rules requiring paper filing, the The Court may by order require parties to file additional paper copies of briefs and printed cases.
  - ~~iii. If paper copies have not been filed earlier, within 30 days of the termination of the judicial emergency, or within 30 days of an amendment to this order terminating the suspension of rules requiring the filing of paper briefs and printed cases, a party must file paper briefs and printed cases to the extent and in the manner otherwise required by the Vermont Rules of Appellate Procedure. At such time, a party may request permission to file only a single paper copy of a brief and printed case. In reviewing such motions, the Court will consider the size of the brief and printed case and the progress of the appeal, including whether the Court has already heard or considered the case.~~

2. That ¶ 18 of Administrative Order No. 49 be amended to read as follows (new matter underlined; deleted matter struck through):

**18. July Bar Exam:** Rule 9(a) of Vermont Rules of Admission to the Bar of the Vermont Supreme Court, which requires the Uniform Bar Examination to be administered in February and July on dates designated by the NCBE, is suspended. The bar examination, currently scheduled by the NCBE The Uniform Bar Examination previously scheduled for July 2020 and rescheduled for September 2020 is cancelled, ~~will not be administered in Vermont at that~~

time and is postponed to a later date. Notwithstanding Rules 9 and 10 of the Vermont Rules of Admission to the Bar, the Board of Bar Examiners is authorized to administer and grade an alternative bar examination in fall 2020 by remote means. This bar examination will provide the same basis for admission under the Vermont Rules of Admission to the Bar as the Uniform Bar Examination.

- a. The Board must provide updates on the specifics of the exam as soon as possible to applicants who previously applied for and were found eligible to sit for the July 2020 examination (registered applicants).
- b. The remote examination will be created by the NCBE and will consist of fewer questions but will cover the same subjects as the Uniform Bar Examination (UBE).
- c. Registered applicants will be registered automatically for the remote examination.
- d. Registered applicants may opt out of the remote examination and either:
  - i. withdraw their application and receive a full refund of the application fee paid to Vermont; or
  - ii. choose to be registered to sit for the February 2021 administration.
- e. Registered applicants who decide not to sit for the remote examination and to be registered for the February 2021 examination will be considered to be “registered for the next administration of the bar examination.” for the purposes of eligibility to practice as a legal intern under Part VI of the Vermont Rules of Admission to the Bar.
- f. The Board is authorized to enter into Memoranda of Understanding with other states offering the NCBE’s fall 2020 remote examination to provide for portability of scores earned on that examination, wherever possible.

3. That the following Explanatory Note be added:

#### **Explanatory Note—July 17, 2020 Amendment**

The July 17 amendment to ¶ 6(d) eliminates any requirement that multiple paper briefs be filed at the conclusion of the judicial emergency and requires that one set of briefs and printed cases be filed within a week of the electronic filing. The court retains its discretion to, by order, require parties to file additional paper copies of briefs and printed cases. In this amendment, the Court hopes to account for both the challenges of copying and collating multiple briefs in the context of the ongoing pandemic and the necessity that a paper copy of each brief and printed case be filed for the permanent record in each case.

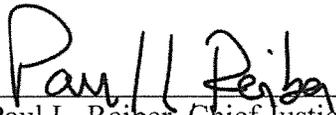
The July 17 amendment also amends ¶ 18 of the Administrative Order regarding the July 2020 bar examination. Due to the ongoing risks to public health from the pandemic, the in-person bar exam originally scheduled for July 2020 and rescheduled to September 2020 is cancelled. The Board of Bar Examiners is authorized to conduct and grade a remote bar examination in the fall of 2020. Applicants who were registered and authorized to sit for the July 2020 examination will be automatically registered for the remote examination. Registered applicants who choose not to take the remote exam may receive a refund or choose to register to sit for the February 2021 exam. To ease the inconvenience and hardship caused by the delayed

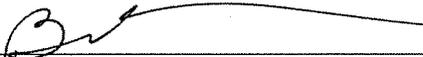
exam, those registered applicants choosing to take the exam in February 2021 will be permitted to continue to practice as a legal intern. The Board is also authorized to enter agreements with other states so that scores will be portable.

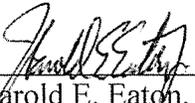
4. That this order is effective immediately and extends until September 1, 2020, unless extended by order of this Court.

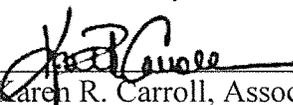
5. That the Chief Justice is authorized to report this order to the General Assembly in accordance with the provisions of 12 V.S.A. §1, as amended.

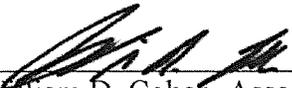
Done in chambers at Montpelier, Vermont this 17<sup>th</sup> day of July 2020.

  
\_\_\_\_\_  
Paul L. Reiber, Chief Justice

  
\_\_\_\_\_  
Beth Robinson, Associate Justice

  
\_\_\_\_\_  
Harold E. Eaton, Jr., Associate Justice

  
\_\_\_\_\_  
Karen R. Carroll, Associate Justice

  
\_\_\_\_\_  
William D. Cohen, Associate Justice

## WASHINGTON

On June 12, the Washington Supreme Court issued an [order](#) temporarily modifying admission and practice rules to grant a **diploma privilege option to applicants currently registered to take the July and September 2020 bar exams and LLLT licensure exams**. The Washington Supreme Court had previously announced on May 13 that Washington will administer the exam in **July and on September 9-10**. The bar examinations in July and September will still be offered for those who do not qualify for the diploma privilege and those who wish to take the exam to receive a UBE score. On May 15, the Court issued an [order](#) **temporarily reducing the minimum passing UBE score from 270 to 266**. The temporary modified minimum passing score applies only to applicants who sit for the July 2020 or September 2020 UBE. In addition, applicants applying for admission by UBE score transfer from another jurisdiction who achieve a score of 266 or higher on the July 2020 or September 2020 UBE may transfer their score to Washington. The minimum passing UBE score reverts to 270 beginning with the February 2021 examination. The Court also approved **changes to Washington's licensed legal intern rule** extending the licensing period and increasing the number of licensed interns who can be supervised by a lawyer. Washington has an existing [rule](#) allowing recent law school graduates to practice law for up to 18 months in a limited scope under the supervision of a licensed attorney.



ORDER GRANTING DIPLOMA PRIVILEGE AND TEMPORARILY MODIFYING  
ADMISSION AND PRACTICE RULES

No. 25700-B-630

Washington. The bar examinations in July and September 2020 will still be offered for those who do not qualify for the diploma privilege and those who wish to take the exam to receive a Uniform Bar Exam (UBE) score.

- 2) The diploma privilege option will be available to applicants currently registered to take the examinations who are taking the tests for the first time and those who are repeating the tests.
- 3) The court delegates to WSBA the appropriate discretion to determine the timelines for eligible applicants to notify WSBA of their intent to receive the diploma privilege in lieu of taking an examination, and whether or to what extent any registration fees may be refunded.

DATED at Olympia, Washington this 12<sup>th</sup> day of June, 2020.

For the Court

  
CHIEF JUSTICE

**APR 9**  
**LICENSED LEGAL INTERNS**

**(a) Purpose.** Supervised professional practice plays an important role in the development of competent lawyers and expands the capacity of the Bar to provide quality legal services while protecting the interests of clients and the justice system. This rule authorizes supervised professional practice by qualified law students, enrolled law clerks, and recent graduates of approved law schools when they are licensed pursuant to this rule to engage in the limited practice of law as “Licensed Legal Interns.” The license granted pursuant to this rule is a limited license, based in part on recognition of the role practice experience plays in developing the competence of aspiring lawyers and in part on the fact that the Licensed Legal Intern will be supervised by an experienced lawyer. Persons granted such a limited license and their supervising lawyers must comply with the obligations and limitations set forth in these rules.

**(b) Eligibility.** To be eligible to apply to be a Licensed Legal Intern, an applicant must have arranged to be supervised by a qualifying lawyer and:

(1) Be a student duly enrolled and in good academic standing at an approved law school who has:

(A) successfully completed not less than two-thirds of a prescribed 3-year course of study or five-eighths of a prescribed 4-year course of study, and

(B) obtained the written approval of the law school’s dean or a person designated by such dean and a certification by the dean or designee that the applicant has met the educational requirements; or

(2) Be an enrolled law clerk who:

(A) is certified by Bar staff to be in compliance with the provisions of APR 6 and to have successfully completed not less than five-eighths of the prescribed 4-year course of study; and

(B) has the written approval of the primary tutor; or

(3) Be a graduate of an approved law school who has not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of graduation.

**(c) Qualifications To Be a Supervising Lawyer.** Except in the sections regarding the application for issuance of a limited license pursuant to this rule, references in this rule to “supervising lawyer” include both the supervising lawyer named in the application materials and on the Licensed Legal Intern identification card, and any other lawyer from the supervising lawyer’s office who meets the qualifications of a supervising lawyer and who performs the duties of a supervising lawyer. A supervising lawyer must be an active lawyer member in good standing of the Bar, who has been actively engaged in the practice of law in the State of Washington or in any state or territory of the United States or the District of Columbia for at least the 3 years immediately preceding the date of the application, who has not been disbarred or subject to a disciplinary suspension in any jurisdiction within the previous 10 years and does not have a disciplinary proceeding pending or imminent, and who has not received a disciplinary sanction of any kind within the previous 3 years.

**(d) Application.** The applicant must submit an application on a form provided by the Bar and signed by both the applicant and the supervising lawyer.

(1) The applicant and the supervising lawyer must fully and accurately complete the application, and they have a continuing duty to correct and update the information on the application while it is pending and during the term of the limited license. Every applicant and supervising lawyer must cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or other information reasonably required by the Bar. Failure to cooperate fully or to appear as directed or to furnish additional information as required shall be sufficient reason for the Bar to recommend denial or termination of the license.

(2) The application must include:

(A) all requested information about the applicant and the Supervising Lawyer;

(B) the required certification from the law school (or confirmation from the Bar, for APR 6 Law Clerks) that the applicant has the required educational qualifications; and

(C) certifications in writing under oath by the applicant and the supervising lawyer(s) that they have read, are familiar with, and will abide by this rule and the Rules of Professional Conduct.

(3) Full payment of any required fees must be submitted with the application. The fees shall be set by the Board of Governors subject to review by the Supreme Court.

(4) Bar staff shall review all applications to determine whether the applicant and the supervising lawyer have the necessary qualifications, and whether the applicant possesses the requisite good moral character and fitness to engage in the limited practice of law provided for in this rule. Bar staff may investigate any information contained in or issues raised by the application that reflect on the factors contained in APR 21-24, and any application that reflects one or more of the factors set forth in APR 21 shall be referred to Bar Counsel for review.

(5) Bar Counsel may conduct such further investigation as appears necessary, and may refer to the Character and Fitness Board for hearing any applicant about whom there is a substantial question whether the applicant possesses the requisite good moral character and fitness to practice law as defined in APR 20. Such hearing shall be conducted as provided in APR 20-24.3. Bar Counsel may require any disclosures and conditions of the applicant and supervising lawyer that appear reasonably necessary to safeguard against unethical conduct by the applicant during the term of the limited license. No decision regarding the good moral character and fitness to practice of an applicant made in connection with an application for licensing pursuant to this rule is binding on the Bar or Character and Fitness Board at the time an applicant applies for admission to practice law and membership in the Bar, and such issues may be reinvestigated and reconsidered by Bar staff, Bar Counsel, and the Character and Fitness Board.

(6) The Supreme Court shall issue or refuse the issuance of a limited license for a Licensed Legal Intern. The Supreme Court's decision shall be forwarded to the Bar, which shall inform the applicant of the decision.

(7) Upon Supreme Court approval of an applicant, the Bar shall send to the applicant, in care of the supervising lawyer's mailing address on record with the Bar, a letter confirming approval by the Supreme Court and a Licensed Legal Intern identification card. An applicant must not perform the duties of a Licensed Legal Intern before receiving the confirming letter and identification card.

(8) Once an application is accepted and approved and a license is issued, a Licensed Legal Intern is subject to the Rules of Professional Conduct and the Rules for Enforcement of Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this state, and is

personally responsible for all services performed as a Licensed Legal Intern. Any offense that would subject a lawyer admitted to practice law in this state to suspension or disbarment may be punished by termination of the Licensed Legal Intern's license, or suspension or forfeiture of the Licensed Legal Intern's privilege of taking the lawyer bar examination and being admitted to practice law in this state.

(9) A Licensed Legal Intern may have up to two supervising attorneys in different offices at one time. A Licensed Legal Intern may submit an application for approval to add a supervising attorney in another office or to change supervising attorneys any time within the term of the limited license. When a Licensed Legal Intern applies to add a supervising attorney in another office, the Intern must notify both the current supervising attorney and the proposed new supervising attorney in writing about the application, and both the current and the new supervising attorney must approve the addition and certify that such concurrent supervision will not create a conflict of interest for the Licensed Legal Intern. The qualifications of the new supervising attorney will be reviewed by Bar staff who may approve or deny the supervisor. The Licensed Legal Intern will be notified of approval or denial of the new supervising attorney as described above and must not perform the duties of a licensed legal intern before receiving a new confirming letter containing notification of approval and a new identification card.

**(e) Scope of Practice, Prohibitions, and Limitations.** In addition to generally being permitted to perform any duties that do not constitute the practice of law as defined in GR 24, a Licensed Legal Intern shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule.

(1) A Licensed Legal Intern may engage in the following activities without the presence of the supervising attorney:

(A) Advise or negotiate on behalf of a person referred to the Licensed Legal Intern by the supervising lawyer;

(B) Prepare correspondence containing legal advice to clients or negotiating on behalf of clients, pleadings, motions, briefs, or other documents. All such correspondence, pleadings, motions, and briefs must be reviewed and signed by the supervising attorney, as well as any other documents requiring the signature of a lawyer. On any correspondence or legal document signed by the Licensed Legal Intern, the Licensed Legal Intern's signature shall be followed by the title "Licensed Legal Intern" and the Licensed Legal Intern's identification number;

(C) Present to the court ex parte and agreed orders signed by the supervising lawyer, except as otherwise provided in these rules;

(D) After a reasonable period of in-court supervision or supervision while practicing before an administrative agency, which shall include participating with the supervising lawyer in at least one proceeding of the type involved before the same tribunal and being observed by the supervising lawyer while handling one additional proceeding of the same type before the same tribunal:

(i) Represent the State or the respondent in juvenile court in misdemeanor and gross misdemeanor cases;

(ii) Try hearings, nonjury trials, or jury trials, in courts of limited jurisdiction;

(iii) Represent a client in any administrative adjudicative proceeding for which nonlawyer representation is not otherwise permitted.

(2) In any proceeding in which a Licensed Legal Intern appears before the court, the Licensed Legal Intern must advise the court of the Intern's status and the name of the Intern's supervising lawyer.

(3) A Licensed Legal Intern may participate in Superior Court and Court of Appeals proceedings, including depositions, only in the presence of the supervising lawyer or another lawyer from the same office.

(4) A Licensed Legal Intern must not receive payment directly from a client for the Intern's services. A Licensed Legal Intern may be paid for services by the Intern's employer, and the employer may charge for the services provided by the Licensed Legal Intern as may be appropriate.

(5) A Licensed Legal Intern must not try any motion or case or negotiate for or on behalf of any client unless the client is notified in advance of the status as a Licensed Legal Intern and of the identity and contact information of the Licensed Legal Intern's supervising lawyer.

(6) A Licensed Legal Intern must not perform any of the actions permitted by this rule on behalf of or under the supervision of any lawyer other than the supervising lawyer or another lawyer employed in the same office who is qualified for such supervision under this rule.

(7) For purposes of the attorney-client privilege, a Licensed Legal Intern shall be considered a subordinate of the lawyer providing supervision for the Intern.

**(f) Additional Obligations of Supervising Lawyer.** Agreeing to serve as the supervising lawyer for a Licensed Legal Intern imposes certain additional obligations on the supervising lawyer. The failure of a supervising lawyer to comply with the duties set forth in this rule shall be grounds for disciplinary action pursuant to the Rules for Enforcement of Lawyer Conduct. In addition to the duties stated or implied above, the supervising lawyer:

(1) must provide training to all Licensed Legal Interns supervised by the supervising lawyer, regarding the Rules of Professional Conduct and how they relate to the limited practice of the Licensed Legal Intern. Such training may be waived if the supervising lawyer otherwise determines that the Licensed Legal Intern has previously received such training and the supervising lawyer deems such training sufficient for the limited practice that will be supervised;

(2) must direct, supervise, and review all of the work of the Licensed Legal Intern and shall assume personal professional responsibility for any work undertaken by the Licensed Legal Intern while under the lawyer's supervision;

(3) must ensure that all clients to be represented by the Licensed Legal Intern are informed of the intern's status as a Licensed Legal Intern in advance of the representation;

(4) must review and sign all correspondence providing legal advice to clients and all pleadings, motions, briefs, and other documents prepared by the Licensed Legal Intern and ensure that they comply with the requirements of this rule, and must sign the document if it is prepared for presentation to a court;

(5) must take reasonable steps to ensure that the Licensed Legal Intern is adequately prepared and knowledgeable enough to be able to handle any assigned matters performed outside the supervising lawyer's presence, but need not be present in the room while the Licensed Legal Intern is performing such duties unless such presence is specifically required by this rule;

(6) must supervise no more than:

(a) one Licensed Legal Intern at any one time if the supervising lawyer is in private practice not otherwise described below;

(b) four Licensed Legal Interns at any one time if the supervising lawyer is employed by a recognized institution of legal aid, legal assistance, public defense, or similar programs furnishing legal assistance to indigents, or by the legal departments of a state, county, or municipality; or

(c) 10 Licensed Legal Interns at any one time if the supervising lawyer is a full-time clinical supervising lawyer or a member of the faculty of an approved law school for a clinical course offered by the law school where such course has been approved by its dean and is directed by a member of its faculty and is conducted within institutions or legal departments described in the section above or within the law school, provided that a supervising lawyer attends all adversarial proceedings conducted by the legal interns;

(7) must meet with any Licensed Legal Intern he/she is supervising, in person or by telephone, a minimum of one time per week, to review cases being handled and to provide feedback on performance, to provide additional guidance and instruction, and to answer questions or issues raised by the Licensed Legal Intern;

(8) must inform the Bar staff promptly if circumstances arise that cause the supervising lawyer to have concern about the good moral character or fitness to practice of a Licensed Legal Intern supervised by that lawyer, and cooperate in any investigation that may follow such a report;

(9) may terminate supervision of a Licensed Legal Intern under this rule at any time, with or without good cause, and must promptly notify the Bar staff of the effective date of the termination and the reasons for the termination;

(10) may be terminated as a supervising lawyer at the discretion of the Bar, and when so terminated, must take steps to ensure that any Licensed Legal Intern previously supervised by the supervising lawyer ceases to perform duties or hold him/herself out as though supervised by the supervising lawyer.

**(g) Additional Obligations and Limitations.** The following additional general obligations and limitations apply:

(1) A judge or administrative hearing officer may exclude a Licensed Legal Intern from active participation in a case in the interest of orderly administration of justice or for the protection of a litigant or witness. In such case, a continuance shall be granted to secure the attendance of the supervising lawyer, who must assume personal responsibility for that matter.

(2) A Licensed Legal Intern or the supervising lawyer must notify the Bar staff promptly if the supervising lawyer named on a Licensed Legal Intern's identification card terminates supervision of the Licensed Legal Intern, and such Licensed Legal Intern is prohibited from performing any of the actions described in these rules unless and until a change of supervising lawyer has been approved and a new identification card issued.

**(h) Term of Limited License.** A limited license issued pursuant to this rule shall be valid, unless it is revoked or supervision is terminated, for a period of not more than 30 consecutive months, and in no case will it be valid if it has been more than 18 months since the Licensed Legal Intern graduated from law school or completed the APR 6 Law Clerk program.

(1) The approval given to a law student by the law school dean or the dean's designee or to a law clerk by the tutor may be withdrawn at any time by mailing notice to that effect to the Bar,

and must be withdrawn if the student ceases to be duly enrolled as a student prior to graduation, takes a leave of absence from the law school or from the clinical program for which the limited license was issued, or ceases to be in good academic standing, or if the APR 6 law clerk ceases to comply with APR 6. When the approval is withdrawn, the Licensed Legal Intern's license must be terminated promptly.

(2) A limited license is granted at the sufferance of the Supreme Court and may be revoked at any time upon the court's own motion, or upon the motion of the Bar, in either case with or without cause.

(3) A Licensed Legal Intern must immediately cease performing any services under this rule and must cease holding himself or herself out as a Licensed Legal Intern upon:

(A) the termination for any reason of the Intern's limited license under this rule;

(B) the termination of the supervision for any reason or the upon the resignation of the Intern's supervising lawyer;

(C) the suspension or termination by the Bar of the supervising lawyer's status as a supervising lawyer;

(D) the withdrawal of approval of the Intern pursuant to this rule; or

(E) the failure of the supervising lawyer to maintain qualification to be a supervising lawyer under the terms of this rule.

[Adopted effective February 12, 1965; Amended effective June 4, 1970; May 21, 1971; February 29, 1972; December 31, 1973; December 31, 1976; January 1, 1977; January 1, 1979; January 1, 1981; November 2, 1981; September 1, 1984; October 1, 1985; October 11, 1985; November 29, 1991; September 1, 1994; June 2, 1998; October 1, 2002; January 1, 2014; September 1, 2017.]

## WYOMING

The Wyoming Supreme Court issued an [order](#) on April 10 announcing an **emergency rule that authorizes July 2020 bar applicants to be temporarily admitted to the practice of law** with supervision, if certain conditions are met, in the event that the July exam is postponed. The rule is issued conditionally on the bar exam not being administered in July and will be of no effect if Wyoming is able to hold the July exam. The bar exam is **still currently scheduled for July 28-29**.

**IN THE SUPREME COURT, STATE OF WYOMING**

*April Term, A.D. 2020*

*In the Matter of the Adoption of )  
Rule 203 of the Rules and Procedures )  
Governing Admission to the )  
Practice of Law )*

IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

APR 10 2020

  
PATRICIA BENNETT, CLERK

**ORDER ADOPTING RULE 203 OF THE RULES AND PROCEDURES  
GOVERNING ADMISSION TO THE PRACTICE OF LAW**

**This matter** came before the Court upon a “Petition for Implementation of Emergency Rule,” filed herein April 9, 2020, by the Board of Law Examiners for the Wyoming State Bar (Board) and the Character and Fitness Committee of the Wyoming State Bar (Committee), by and through Bar Counsel for the Wyoming State Bar. In the petition, the Board and the Committee inform the Court of the need for an admission rule to accommodate applicants for the July 2020 bar exam, which may or may not be administered, due to the COVID 19 pandemic. The Board and Committee recommend the Court adopt a rule that authorizes those applicants to be temporarily admitted to the practice of law, if certain conditions are met. This Court finds the proposed rule should be adopted. This Court notes Rule 203 is conditional on the bar exam NOT being administered in July 2020. It is, therefore,

**ORDERED** that Rule 203 of the Rules and Procedures Governing Admission to the Practice of Law, attached hereto, is adopted by the Court to be effective immediately; and it is further

**ORDERED** that this order and the attached rule shall be published in the advance sheets of the Pacific Reporter; the attached rule shall be published in the Wyoming Court Rules Volume; and that this order and the attached rule shall be published online at the Wyoming Judicial Branch’s website, <http://www.courts.state.wy.us>. The rule shall also be recorded in the journal of this Court.

**DATED** this 10<sup>th</sup> day of April, 2020.

**BY THE COURT:**

  
**MICHAEL K. DAVIS**  
Chief Justice

**Rules and Procedures Governing Admission to the Practice of Law**

\*\*\*\*\*

**SECTION II  
APPLICATION FOR ADMISSION BY EXAMINATION**

\*\*\*\*\*

**Rule 203. Practice Pending Admission.**

(a) An eligible individual who has submitted a timely application for admission by examination for the July 2020 Uniform Bar Examination in Wyoming is granted temporary admission to the Wyoming State Bar, provided the applicant:

(1) Has been awarded a juris doctor degree from a law school accredited by the American Bar Association and has not sat for a bar examination in Wyoming or any other jurisdiction prior to February 2021;

(2) Has been determined by the Character and Fitness Committee to possess the requisite good moral character and fitness to practice law;

(3) Is not currently subject to an order of attorney discipline or the subject of a pending formal disciplinary or disability investigation in any jurisdiction;

(4) Has not been denied admission to practice law in Wyoming nor denied admission on character and fitness grounds in any jurisdiction;

(5) Is subject to the disciplinary authority of Wyoming and shall comply with all ethics and related rules of this jurisdiction, including specifically but not limited to rules requiring truthful and non-misleading advertising or other public statements concerning his or her limited authority to practice;

(6) Associates with and is supervised by an active member in good standing of the Wyoming State Bar and discloses the name, address, and membership status of the supervising attorney, which disclosure shall be filed with the Court and the Wyoming State Bar;

(7) Files a signed verification form from the supervising attorney certifying the applicant's association with and supervision by that attorney with the Wyoming Supreme Court and the Wyoming State Bar;

(8) Affirmatively states in all written (including electronic) communications with the public and clients the following language: "Practice temporarily authorized pending admission to the Wyoming State Bar," and, in the initial consultation, affirmatively informs prospective clients with whom the applicant meets (whether in person, by phone or any other means) of the applicant's temporary authorization to practice pending admission to the Wyoming State Bar; and

(9) The supervising attorney shall be identified as such in all papers submitted to a court, government agency or authority, or alternative dispute resolution tribunal, on which the applicant's name appears.

(b) Verification. Upon an applicant's satisfactory completion of the application process and provided that the applicant is certified to have the requisite good moral character and fitness to practice law and the applicant has met all of the requirements of this rule, the Board and the Committee shall certify their recommendations to the Court that the applicant is eligible for temporary admission pursuant to this rule. Applicants who are granted temporary admission pursuant to this rule are not required to comply with the attorney's oath provisions of Rule 504.

(c) Automatic Termination. The authority in this rule shall terminate immediately if the applicant:

(1) Withdraws the application for admission by examination;

(2) Fails to obtain a passing score on the first Uniform Bar Examination administered in Wyoming following adoption of this rule;

(3) Fails to submit a timely passing score on the Multistate Professional Responsibility Examination;

(4) Is subject to a formal charge in a disciplinary proceeding.

(5) The supervising attorney ceases to be an active member in good standing of the Wyoming State Bar; or

(6) The supervising attorney withdraws the verification required by this rule.

(d) Required Action After Termination of Authority. Upon termination of authority to practice law pursuant to this rule, the applicant must notify in writing all clients in pending matters, and opposing counsel and co-counsel in pending litigation, of the termination of authority, and immediately cease practicing law in Wyoming.

(e) This rule shall remain in effect until December 31, 2020, and will continue to apply to any applicants granted temporary admission pursuant to this rule prior to that date.

(f) Plenary Authority. The Court, in its discretion, may extend the time limits set forth in this rule for good cause shown.

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REPORT OF THE CALIFORNIA SUPREME COURT  
MULTIJURISDICTIONAL PRACTICE  
IMPLEMENTATION COMMITTEE

FINAL REPORT AND PROPOSED RULES

March 10, 2004

Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102

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### I. Executive Summary

The Supreme Court of California Multijurisdictional Practice Implementation Committee (the “Implementation Committee”) recommends that the Supreme Court take the following actions:

1. Adopt proposed rules to enable out-of-state lawyers to practice law in California:
  - a. As registered legal services attorneys for up to three years (rule 964);
  - b. As registered in-house counsel for a single, qualifying institution (rule 965);
  - c. Temporarily as part of litigation (rule 966); and

- d. Temporarily as part of a nonlitigation matter (Rule 967).
2. Create a committee to monitor the multijurisdictional practice of law in California and throughout the United States; assess the effects of the proposed rules in California and of similar rules in other jurisdictions; and report to the Supreme Court on these matters within five years after implementation of the proposed rules.
3. Confer with the State Bar of California (the “State Bar”) to select an effective date for the proposed rules that would allow the State Bar sufficient time to prepare for implementation of the rules and to determine how best to extend the authority of the State Bar to nonmembers who practice law in California under the proposed rules.

## I. Introduction

The Supreme Court of California formed the Multijurisdictional Practice Implementation Committee in 2002 and charged it with drafting rules that would expand the circumstances under which attorneys licensed to practice law in jurisdictions in the United States other than California ( “out-of-state” attorneys) are permitted to practice law in California. In other words, the rules would increase the permissible scope of the multijurisdictional practice of law in California. The source of guidance for the Implementation Committee was the *Final Report and Recommendations of the California Supreme Court Advisory Task Force on the Multijurisdictional Practice of Law* (the “*Final Report*”). The Supreme Court adopted the *Final Report*, which defined the scope and much of the content of the rules drafted by the Implementation Committee.

The Task Force recommended permitting four categories of out-of-state lawyers to provide legal services in California. For two of the categories, it recommended a system of *registration*, similar to admission to the State Bar of California but not requiring an attorney to pass the California bar examination. Registration would be available to:

1. *Legal services attorneys* providing legal services to indigent clients on an interim basis before taking the California bar examination, under the supervision of an experienced member of the State Bar, at a qualifying provider of legal services; and
2. *In-house counsel* providing out-of-court legal services exclusively for a single, full-time employing entity (e.g., a corporation or partnership) that does not provide legal services to third parties.

In addition, the Task Force recommended that out-of-state lawyers be allowed to practice law in California through the provision of a “safe harbor,” an exception to the definition of the unauthorized practice of law that would cover specified tasks. The safe harbor would be available to:

3. *Litigating lawyers* providing legal services in California in anticipation of legal proceedings in California or as part of legal proceedings pending or anticipated in another jurisdiction; and
4. *Transactional and other nonlitigating lawyers* providing legal services in California on a temporary and occasional basis.

The Implementation Committee submits with this report a set of proposed rules designed to implement the Task Force’s recommendations. The proposed rules provide that attorneys taking advantage of registration or the safe harbor are subject to the jurisdiction of the State Bar and the California courts.

### III. Form of the Report

This report addresses the process that the Implementation Committee used to develop the proposed rules (Part IV), provides an overview of the proposed rules (Part V), highlights some of the public comment regarding the proposed rules that was received during their circulation for public review and comment (Part VI), and sets forth a proposed course of action to the Supreme Court (VII). The members of the Implementation Committee are listed in the appendix to this report.

### IV. Process for Developing the Rules

#### ***A. Statement of Charge***

The Supreme Court charged the Implementation Committee with reviewing the final report and recommendations of the Task Force and with drafting rules or standards for the Supreme Court's consideration. The rules that accompany this report have been developed in response to that charge.

#### ***B. Composition of the Implementation Committee***

The committee members brought a wide range of perspectives to their discussions. Among them were civil and criminal litigators, private and public attorneys, lawyers and laypersons, and transactional and trial counsel. This diversity of perspectives has assisted the Implementation Committee in considering the interests of all people who would be affected by any change in the rules governing the multijurisdictional practice of law.

#### ***C. Meetings of the Implementation Committee***

The Implementation Committee met on five occasions to prepare the proposed rules. It met four times to develop the rules before circulating them for public comment; it then met to address the ideas and concerns raised by the comments. The report circulated for public comment from May 12, 2003, to July 7, 2003, although the committee considered comments submitted after the deadline.

The Implementation Committee honored the direction of the Chief Justice not to promote the interests of any particular constituency but to consider a range of perspectives and experiences and to design rules that would promote the public good. The primary concern of the Implementation Committee was to provide consumers of legal services with the greatest range of choices among legal representatives while ensuring their protection from incompetent or unscrupulous attorneys. The proposed rules strike a balance between these aims.

## V. Overview of the Proposed Rules

The Implementation Committee drafted four rules in accordance with the Task Force's recommendations. The basic provisions of each rule and the committee's rationale for recommending its adoption are as follows:

### **1. Registered Legal Services Attorneys (rule 964)**

The Task Force proposed a rule that would allow out-of-state attorneys to provide legal services for public-interest organizations in California for a limited number of years on a full-time basis. The Implementation Committee recommends adoption of this rule to help meet the need for legal services by low-income people in California. Rule 964 would accomplish this goal by allowing out-of-state lawyers to work exclusively for qualifying legal services providers for no more than three years.

Many individuals who will benefit from the work of registered legal services attorneys are often not in a position to critically assess the quality of legal services; therefore, the Implementation Committee included safeguards in rule 964. First and foremost, registered legal services attorneys will be subject to oversight by a designated supervisor, who must be an experienced California lawyer and must assume professional responsibility for the legal services provided by the registered attorney. In particular, the supervisor must provide assistance, counsel, and direct supervision sufficient to protect all clients who receive legal representation under this rule. In addition, the rule limits practice to three years. After that time, attorneys must take and pass the California bar examination if they want to continue to practice law in California.

### **2. Registered In-House Counsel (rule 965)**

The Task Force recommended adoption of a rule that would allow out-of-state attorneys to provide legal services in California as in-house counsel on a full-time basis. The Implementation Committee drafted a rule, rule 965, designed to meet the needs of business entities regularly using legal services, including large corporations, by allowing out-of-state lawyers to work exclusively for qualifying institutions on an indefinite basis.

The scope of practice of registered in-house counsel is restricted to protect the public. A lawyer practicing pursuant to this rule may not provide legal services to anyone other than his or her employer, may not work for an entity that provides legal services to others, and may not make court appearances. (The sole exception to these restrictions is that registered in-house counsel may also serve the public as a registered legal services attorney.) The purpose of these restrictions is to ensure that registered in-house counsel provide legal services only to qualifying institutions capable of meaningfully assessing the legal advice and assistance they receive.

### **3. Litigators Temporarily in California (rule 966)**

The Task Force recommended a rule that would allow attorneys to provide legal services in California related to ongoing or anticipated litigation. The rule would fill a gap in the current legal system. The reality of today's practice is that consumers of legal services need to be able to retain counsel for litigation that spans multiple jurisdictions. Under the current system, consumers often have difficulty meeting this need without hiring more than one set of counsel. Admission *pro hac vice* works well for litigation pending in California, in part because a California court can assess whether an out-of-state attorney should be permitted to practice in California. However, that approach does not work for litigation pending in another jurisdiction or for litigation that has yet to be filed.

The Implementation Committee's proposed rule allows attorneys to serve the needs of clients with litigation matters spanning multiple U.S. jurisdictions. It allows attorneys to provide legal services in California on a temporary basis for litigation pending or anticipated to be filed in a jurisdiction other than California and for litigation anticipated to be filed in California in which *pro hac vice* admission will be sought. Consumers of legal services are protected because out-of-state attorneys practicing under this rule will be subject to the jurisdiction of the State Bar of California, the jurisdiction of the courts of California, the laws of the State of California relating to the practice of law, and the California Rules of Professional Conduct. In addition, the attorney will be under the supervision of the forum in which the proceedings ultimately take place.

### **4. Nonlitigators Temporarily in California (rule 967)**

The Task Force recommended a rule that would allow attorneys while in California temporarily to provide legal services related to transactional and other nonlitigation matters. In various circumstances, out-of-state lawyers may be the best or most convenient source of legal guidance on matters that require providing legal services in California.

First, many transactions and other nonlitigation matters span more than one jurisdiction. Clients may wish to choose counsel to assist in a particular matter without being restricted to those attorneys who are admitted in all of the relevant jurisdictions and without hiring more than one lawyer or law firm. To address the needs of these clients, the Implementation Committee proposed a rule that would allow an attorney to provide legal services in California if a material aspect of the transaction or other matter is taking place in a jurisdiction in which the attorney is licensed.

Second, clients may benefit if they can retain out-of-state lawyers to assist California counsel on matters related to federal law or the law of jurisdictions other than California. The rule proposed by the Implementation Committee permits this practice.

Finally, a client may be located in more than one state and may wish to rely on the legal services of an attorney-employee located and licensed to practice law in a jurisdiction other than California. The proposed rule allows the out-of-state attorney to provide legal services in California to his or her employer and the employer's subsidiaries and affiliates.

Like rule 966, this rule protects consumers of legal services because out-of-state attorneys practicing under it will be subject to the jurisdiction of the State Bar, the jurisdiction of the courts of California, the laws of the State of California relating to the practice of law, and the California Rules of Professional Conduct.

## VI. Public Comment

The Implementation Committee circulated the proposed rules for public comment and received almost 50 responses, many on behalf of groups. The great majority of comments were in favor of the rules, although many suggested amendments. The committee reviewed and considered all comments and made a variety of amendments based on them. The comments added greatly to the deliberative process and enhanced the proposed rules, whether or not the committee ultimately adopted any particular suggestion. The Implementation Committee appreciates the time and thought that all the commentators invested in improving the rules.

While it is impractical to respond to every comment, some major points warrant discussion. Of those who were critical of the proposed rules, many suggested in various ways that the rules do not go far enough, some indicating that out-of-state lawyers, in one category or another or as a group in its entirety, should be able to practice law in California in the same way as members of the State Bar. Some comments appeared to contemplate comity (allowing out-of-state lawyers this privilege in general) and others reciprocity (allowing out-of-state lawyers this privilege if their home jurisdiction grants the same privilege to members of the State Bar). The Task Force had already considered comity and reciprocity, and the Supreme Court had not charged the Implementation Committee with revisiting these issues. Instead, following the approach proposed by the Task Force and adopted by the Supreme Court, the Implementation Committee developed rules that would result in incremental changes, targeting the most pressing needs while minimizing the risk of harm to consumers. This approach would allow California to develop the experience necessary to assess further possible reforms. In sum, the proposed rules are not only a means of measured reform but also part of an ongoing effort to evaluate how the reforms work in the real world.

At the other end of the spectrum were commentators concerned that the proposed rules would allow too great an expansion of the practice of law by out-of-state attorneys in California. Some suggested a restriction of the practice under the rules, while others argued against any change at all. Of course, some risk attends any reform; therefore, the Implementation Committee designed the proposed rules to protect consumers of legal services while expanding multijurisdictional practice in a way that can be managed

effectively. Moreover, if the test of time suggests that improvements to the proposed rules are warranted, the rules can be amended.

As noted, the committee revised the proposed rules based on various comments it received. One particular concern expressed in the comments warranted a response. Some commentators cautioned that the proposed rules might limit, rather than expand, the ability of out-of-state lawyers to practice law in California. However, the proposed rules are not intended to restrict the multijurisdictional practice of law already permitted. To clarify this point, the Implementation Committee has added language to each rule stating that conduct permissible before adoption of the rule remains permissible.

Some commentators suggested that the provisions for supervision of registered legal services attorneys were unnecessarily restrictive. These commentators encouraged the Implementation Committee to allow the designated supervisor to exercise discretion about how much assistance, counsel, and direct supervision of a registered legal services attorney is necessary to protect clients. In light of the designated supervisor's obligation to assume professional responsibility for the work of the supervised attorney, the Implementation Committee agreed and has changed the language of proposed rule 964 accordingly. The supervisor must assist, counsel, and provide direct supervision of the registered legal services attorney to the extent required for protection of clients.

As to rule 966, some commentators suggested changing the permissible scope of practice for nonlitigating attorneys temporarily in California. The Implementation Committee originally drafted the rule to allow a qualified attorney to provide assistance on a nonlitigation matter in California if a "substantial part" of the matter were taking place outside of California. Commentators proposed that the defining term be changed to "material aspect," based on the rationale that it is easier to determine whether part of a transaction is "material" than "substantial"; that the materiality (or importance) of the aspect of a transaction is more relevant than its substantiality (or size); and that use of the phrase "material aspect" would allow for a greater range of practice in California in appropriate cases. The Implementation Committee agreed and changed the language to "material aspect."

The Implementation Committee also had the benefit of comments from the State Bar, which suggested a new format for all of the proposed rules and offered comments that applied generally to the proposed rules as well as various specific modifications to particular rules. The committee reviewed each suggested change. As to the overall change in format, the committee found that the circulated version of the rules was at least as consistent with other rules currently governing the practice of law in California and was more streamlined and accessible than the suggested format. As a result, the committee chose to retain the format it had originally adopted.

The State Bar made several useful specific proposals, including, for example, a requirement that out-of-state attorneys contribute to the Client Security Fund. The rules for registered legal services attorneys and registered in-house counsel now make clear that those attorneys must comply with any rules adopted by the State Bar, which could

include contributing to the Client Security Fund. The State Bar also asked that the rules be made effective no earlier than April 1, 2004, and ideally not before July 1, 2004. The committee recommends that the Supreme Court confer with the State Bar to choose a date that will allow the State Bar to prepare for implementation of the rules.

Further, the State Bar suggested that lawyers temporarily practicing law in California should register before entering California. The committee concluded that this step was neither practical nor necessary to protect consumers. Registration would be a significant impediment on occasions when an attorney may be in California only briefly. The need for flexibility on those occasions was a significant reason to change the rules governing the multijurisdictional practice of law. Further, out-of-state lawyers practicing in California under this rule are subject to the law and rules governing California lawyers, as well as to the jurisdiction of the State Bar and California courts. They also are subject to supervision by the states in which they are licensed to practice. These safeguards should ensure that attorneys are held accountable if they act in an improper manner while practicing law in California.

Below are other significant comments by the State Bar and others, followed by the committee's responses.

**Registered Legal Services Attorneys (rule 964)**

*Comment:* Increase the time an attorney has to complete Minimum Continuing Legal Education (MCLE) requirements.

*Response:* A registered legal services attorney is permitted to represent clients, many of whom are not sophisticated consumers of legal services, without taking and passing the California bar examination. The committee concluded that it was reasonable and prudent to require an attorney to satisfy all MCLE requirements that apply to California attorneys within the registered attorney's first year of practice.

**Registered In-House Counsel (rule 965)**

*Comment:* Do not permit attorneys to renew registration without passing the California bar examination.

*Response:* Registered in-house counsel may work only for qualifying institutions that employ at least one additional in-house counsel or have a significant number of employees. They cannot provide legal services to others, nor can they work for institutions that provide legal services to others. With these safeguards in place, the committee concluded that registered in-house counsel need not take the California bar examination.

Comment: Do not limit the rule to attorneys working for qualifying institutions.

Response: The committee placed restrictions on the institutions that may qualify to employ registered in-house counsel. The goal was to limit use of the rule to those organizations that have an ability to make an independent assessment of the quality of counsel. These restrictions include requiring that a qualifying institution either employ an attorney who is an active member in good standing of the State Bar of California or have 10 full-time employees in California. The committee felt these requirements would better ensure that the rule was used appropriately.

Comment: Make existing in-house counsel eligible to serve as registered in-house counsel.

Response: The committee modified the proposed rules to ensure that out-of-state lawyers currently serving as in-house counsel in California would be eligible to become registered in-house counsel.

Comment: Increase the time an attorney has to complete MCLE requirements.

Response: Registered in-house counsel will be permitted to represent clients in California without taking and passing the California bar examination. The committee concluded that it was reasonable and prudent to require an attorney to satisfy all MCLE requirements that apply to California attorneys within the registered attorney's first year of practice.

### **Attorneys Practicing Law Temporarily in California as Part of Litigation (rule 966)**

Comment: Do not limit the frequency or duration of temporary practice.

Response: The rule is not intended to permit an attorney to practice law in California on an ongoing and regular basis without taking the California bar examination. If the attorney intends an extensive practice in California, the attorney should be obliged to become a member of the State Bar of California.

Comment: Limit service to 20 working days per year, in part because the restrictions on litigating in California are too vague. What does it mean that a lawyer cannot be "regularly employed" in California or "regularly" engage in business or professional activities in California?

Response: A rigid limitation on the number of days that an attorney may practice law in California would be unnecessarily restrictive. The limitations on temporary litigation in California under this rule—including the proscriptions on being "regularly employed" in California and on "regularly" engaging in business or professional activities in California—will develop more precise meanings over time. These terms can also be understood in light of their meaning in the context of admission *pro hac vice*.

*Comment:* Revise the definitions so that the term “authorized to appear” expressly includes practice in arbitration, administrative proceedings, and mediations.

*Response:* An out-of-state attorney may practice law in California under this rule if the attorney’s services are part of a legal proceeding—including an arbitration, administrative proceeding, or mediation—in California or another state in which the attorney is or reasonably expects to be “authorized to appear.” Whether the attorney is or will be “authorized to appear” depends on the rules and laws of the jurisdiction in which the legal proceeding takes place. That issue cannot and should not be resolved by a change of definition in the proposed rule.

**Non-Litigation Attorneys Temporarily in California to Provide Legal Services (rule 967)**

*Comment:* Allow out-of-state attorneys to provide legal advice on federal law and the law of other jurisdictions to anyone, not just to attorneys licensed to practice law in California.

*Response:* The relevant provision allows an out-of-state attorney to provide legal assistance and legal advice on a matter that is occurring only in California, even if no material aspect is taking place in any jurisdiction other than California. The committee’s concern was that the client may not recognize the relevance of California law. The committee therefore concluded that it was appropriate to require that a lawyer licensed to practice law in California be part of the process and assist the client in assessing the legal assistance or advice of the out-of-state attorney.

## VII. Recommended Future Action

After considering the charge of the California Supreme Court, the report and recommendations of the Task Force, and public comments on the draft rules, the Implementation Committee recommends that the Supreme Court take the following steps:

1. Adopt proposed rules 964, 965, 966, and 967.
2. Create a committee to monitor the multijurisdictional practice of law in California and throughout the United States; assess the effect of the proposed rules and similar rules in other jurisdictions; and report to the Supreme Court on these matters within five years after implementation of the proposed rules.
3. Confer with the State Bar of California to set a date on which the proposed rules will become effective and to determine how to extend the authority of the State Bar to nonmembers who practice law under the proposed rules.

## Appendix: Members of the Implementation Committee

**Chair** Mr. Raymond C. Marshall  
Bingham McCutchen LLP

Mr. Fred Alvarez  
Wilson, Sonsini, Goodrich & Rosati

Ms. Teveia Barnes  
Lawyers for One America

Mr. Jerome Braun,  
Senior Executive, Admissions and Certification  
State Bar of California

Ms. Joanne M. Garvey  
Heller, Ehrman, White & McAuliffe LLP

Mr. Andrew J. Guilford  
Sheppard, Mullin, Richter & Hampton LLP

Ms. Beth J. Jay  
Principal Attorney to the Chief Justice  
Supreme Court of California

Ms. Margaret Levy  
Manatt, Phelps & Phillips LLP

Ms. Andrea Ordin  
Morgan, Lewis & Bockius LLP

Hon. Dennis M. Perluss  
Associate Justice Court of Appeal,  
Second Appellate District, Division Seven

Mr. Mike Petersen  
Policy Consultant  
Senate Republican Caucus

Ms. Karen Randall  
Executive Vice President and General Counsel  
Universal Studios

Mr. Peter Siggins  
Former Chief Deputy Attorney General  
California Department of Justice  
Legal Affairs Secretary, Governor's Office

Ms. Karen Snell  
Clarence & Snell LLP

Mr. Brian Sun  
O'Neill, & Sun LLP

Mr. James E. Towery  
Hoge Fenton, Jones & Appel, Inc.

Mr. Gene Wong  
Chief Counsel  
Senate Judiciary Committee

**Reporter:** Mr. Joshua Paul Davis  
Associate Professor  
University of San Francisco Law School

**Staff:** Ms. Susan R. Goins  
Senior Attorney  
Office of the General Counsel  
Administrative Office of the Courts

**Staff:** Ms. Benita Downs  
Administrative Coordinator  
Office of the General Counsel  
Administrative Office of the Courts

[The following rules were drafted by the committee and presented to the Supreme Court for consideration. The Supreme Court has approved the rules, designating November 15, 2004 as the date upon which they will become effective.]

1

1 Statement of Purpose. The purpose of this rule is to permit an attorney who relocates to  
2 California and who is licensed to practice law in one or more jurisdictions in the United  
3 States other than California to practice law in California under a registration system  
4 without becoming a member of the State Bar of California. An attorney so registered  
5 may practice law in California for no more than three years and during that period must  
6 do so under the supervision of an attorney employed by a qualifying legal service  
7 provider.  
8

9 **Rule 964. Registered Legal Services Attorneys**

10  
11 (a) **[Scope of practice]** Subject to all applicable rules, regulations, and  
12 statutes, an attorney practicing law under this rule is permitted to  
13 practice law in California only while working, with or without pay, at a  
14 qualifying legal services provider, as defined in this rule, and, at that  
15 institution and only on behalf of its clients, may engage, under  
16 supervision, in all forms of legal practice that are permissible for a  
17 member of the State Bar of California.  
18

19 (b) **[Requirements]** For an attorney to practice law under this rule, the  
20 attorney must:

- 21  
22 (1) Be an active member in good standing of the bar of a United States  
23 state, jurisdiction, possession, territory, or dependency;  
24  
25 (2) Register with the State Bar of California and file an *Application for*  
26 *Determination of Moral Character*;  
27  
28 (3) Meet all of the requirements for admission to the State Bar of  
29 California, except that the attorney:  
30  
31 (A) Need not take the California bar examination or the  
32 Multistate Professional Responsibility Examination; and  
33  
34 (B) May practice law while awaiting the result of his or her  
35 *Application for Determination of Moral Character*;  
36  
37 (4) Comply with the rules adopted by the Board of Governors  
38 relating to the State Bar Registered Legal Services Attorney  
39 Program;  
40

- 1 (5) Practice law exclusively for a single qualifying legal services  
2 provider, except that if so qualified, an attorney may, while  
3 practicing under this rule, simultaneously practice law as registered  
4 in-house counsel;  
5
- 6 (6) Practice law under the supervision of an attorney who is employed  
7 by the qualifying legal services provider and who is a member in  
8 good standing of the State Bar of California;  
9
- 10 (7) Abide by all of the laws and rules that govern members of the  
11 State Bar of California, including the Minimum Continuing Legal  
12 Education (MCLE) requirements;  
13
- 14 (8) Satisfy in his or her first year of practice under this rule all of  
15 the MCLE requirements, including ethics education, that  
16 members of the State Bar of California must complete every three  
17 years; and  
18
- 19 (9) Not have taken and failed the California bar examination within  
20 five years immediately preceding application to register under this  
21 rule.  
22
- 23 (c) **[Application]** To qualify to practice law as a registered legal services  
24 attorney, the attorney must:  
25
- 26 (1) Register as an attorney applicant and file an *Application for*  
27 *Determination of Moral Character* with the Committee of Bar  
28 Examiners;  
29
- 30 (2) Submit to the State Bar of California a declaration signed by  
31 the attorney agreeing that he or she will be subject to the  
32 disciplinary authority of the Supreme Court of California and  
33 the State Bar of California and attesting that he or she will not  
34 practice law in California other than under supervision at a  
35 qualifying legal services provider during the time he or she  
36 practices law as a registered legal services attorney in California,  
37 except that if so qualified, the attorney may, while practicing under  
38 this rule, simultaneously practice law as registered in-house  
39 counsel; and  
40
- 41 (3) Submit to the State Bar of California a declaration signed by  
42 a qualifying supervisor on behalf of the qualifying legal services  
43 provider in California attesting that the applicant will work, with or

1 without pay, as an attorney for the organization; that the applicant  
2 will be supervised as specified in this rule; and that the qualifying  
3 legal services provider and the supervising attorney assume  
4 professional responsibility for any work performed by the  
5 applicant under this rule.  
6

- 7 **(d) [Duration of practice]** An attorney may practice for no more than a  
8 total of three years under this rule.  
9
- 10 **(e) [Fees]** The State Bar of California may set appropriate initial and annual  
11 registration fees, as well as application fees, to be paid by registered  
12 legal services attorneys.  
13
- 14 **(f) [State Bar Registered Legal Services Attorney Program]** The State  
15 Bar may establish and administer a program for registering California  
16 legal services attorneys under rules adopted by the Board of Governors  
17 of the State Bar.  
18
- 19 **(g) [Supervision]** To meet the requirements of this rule, an attorney  
20 supervising a registered legal services attorney:  
21
- 22 (1) Must be an active member in good standing of the State Bar of  
23 California;
  - 24
  - 25 (2) Must have actively practiced law in California and been a member  
26 in good standing of the State Bar of California for at least the two  
27 years immediately preceding the time of supervision;
  - 28
  - 29 (3) Must have practiced law as a full-time occupation for at least four  
30 years;
  - 31
  - 32 (4) Must not supervise more than two registered legal services  
33 attorneys concurrently;
  - 34
  - 35 (5) Must assume professional responsibility for any work that the  
36 registered legal services attorney performs under the supervising  
37 attorney's supervision;
  - 38
  - 39 (6) Must assist, counsel, and provide direct supervision of the  
40 registered legal services attorney in the activities authorized by this  
41 rule and review such activities with the supervised attorney, to the  
42 extent required for the protection of the client;

1 (7) Must read, approve, and personally sign any pleadings, briefs, or  
2 other similar documents prepared by the registered legal services  
3 attorney before their filing, and must read and approve any  
4 documents prepared by the registered legal services attorney for  
5 execution by any person who is not a member of the State Bar of  
6 California before their submission for execution; and  
7

8 (8) May, in his or her absence, designate another attorney meeting the  
9 requirements of (1) through (7) to provide the supervision required  
10 under this rule.  
11

12 (h) **[Inherent power of Supreme Court]** Nothing in this rule is to be construed  
13 as affecting the power of the Supreme Court of California to exercise its  
14 inherent jurisdiction over the practice of  
15 law in California.  
16

17 (i) **[Effect of rule on multijurisdictional practice]** Nothing in this rule limits  
18 the scope of activities permissible under existing law by attorneys who are not  
19 members of the State Bar of California.  
20

21 (j) **[Definitions]** The following definitions apply to terms used in this  
22 rule:  
23

24 (1) “Qualifying legal services provider” means either of the following,  
25 provided that the qualifying legal services provider follows  
26 quality-control procedures approved by the State Bar of California:  
27

28 (A) A nonprofit entity incorporated and operated exclusively in  
29 California that as its primary purpose and function provides  
30 legal services without charge in civil matters to indigent  
31 persons, especially underserved client groups, such as the  
32 elderly, persons with disabilities, juveniles, and non-English-  
33 speaking persons; or  
34

35 (B) A program operated exclusively in California by a nonprofit  
36 law school approved by the American Bar Association or  
37 accredited by the State Bar of California that has operated for  
38 at least two years at a cost of at least \$20,000 per year as an  
39 identifiable law school unit with a primary purpose and  
40 function of providing legal services without charge to  
41 indigent persons.  
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(2) “Active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency” means an attorney who meets all of the following criteria:

- (A) Is a member in good standing of the entity governing the practice of law in each jurisdiction in which the member is licensed to practice law;
- (B) Remains an active member in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered legal services attorney in California; and
- (C) Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.

1 Statement of Purpose. The purpose of this rule is to permit an attorney who resides in  
2 California and who is licensed to practice law in one or more jurisdictions in the United  
3 States other than California to register to provide legal services as in-house counsel for a  
4 single qualifying institution in California without becoming a member of the State Bar of  
5 California.

6  
7 **Rule 965. Registered In-House Counsel**

8  
9 (a) **[Scope of practice]** Subject to all applicable rules, regulations, and  
10 statutes, an attorney practicing law under this rule:

- 11  
12 (1) Is permitted to provide legal services in California only to the  
13 qualifying institution that employs him or her;  
14  
15 (2) Is not permitted to make court appearances in California state  
16 courts or to engage in any other activities for which pro hac vice  
17 admission is required if they are performed in California by an  
18 attorney who is not a member of the State Bar of California; and  
19  
20 (3) Is not permitted to provide personal or individual representation to  
21 any customers, shareholders, owners, partners, officers, employees,  
22 servants, or agents of the qualifying institution.

23  
24 (b) **[Requirements]** For an attorney to practice law under this rule, the  
25 attorney must:

- 26  
27 (1) Be an active member in good standing of the bar of a United States  
28 state, jurisdiction, possession, territory, or dependency;  
29  
30 (2) Register with the State Bar of California and file an *Application for*  
31 *Determination of Moral Character*;  
32  
33 (3) Meet all of the requirements for admission to the State Bar of  
34 California, except that the attorney:  
35  
36 (A) Need not take the California bar examination or the  
37 Multistate Professional Responsibility Examination; and  
38  
39 (B) May practice law while awaiting the result of his or her  
40 *Application for Determination of Moral Character*;  
41

- 1 (4) Comply with the rules adopted by the Board of Governors relating  
2 to the State Bar Registered In-House Counsel Program;  
3
- 4 (5) Practice law exclusively for a single qualifying institution, except  
5 that, while practicing under this rule, the attorney may, if so  
6 qualified, simultaneously practice law as a registered legal services  
7 attorney;  
8
- 9 (6) Abide by all of the laws and rules that govern members of the State  
10 Bar of California, including the Minimum Continuing Legal  
11 Education (MCLE) requirements;  
12
- 13 (7) Satisfy in his or her first year of practice under this rule all of the  
14 MCLE requirements, including ethics education, that members of  
15 the State Bar of California must complete every three years and,  
16 thereafter, satisfy the MCLE requirements applicable to all  
17 members of the State Bar; and  
18
- 19 (8) Reside in California.  
20
- 21 (c) **[Application]** To qualify to practice law as registered in-house counsel,  
22 an attorney must:  
23
- 24 (1) Register as an attorney applicant and file an *Application for*  
25 *Determination of Moral Character* with the Committee of Bar  
26 Examiners;  
27
- 28 (2) Submit to the State Bar of California a declaration signed by the  
29 attorney agreeing that he or she will be subject to the disciplinary  
30 authority of the Supreme Court of California and the State Bar of  
31 California and attesting that he or she will not practice law in  
32 California other than on behalf of the qualifying institution during  
33 the time he or she is registered in-house counsel in California,  
34 except that if so qualified, the attorney may, while practicing under  
35 this rule, simultaneously practice law as a registered legal services  
36 attorney; and  
37
- 38 (3) Submit to the State Bar of California a declaration signed by an  
39 officer, a director, or a general counsel of the applicant's  
40 employer, on behalf of the applicant's employer, attesting that the  
41 applicant is employed as an attorney for the employer, that the  
42 nature of the employment conforms to the requirements of this  
43 rule, that the employer will notify the State Bar of California

1 within 30 days of the cessation of the applicant's employment in  
2 California, and that the person signing the declaration believes, to  
3 the best of his or her knowledge after reasonable inquiry, that the  
4 applicant qualifies for registration under this rule and is an  
5 individual of good moral character.  
6

- 7 (d) **[Duration of practice]** Registered in-house counsel must renew his or  
8 her registration annually. There is no limitation on the number of years  
9 in-house counsel may register under this rule. Registered in-house  
10 counsel may practice law under this rule only for as long as he or she  
11 remains employed by the same qualifying institution that provided the  
12 declaration in support of his or her application. If an attorney practicing  
13 law as registered in-house counsel leaves the employment of his or her  
14 employer or changes employers, he or she must notify the State Bar of  
15 California within 30 days. If an attorney wishes to practice law under  
16 this rule for a new employer, he or she must first register as in-house  
17 counsel for that employer.  
18
- 19 (e) **[Eligibility]** It will not be grounds for denial of an application to  
20 register under this rule if the attorney applicant has practiced law in  
21 California as in-house counsel before the effective date of this rule.  
22 Further, it will not be grounds for denial of an application to register  
23 under this rule if the attorney applicant is practicing law as in-house  
24 counsel at or after the effective date of this rule, provided that the  
25 attorney applies under this rule within six months of its effective date.  
26
- 27 (f) **[Fees]** The State Bar of California may set appropriate initial and annual  
28 registration fees, as well as application fees, to be paid by registered in-  
29 house counsel.  
30
- 31 (g) **[State Bar Registered In-House Counsel Program]** The State Bar  
32 may establish and administer a program for registering California in-  
33 house counsel under rules adopted by the Board of Governors.  
34
- 35 (h) **[Inherent power of Supreme Court]** Nothing in this rule is to be construed  
36 as affecting the power of the Supreme Court of California to exercise its  
37 inherent jurisdiction over the practice of law in California.  
38
- 39 (i) **[Effect of rule on multijurisdictional practice]** Nothing in this rule limits  
40 the scope of activities permissible under existing law by attorneys who are not  
41 members of the State Bar of California.  
42

- 1 (j) **[Definitions]** The following definitions apply to terms used in this rule:  
2  
3 (1) “Qualifying institution” means a corporation, a partnership, an  
4 association, or other legal entity, including its subsidiaries and  
5 organizational affiliates. Neither a governmental entity nor an  
6 entity that provides legal services to others can be a qualifying  
7 institution for purposes of this rule. A qualifying institution must:  
8  
9 (A) Employ at least 10 employees full-time in California; or  
10  
11 (B) Employ in California an attorney who is an active member in  
12 good standing of the State Bar of California.  
13  
14 (2) “Active member in good standing of the bar of a United States  
15 state, jurisdiction, possession, territory, or dependency” means an  
16 attorney who meets all of the following criteria:  
17  
18 (A) Is a member in good standing of the entity governing the  
19 practice of law in each jurisdiction in which the member is  
20 licensed to practice law;  
21  
22 (B) Remains an active member in good standing of the entity  
23 governing the practice of law in at least one United States  
24 state, jurisdiction, possession, territory, or dependency, other  
25 than California, while practicing law as registered in-house  
26 counsel in California; and  
27  
28 (C) Has not been disbarred, has not resigned with charges  
29 pending, or is not suspended from practicing law in any other  
30 jurisdiction.  
31

1 Statement of Purpose. The purpose of this rule is to permit an attorney who is licensed to  
2 practice law in a jurisdiction in the United States other than California, and who is in  
3 California temporarily as part of litigation, to perform litigation tasks in California under  
4 specified circumstances. An attorney practicing in accordance with this rule is not  
5 engaged in the unauthorized practice of law in California.  
6

7 **Rule 966. Attorneys practicing law temporarily in California as part of**  
8 **litigation**  
9

10 (a) **[Requirements]** For an attorney to practice law under this rule, the  
11 attorney must:  
12

- 13 (1) Maintain an office in a United States jurisdiction other than California  
14 and in which the attorney is licensed to practice law;  
15
- 16 (2) Already be retained by a client in the matter for which the attorney  
17 is providing legal services in California, except that the attorney  
18 may provide legal advice to a potential client, at the potential  
19 client's request, to assist the client in deciding whether to retain the  
20 attorney;  
21
- 22 (3) Indicate on any Web site or other advertisement that is accessible in  
23 California either that the attorney is not a member of the State Bar of  
24 California or that the attorney is admitted to practice law only in the  
25 states listed; and  
26
- 27 (4) Be an active member in good standing of the bar of a United States  
28 state, jurisdiction, possession, territory, or dependency.  
29

30 (b) **[Permissible activities]** An attorney meeting the requirements of this  
31 rule, who complies with all applicable rules, regulations, and statutes, is  
32 not engaging in the unauthorized practice of law in California if the  
33 attorney's services are part of:  
34

- 35 (1) A formal legal proceeding that is pending in another jurisdiction  
36 and in which the attorney is authorized to appear;  
37
- 38 (2) A formal legal proceeding that is anticipated but is not yet pending  
39 in California and in which the attorney reasonably expects to be  
40 authorized to appear;  
41

- 1 (3) A formal legal proceeding that is anticipated but is not yet pending  
2 in another jurisdiction and in which the attorney reasonably  
3 expects to be authorized to appear; or  
4  
5 (4) A formal legal proceeding that is anticipated or pending and in  
6 which the attorney's supervisor is authorized to appear or  
7 reasonably expects to be authorized to appear.  
8

9 The attorney whose anticipated authorization to appear in a formal legal  
10 proceeding serves as the basis for practice under this rule must seek that  
11 authorization promptly after it becomes possible to do so. Failure to  
12 seek that authorization promptly, or denial of that authorization, ends  
13 eligibility to practice under this rule.  
14

15 (c) **[Restrictions]** To qualify to practice law in California under this rule,  
16 an attorney must not:  
17

- 18 (1) Hold out to the public or otherwise represent that he or she is  
19 admitted to practice law in California;  
20  
21 (2) Establish or maintain a resident office or other systematic or  
22 continuous presence in California for the practice of law;  
23  
24 (3) Be a resident of California;  
25  
26 (4) Be regularly employed in California;  
27  
28 (5) Regularly engage in substantial business or professional activities  
29 in California; or  
30  
31 (6) Have been disbarred, have resigned with charges pending, or be  
32 suspended from practicing law in any other jurisdiction.  
33

34 (d) **[Conditions]** By practicing law in California pursuant to this rule, an  
35 attorney agrees that he or she is providing legal services in California  
36 subject to:  
37

- 38 (1) The jurisdiction of the State Bar of California;  
39  
40 (2) The jurisdiction of the courts of this state to the same extent as is a  
41 member of the State Bar of California; and

1 (3) The laws of the State of California relating to the practice of law,  
2 the State Bar Rules of Professional Conduct, the rules and  
3 regulations of the State Bar of California, and these rules.  
4

5 (e) **[Inherent power of Supreme Court]** Nothing in this rule is to be construed  
6 as affecting the power of the Supreme Court of California to exercise its  
7 inherent jurisdiction over the practice of law in California.

8  
9 (f) **[Effect of rule on multijurisdictional practice]** Nothing in this rule limits  
10 the scope of activities permissible under existing law by attorneys who are not  
11 members of the State Bar of California.  
12

13 (g) **[Definitions]** The following definitions apply to the terms used in this  
14 rule:  
15

16 (1) “A formal legal proceeding” means litigation, arbitration,  
17 mediation, or a legal action before an administrative decision-  
18 maker.  
19

20 (2) “Authorized to appear” means the attorney is permitted to appear  
21 in the proceeding by the rules of the jurisdiction in which the  
22 formal legal proceeding is taking place or will be taking place.  
23

24 (3) “Active member in good standing of the bar of a United States  
25 state, jurisdiction, possession, territory, or dependency” means an  
26 attorney who meets all of the following criteria:  
27

28 (A) Is a member in good standing of the entity governing the  
29 practice of law in each jurisdiction in which the member is  
30 licensed to practice law;  
31

32 (B) Remains an active member in good standing of the entity  
33 governing the practice of law in at least one United States  
34 state, jurisdiction, possession, territory, or dependency  
35 while practicing law under this rule; and  
36

37 (C) Has not been disbarred, has not resigned with charges  
38 pending, or is not suspended from practicing law in any  
39 other jurisdiction.  
40

1 Statement of Purpose. The purpose of this rule is to permit an attorney who is licensed to  
2 practice law in a jurisdiction in the United States other than California, and who is in  
3 California temporarily other than as part of litigation, to practice law to a limited extent in  
4 California. An attorney practicing under this rule is not engaged in the unauthorized  
5 practice of law in California.  
6

7 **Rule 967. Non litigating attorneys temporarily in California to provide legal**  
8 **services**  
9

10 (a) **[Requirements]** For an attorney to practice law under this rule, the attorney  
11 must:

- 12 (1) Maintain an office in a United States jurisdiction other than California  
13 and in which the attorney is licensed to practice law;  
14
- 15 (2) Already be retained by a client in the matter for which the attorney  
16 is providing legal services in California, except that the attorney  
17 may provide legal advice to a potential client, at the potential  
18 client's request, to assist the client in deciding whether to retain the  
19 attorney;  
20
- 21 (3) Indicate on any Web site or other advertisement that is accessible in  
22 California either that the attorney is not a member of the State Bar of  
23 California or that the attorney is admitted to practice law only in the  
24 states listed; and  
25
- 26 (4) Be an active member in good standing of the bar of a United States  
27 state, jurisdiction, possession, territory, or dependency.  
28

29 (b) **[Permissible activities]** An attorney who meets the requirements of this rule  
30 and who complies with all applicable rules, regulations, and statutes is not  
31 engaging in the unauthorized practice of law in California if the attorney:  
32

- 33 (1) Provides legal assistance or legal advice in California to a client  
34 concerning a transaction or other nonlitigation matter, a material aspect  
35 of which is taking place in a jurisdiction other than California and in  
36 which the attorney is licensed to provide legal services;  
37
  - 38 (2) Provides legal assistance or legal advice in California on an issue of  
39 federal law or of the law of a jurisdiction other than California to  
40 attorneys licensed to practice law in California; or  
41
  - 42 (3) Is an employee of a client and provides legal assistance or legal advice  
43 in California to the client or to the client's subsidiaries or organizational  
44 affiliates.  
45
- 46

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43

(c) **[Restrictions]** To qualify to practice law in California pursuant to this rule, an attorney must not:

- (1) Hold out to the public or otherwise represent that he or she is admitted to practice law in California;
- (2) Establish or maintain a resident office or other systematic or continuous presence in California for the practice of law;
- (3) Be a resident of California;
- (4) Be regularly employed in California;
- (5) Regularly engage in substantial business or professional activities in California; or
- (6) Have been disbarred, have resigned with charges pending, or be suspended from practicing law in any other jurisdiction.

(d) **[Conditions]** By practicing law in California pursuant to this rule, an attorney agrees that he or she is providing legal services in California subject to:

- (1) The jurisdiction of the State Bar of California;
- (2) The jurisdiction of the courts of this state to the same extent as is a member of the State Bar of California; and
- (3) The laws of the State of California relating to the practice of law, the State Bar Rules of Professional Conduct, the rules and regulations of the State Bar of California, and these rules.

(e) **[Scope of practice]** An attorney is permitted by this rule to provide legal assistance or legal services concerning only a transaction or other nonlitigation matter.

(f) **[Inherent power of Supreme Court]** Nothing in this rule is to be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(g) **[Effect of rule on multijurisdictional practice]** Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members of the State Bar of California.

- 1           **(h) [Definitions]** The following definitions apply to terms used in this rule:  
2           (1) “A transaction or other nonlitigation matter” includes any legal  
3           matter other than litigation, arbitration, mediation, or a legal action  
4           before an administrative decision-maker.  
5           (2) “Active member in good standing of the bar of a United States  
6           state, jurisdiction, possession, territory, or dependency” means an  
7           attorney who meets all of the following criteria:  
8  
9           (A) Is a member in good standing of the entity governing the  
10           practice of law in each jurisdiction in which the member is  
11           licensed to practice law;  
12  
13           (B) Remains an active member in good standing of the entity  
14           governing the practice of law in at least one United States  
15           state, jurisdiction, possession, territory, or dependency other  
16           than California while practicing law under this rule; and  
17  
18           (C) Has not been disbarred, has not resigned with charges  
19           pending, or is not suspended from practicing law in any other  
20           jurisdiction.

Program	Permissible Activities	Required Supervision
<p>Practical Training of Law Students (aka Certified Law Student)</p>	<p>Under Rules of Court, rule 9.42(d), and State Bar Rule 3.4(A), <u>a certified law student may:</u></p> <ul style="list-style-type: none"> <li>• Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the certified law student:               <ul style="list-style-type: none"> <li>✓ Obtains the approval of the supervising attorney to engage in the activities;</li> <li>✓ Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the certified law student; and</li> <li>✓ Performs the activities under the general supervision of the supervising attorney;</li> </ul> </li> <li>• Appear on behalf of the client in depositions, provided that the certified law student:               <ul style="list-style-type: none"> <li>✓ Obtains the approval of the supervising attorney to engage in the activity;</li> <li>✓ Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the</li> </ul> </li> </ul>	<p>Under Rules of Court, rule 9.42(a)(2), and State Bar Rule 3.6, <u>a supervising attorney must:</u></p> <ul style="list-style-type: none"> <li>• Be an active licensee of the State Bar of California in good standing who agrees to supervise a certified law student as required by these rules;               <ul style="list-style-type: none"> <li>○ A licensee who is inactive, suspended, or subject to discipline, or who has resigned or been disbarred may not be a Supervising Attorney.</li> </ul> </li> <li>• Have practiced law in California or taught law in a law school as a full-time occupation for at least the two years before supervising a certified law student;</li> <li>• Supervise the permitted activities of a certified law student as specified by Rule 9.42(d);</li> <li>• Personally assume professional responsibility for any activity a certified law student performs pursuant to these rules;</li> <li>• Provide training and counsel that prepares a certified law student to satisfactorily perform an activity permitted by these rules in a manner that best serves the interest of a client;</li> <li>• Read, approve, and sign any document prepared by the certified law student for a client;</li> </ul>

Program	Permissible Activities	Required Supervision
	<p>supervising attorney); and</p> <ul style="list-style-type: none"> <li>✓ Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student;</li> <li>• Appear on behalf of the client in any public trial, hearing, arbitration, or proceeding, or before any arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, provided that the certified law student: <ul style="list-style-type: none"> <li>✓ Obtains the approval of the supervising attorney to engage in the activity;</li> <li>✓ Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney);</li> <li>✓ Obtains a signed consent form from the client on whose behalf the certified law</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Supervise at one time no more than five certified law students or twenty-five if employed full-time to supervise law students in a law school or government training program; and</li> <li>• Promptly notify the State Bar that he or she no longer meets the requirements of these rules or that his or her supervision is ending before the period stated in the Notice of Certification.</li> </ul>

Program	Permissible Activities	Required Supervision
	<p>student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student; and</p> <ul style="list-style-type: none"> <li>✓ As a condition to such appearance, either presents a copy of the consent form to the arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, or files a copy of the consent form in the court case file; and</li> <li>• Appear on behalf of a government agency in the prosecution of criminal actions classified as infractions or other such minor criminal offenses with a maximum penalty or a fine equal to the maximum fine for infractions in California, including any public trial: <ul style="list-style-type: none"> <li>✓ Subject to approval by the court, commissioner, referee, hearing officer, or magistrate presiding at such public trial; and</li> <li>✓ Without the personal appearance of the supervising attorney or any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney, but only if the supervising attorney or the designated</li> </ul> </li> </ul>	

Program	Permissible Activities	Required Supervision
	<p>attorney has approved in writing the performance of such acts by the certified law student and is immediately available to attend the proceeding.</p>	
<p>Registered Military Spouse Attorney</p>	<p>Under Rules of Court, rule 9.41.1(b), <u>a registered military spouse attorney may:</u></p> <ul style="list-style-type: none"> <li>• Practice law in California, under supervision, in all forms of legal practice that are permissible for a licensed attorney of the State Bar of California, including pro bono legal services.</li> </ul>	<p>Under Rules of Court, rule 9.41.1(g), and State Bar Rule 3.352(l), <u>a supervising attorney must:</u></p> <ul style="list-style-type: none"> <li>• Have practiced law as a full-time occupation for at least four years in any United States jurisdiction;</li> <li>• Have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;</li> <li>• Assume professional responsibility for any work that the registered military spouse attorney performs under the supervising attorney's supervision;</li> <li>• Assist, counsel, and provide direct supervision of the registered military spouse attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered military spouse attorney, and review such activities with the supervised military spouse attorney, to the extent required for the protection of the client or customer;</li> <li>• Read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered</li> </ul>

Program	Permissible Activities	Required Supervision
		<p>military spouse attorney before their filing, and must read and approve any documents prepared by the registered military spouse attorney before their submission to any other party;</p> <ul style="list-style-type: none"> <li>• Agree to assume control of the work of the registered military spouse attorney in the event the registration of the military spouse attorney is terminated, in accordance with applicable laws; and</li> <li>• May, in his or her absence, designate another attorney meeting these requirements to provide the supervision required under this rule.</li> </ul>
Registered Legal Aid Attorney	<p>Under Rules of Court, rule 9.45(b), <u>a registered legal aid attorney</u> may:</p> <ul style="list-style-type: none"> <li>• Practice law in California only while working, with or without pay, at an eligible legal aid organization, as defined in this rule, and, at that institution and only on behalf of its clients or customers, may engage, under supervision, in all forms of legal practice that are permissible for a licensee of the State Bar of California.</li> </ul>	<p>Under Rules of Court, rule 9.45(h), and State Bar Rule 3.363(b)(2), <u>a supervising attorney</u> must:</p> <ul style="list-style-type: none"> <li>• Have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;</li> <li>• Assume professional responsibility for any work that the registered legal aid attorney performs under the supervising attorney's supervision;</li> <li>• Assist, counsel, and provide direct supervision of the registered legal aid attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any</li> </ul>

Program	Permissible Activities	Required Supervision
		<p>proceeding by the registered legal aid attorney, and review such activities with the supervised registered legal aid attorney, to the extent required for the protection of the client or customer;</p> <ul style="list-style-type: none"> <li>• Read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered legal aid attorney before their filing, and must read and approve any documents prepared by the registered legal aid attorney before their submission for execution; and</li> <li>• May, in his or her absence, designate another attorney meeting these requirements to provide the supervision required under this rule.</li> </ul>
<p>Registered In-House Counsel</p>	<p>Under Rules of Court, rule 9.46(b), <u>a registered in-house counsel may:</u></p> <ul style="list-style-type: none"> <li>• Provide legal services in California only to the qualifying institution that employs him or her; and</li> <li>• Provide pro bono legal services under supervision of a California attorney for either eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1), or the qualifying institution that employs him or her.</li> </ul> <p><u>A registered in-house counsel may NOT:</u></p> <ul style="list-style-type: none"> <li>• Make court appearances in California state</li> </ul>	<p>Under Rules of Court, rule 9.46(b)(2), a registered in-house counsel need NOT be supervised directly by a supervising attorney UNLESS they are providing <i>pro bono</i> services for a legal aid organization or the qualifying institution that employs the registered in-house counsel.</p>

Program	Permissible Activities	Required Supervision
	<p>courts or to engage in any other activities for which pro hac vice admission is required if they are performed in California by an attorney who is not a licensee of the State Bar of California; or</p> <ul style="list-style-type: none"> <li>• Provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution, except as described in subdivision (b)(2).</li> </ul>	

**Provisional Licensure Working Group Roster**

**Hailyn Chen**  
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Legislative Counsel of California

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Vice President – Senior Loss Prevention Counsel  
Attorneys' Liability Assurance Society

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