

RE: **PROPOSED NEW RULE OF THE RULES OF THE SUPREME COURT
OF THE STATE OF HAWAII**

ALLOWING LIMITED ADMISSION OF MILITARY-SPOUSE ATTORNEYS

The Supreme Court of Hawai'i seeks public comment regarding a new PROPOSED RULE OF THE RULES OF THE SUPREME COURT OF THE STATE OF HAWAII. The proposal would allow for the limited admission of attorneys who are spouses of United States Uniformed Services personnel. The new proposed rule is attached hereto.

Comments about the proposed Rule should be submitted, in writing, **no later than October 17, 2017**, to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the Judiciary's website.

Attachment

**PROPOSED RULE OF
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1. Limited admission of United States uniformed services spouse-attorneys.**

(a) Eligibility. Due to the unique mobility requirements of members of the United States Uniformed Services (USUS), an attorney who is a spouse of such a service member assigned to active duty in the State of Hawai'i may be temporarily admitted as an attorney of this State, without written examination if the following conditions are fulfilled.

(1) REQUIREMENTS FOR ADMISSION UNDER THIS RULE. The applicant must establish to the satisfaction of the Board of Bar Examiners that the applicant:

(A) is a graduate of a law school approved by the American Bar Association Council on Legal Education and Admissions to the Bar;

(B) has been admitted, after successful completion of a written examination, to practice by the highest court of another state, the District of Columbia, or a territory of the United States;

(C) is active and in good standing in at least one other jurisdiction in the United States;

(D) is at the time of application a member of the bar in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned in good standing without any pending or later disciplinary actions;

(E) faces no discipline, current or pending, in any jurisdiction and reports, for the consideration of the Board, any past discipline imposed upon the applicant in any jurisdiction,

(F) possesses the moral character and fitness required of all applicants for admission in this State and has not had admission to any bar denied on character and fitness grounds;

(G) submits a passing score on the Multistate Professional Responsibility Examination;

(H) has not failed the Hawai'i State bar examination without subsequent success;

(I) avers he or she has read the Hawai'i Rules of Professional Conduct and Rule 2 of these Rules, and acknowledges the jurisdiction of the Hawai'i disciplinary authorities over the applicant's professional conduct;

(J) demonstrates the applicant resides in this jurisdiction as a spouse of, and due to the orders of, the USUS member.

(2) BOARD REVIEW OF THE APPLICATION. The Board shall adjudge the application as provided by the applicable sections of Rules 1.3, 1.4, and 1.5 of these Rules, except that:

(A) the Board may amend the requirements of Rule 1.3(a) of these Rules to reflect the unique demands of military life but shall, at a minimum, require a copy of the applicant's USUS Spouse Dependent Identification, documentation

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evidencing a spousal relationship with the USUS member, and a copy of the service member's USUS orders to a USUS installation in Hawai'i authorizing dependents to accompany the service member to Hawai'i;

(C) with regard to Rule 1.3(c) of these Rules, the Board shall require submission of a character and fitness report at the applicant's expense, issued by the National Conference of Bar Examiners, but, in recognition of the frequent re-deployments USUS personnel and their dependents undergo, the Board may, in its discretion, limit its inquiry to the period of time since the applicant's most recent admission to another jurisdiction; and

(D) pursuant to Rule 1.4 of these Rules, the Board, with supreme court approval, may set a separate fee for application under this Rule.

(3) FORM OF LICENSE. The license admitting the applicant shall be in the form provided by Rule 1.6 of these Rules, except that, after "is hereby" the clerk shall insert the words "temporarily licensed for limited practice, pursuant to Rule 1.17 of the Rules of the Supreme Court of the State of Hawai'i" and, after "good behavior," the clerk shall insert, "until such time as, pursuant to Rule 1.17 of the Rules of the Supreme Court of the State of Hawai'i, this provisional license expires."

(4) DUTY TO REPORT CHANGE IN BAR STATUS. The applicant shall, within 30 days, report to the bar any change in bar membership in any other jurisdiction where the applicant has been admitted to practice, or of the imposition of any permanent or temporary professional disciplinary sanction by any federal or state court or agency.

(b) Practice requirements. An attorney admitted under this Rule shall comply with the registration requirements and payment of annual assessments as required of all licensed Hawai'i attorneys under Rule 17(d) of these Rules, during the duration of the temporary license. In addition, the applicant

(1) shall complete, within one year of admission under this Rule, the Hawai'i Professionalism Course, sponsored by the Hawai'i Supreme Court, as further described in Rule 1.14 of these Rules;

(2) shall fulfil the annual Continuing Legal Education requirements, as further described in Rule 22 of these Rules;

(3) shall practice under the supervision of a licensed Hawai'i attorney, a law firm employing at least one licensed Hawai'i attorney, or the federal government, the State of Hawai'i, or a subdivision of the State of Hawai'i, including the various counties, who will have ultimate responsibility for the attorney's clients. Failure to comply with these limitations on practice may constitute the unauthorized practice of law;

(4) shall report to the supreme court, within 30 days, any change in bar membership status in any jurisdiction where the attorney has been admitted to practice and any imposition of any permanent or temporary professional disciplinary sanction by any federal or state court or agency. The provisions of this Rule do not relieve the attorney of any other duties imposed by Rule 2.15 of these Rules.

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(c) Term Limitation; Extensions. The temporary license granted under this Rule shall terminate 30 days after the earliest occurrence of the following events:

- (1) the passage of four years from the date of issuance;
- (2) the USUS spouse of the attorney admitted under this Rule ceases to be an active member of the Uniformed Services (either through discharge, separation, retirement, death, or disability) provided, however, that if the separation from service is due to the death or disability of the service member, the deadline shall extend to 1 year following the terminating event or until the swearing-in date of the next Hawai'i bar exam for which the attorney was eligible, whichever is later, and shall supersede the four-year limitation established by section (c)(1) of this Rule;
- (3) the attorney ceases to be a dependent spouse of the USUS member, as defined by that branch of service;
- (4) the service member receives orders posting the service member outside of this jurisdiction, unless the service member's subsequent assignment specifies that dependents are not authorized to accompany the service member, in which case the attorney may continue to practice pursuant to this Rule until the occurrence of another terminating event set forth in this Rule (c);
- (5) the attorney, independent of the spouse's orders, establishes residency outside of this jurisdiction;
- (6) the attorney successfully completes the standard admission process for full admission to the Hawai'i Bar, pursuant to Rule 1.3 *et seq.* of these Rules;
- (7) the attorney is no longer licensed and in good standing in at least one other U.S. jurisdiction;
- (8) the attorney resigns the temporary license, pursuant to Rule 1.10 of these Rules.

If the exception set forth in section (c)(2) of this Rule applies to extend the license past the standard 30 days of the triggering event, the applicant must notify the Board regarding the extension and submit any supporting documentation required by the Board at its discretion.

(d) Duties upon termination of the license. Upon termination of the license granted under this Rule, if the attorney thereafter shall not be licensed to practice in this jurisdiction under some other authority, the attorney shall, within the 30-day deadline for termination of the license, notify or cause to be notified, by registered or certified mail, return receipt requested, the supreme court and the Hawai'i State Bar Association, as well as each of his or her clients involved in pending litigation or administrative proceedings and the attorney or attorneys for each adverse party in such matters or proceedings, of the impending termination of the license and consequent inability to act as an attorney after the effective date of the termination. The notice given to the client shall advise the client of the desirability of the prompt substitution of another attorney or attorneys in his or her place, while the notice given to opposing counsel shall state the place of residence of the client of the attorney whose license is terminating.

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The attorney shall also make reasonable efforts to withdraw from any pending court matters prior to the expiration of the license but, in the event a client does not obtain substitute counsel before the effective date of the termination of the license, the attorney shall nevertheless withdraw.

(e) Discipline; Dues. Attorneys admitted pursuant to this Rule shall be subject to the jurisdiction of the supreme court and the Disciplinary Board of the Hawai'i Supreme Court, pursuant to proceedings under Rule 2 of these Rules and to administrative suspension for failure to comply with the annual registration requirements of Rule 17(d) of these Rules. Attorneys admitted under this Rule shall in all other respects be required to pay dues and fees lawfully imposed on attorneys licensed to practice law in the State of Hawai'i. The fees for application and certificate of admission shall be assessed and paid on application for admission under this Rule. The fees determined under Rule 17(d)(3) of these Rules shall be assessed and paid from and after admission to the bar for the duration of the license.