

## STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on September 22, 2015, the following order was made and entered:

### **IN RE:           REQUEST FOR PUBLIC COMMENT ON AMENDMENT TO THE                   RULES FOR ADMISSION TO THE PRACTICE OF LAW**

On a former day, August 20, 2015, Madeleine Nibert, Bar Admissions Administrator, presented a proposed amendment to the West Virginia Rules for Admission to the Practice of Law to permit the temporary practice of law in West Virginia by the attorney spouses of active service members assigned to a permanent duty station in West Virginia.

Upon review of the proposal, the Court hereby approves publication of the proposed amendment for a sixty-day period of public comment. **Comments may be filed, in writing, with the Clerk of the Court on or before December 15, 2015.** The proposed additions are indicated by underscoring.

### **RULES FOR ADMISSION TO THE PRACTICE OF LAW**

#### Rule 4.7. Military Spouse Temporary Admission:

**(a) Requirements.** An applicant who meets the requirements of this Rule may, upon motion, be admitted to the temporary practice of law in this jurisdiction. The Applicant shall:

- (1) Have been admitted to practice law in another jurisdiction in the United States or territory;**
- (2) Establish that the applicant satisfies the requirements of Rule 2.0, Rule 4.2, Rule 4.3, and Rule 4.4;**
- (3) Establish that the Applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;**
- (4) Submit evidence that the Applicant is a dependent spouse of a service member of the United States Uniformed Services as defined by the Department of Defense;**
- (5) Submit evidence that the service member is on full time, active duty pursuant to military orders in the State of West Virginia;**

- (6) Submit evidence that the Applicant is residing in West Virginia due to the service member's full time, active duty pursuant to military orders in this state;
- (7) Not have failed the West Virginia bar examination within five years of the date of filing an application under this rule;
- (8) Not have been previously denied admission to the practice of law in West Virginia; and
- (9) Agree to advise all clients, prior to providing representation or services, that the attorney is temporarily admitted under the military spouse exception.

**(b) Filing Requirements.** An applicant under this rule shall file an application for military spouse certification in accordance with the provisions of Rule 4.1. An applicant under this rule shall:

- (1) Demonstrate presence in West Virginia as a spouse of a service member by filing a copy of the certification of legal relationship, such as a marriage or civil union license, and a copy of the service member's military orders reflecting a permanent change of station to a military installation in West Virginia;
- (2) Certify that the applicant has read and is familiar with the West Virginia Rules of Professional Conduct;
- (3) Provide the Board of Law Examiners with a certificate of good standing from all courts and jurisdictions in which the attorney is admitted to practice; and
- (4) Provide such other information as may be required by the Board of Law Examiners to determine the applicant's eligibility for temporary admission under these Rules.

**(c) Duration.** A temporary admission shall terminate, and an attorney shall cease the practice of law in West Virginia pursuant to that admission, unless otherwise authorized by these rules, thirty (30) days after any of the following events:

- (1) The service member's separation or retirement from the United States Uniformed Services;
- (2) The service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the Department of Defense does not authorize dependents to accompany the service member, in which case the temporary attorney may continue to practice law in West Virginia as provided in this rule;
- (3) The attorney's permanent relocation outside the state of West Virginia for reasons other than the service member's relocation;

- (4) The attorney's ceasing to be a dependent as defined by the Department of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Department of Homeland Security;
- (5) The attorney's failure to meet the annual licensing requirements for an active member of the State Bar of West Virginia, including any and all continuing legal education requirements;
- (6) The attorney's request;
- (7) The attorney's admission to practice law in West Virginia under any other admissions rule; or
- (8) Notice by the Supreme Court at any time.

**(d) Notice of Termination.** An attorney whose temporary admission is terminated shall provide written notice to the West Virginia Board of Law Examiners within thirty (30) days of the terminating event. At least sixty (60) days before termination of the temporary admission, under this rule or as soon as possible under the circumstances, the attorney shall:

- (1) File in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and
- (2) Provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.

**(e) Benefits and Responsibilities of Temporary Admission.** An attorney temporarily admitted under this rule shall be entitled to the benefits and responsibilities of active members of the West Virginia State Bar, and shall be subject to the jurisdiction of the courts and agencies of the State of West Virginia and to the West Virginia State Bar with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar.

A True Copy

Attest: //s// Edythe A. Nash Gaiser  
Deputy Clerk of Court

