

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on May 3, 2023, the following order was made and entered.

**RE: Adoption of Rule 4.8 Military Legal Assistance Admission and Registration to the Rules for Admission to the Practice of Law in West Virginia
No. 22-Rules-03**

On June 15, 2022, the Court published for public comment proposed amendments to the Rules for Admission to the Practice of Law in West Virginia that would add Rule 4.8 Military Legal Assistance Admission and Registration. No comments were filed.

The Court has jurisdiction under Article VIII, §§ 1 and 3 of the West Virginia Constitution.

Upon consideration and review of the proposed amendment on April 27, 2023, the Court is of the opinion to and does adopt the following rule amendment, effective immediately.

The additions to the Rules are indicated by underscoring to read as follows:

Rules for Admission to the Practice of Law in West Virginia

Rule 4.8 Military Legal Assistance Admission and Registration

a). Admission to the Practice of Law of Judge Advocates Serving in the West Virginia National Guard

1. A lawyer admitted to the practice of law in another state or territory of the United States or the District of Columbia may receive a temporary and limited license to practice law in this State, without an examination, if the lawyer:

a. Is assigned, permanently or temporarily, in a position as a Judge Advocate with the West Virginia National Guard;

b. Is certified or designated as a Judge Advocate in the Judge Advocate General's Corps of the Army or Air Force, or reserve component of one of these; and,

c. Can demonstrate to the Board that the standards of admission in at least one of the jurisdictions where he or she is currently admitted were, at the time of the applicant's admission in that jurisdiction, and are now, substantially equivalent to the standards for admission in West Virginia.

2. A person admitted pursuant to this Rule shall be deemed in all respects a lawyer licensed to practice law in this State and subject to the duties, obligations, and responsibilities of active members of the bar in respect to any duties as a Judge Advocate with the West Virginia National Guard. This admission does not extend to the practice of law other than as a Judge Advocate with the West Virginia National Guard.

3. The temporary and limited license issued pursuant to this Rule shall automatically terminate after the earliest occurrence of any of the following events:

a. The service member is no longer serving as a Judge Advocate in the West Virginia National Guard;

b. The service member's separation or retirement from the West Virginia National Guard or the United States Armed Forces;

c. The service member is no longer licensed to practice law in any other state or territory of the United States or the District of Columbia; or

d. Three years since the date the license was granted.

b.) Military Defense or Legal Assistance Attorney Admission

Lawyers admitted to the practice of law in another state or territory, or the District of Columbia, who are serving in or are employed by the Armed Services, to include the National Guard or other reserve component, may apply to the Board of Law Examiners for a temporary certificate to act as a registered military legal assistance attorney or trial defense attorney in order to represent clients eligible for legal assistance or defense services in the military courts and tribunals of this State while the lawyer is employed, stationed in, or assigned a case or cases within West Virginia. This certificate will be a temporary and limited license to practice as a Legal Assistance Attorney or Trial Defense Attorney in order to represent clients eligible for those services under military regulation for a period of one year, renewable upon application.

A True Copy

Attest: /s/ Edythe Nash Gaiser
Clerk of Court

