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SCRU-11-0000068

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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In the Matter of the  
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI‘I

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ORDER AMENDING RULE 1 OF THE  
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI‘I  
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that new Rule 1.17 of the Rules of the Supreme Court of the State of Hawai‘i is promulgated, effective July 1, 2018, as follows:

**1.17 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 provisionally 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 (Board) 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 current or pending discipline in any jurisdiction and has fully disclosed, for the consideration of the Board, any past discipline imposed upon the applicant in any jurisdiction;

(F) possesses the good 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; and

(J) demonstrates that he or she currently resides in this jurisdiction as a spouse of, and due to the active duty assignment 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 modify 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 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;

(B) 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; and

(C) 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 "licensed for practice pursuant to and subject to the terms set forth in 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 or bar association.

(5) TIME AND MANNER OF ADMISSION. If, after such investigation as the Board may deem appropriate, it concludes that the applicant possesses the qualifications required of all other applicants for admission to practice law in this jurisdiction, the applicant shall be provisionally licensed to practice law and provisionally enrolled as a member of the bar of this jurisdiction, subject to the terms, duties, and limitations set forth in this Rule. The Board shall promptly act upon any application filed under this Rule.

**(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 provisional 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 fulfill the annual Continuing Legal Education requirements, as further described in Rule 22 of these Rules;

(3) shall practice under the direct supervision, pursuant to Rule 5.1 of the Hawai'i Rules of Professional Conduct, of an actively licensed Hawai'i attorney practicing in Hawai'i;

Failure to comply with these limitations on practice may constitute the unauthorized practice of law; and

(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 or any imposition of any permanent or temporary professional disciplinary sanction by any federal or state court or agency or bar association. The provisions of this Rule do not relieve the attorney of any other duties imposed by Rule 2.15 of these Rules.

**(c) Term Limitation; Extensions.** The provisional license granted under this Rule shall terminate 30 days after the earliest occurrence of any 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;

(3) the attorney ceases to be a dependent spouse of the USUS member, as defined by that branch of service;

(4) the effective date for any orders received by the service member 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 permanent physical 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; or

(8) the attorney resigns the provisional license, pursuant to Rule 1.10 of these Rules.

Failure to timely report any terminating event to the Board may result in the unauthorized practice of law and/or disciplinary referral.

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.

This provisional license cannot be renewed.

**(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.

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.

Within 10 days after the effective date of the termination of the license, the attorney shall file with the Board an affidavit showing that he or she has fully complied with the duties of withdrawal set forth in this subsection (d).

**(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 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.

DATED: Honolulu, Hawai'i, February 9, 2018.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

