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SCRU-11-0000068

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

In the Matter of the

RULES OF THE SUPREME COURT OF THE STATE OF HAWAIʻI

ORDER AMENDING RULE 7 OF THE RULES OF THE SUPREME COURT OF THE STATE OF HAWAIʻI

(By: Recktenwald, C.J., McKenna, Eddins, Ginoza, Devens, JJ.)

It is hereby ordered that Rule 7 of the Rules of the Supreme Court of the State of Hawaiʻi is amended, effective immediately upon the filing of this order, as follows (deleted material is bracketed and stricken; new material is underlined):

Rule 7. SUPERVISED [~~LAW STUDENT~~] LEGAL INTERN LIMITED PRACTICE OF LAW.

7.1. Purpose. This Rule sets forth conditions under which a [~~law student~~]legal intern may engage in the limited practice of law. These conditions balance three considerations:

(1) protecting the consumer of legal services,

(2) expanding access to justice by allowing qualified and duly-supervised [~~law student~~]legal interns to provide legal services, and

(3) developing legal skills, professional judgment, and ethical behavior in [~~law student~~]legal interns through supervised legal services.

7.2. Definitions.

(a) A "[~~law student~~]legal intern" shall mean:

(1) [~~is~~] an individual enrolled and in good standing as a Bachelor of Law (LL.B.) or Juris Doctor (J.D.) candidate at a law school fully or provisionally accredited by the American Bar Association (ABA) who has successfully completed legal studies amounting to one-third of the course work required for graduation from that law school[~~.~~]; or

(2) an individual who, within the last twelve (12) months, graduated in good standing with a L.L.B. or J.D. degree from a law school fully or provisionally accredited by the ABA.

(b) A "supervising lawyer" is a member in good standing of the Hawai'i bar who assumes the duties of supervising a [~~law student~~]legal intern under this Rule and who is ultimately responsible for the activities of the [~~law student~~]legal intern.

(c) A "clinical program" is a practice-focused law course administered under the direction of a faculty member of a fully or provisionally ABA-accredited law school, in which satisfactory completion entitles a qualified law student to receive academic credit. This may include a law school's clinic courses, as well as its externship or field-placement program.

(d) A "law practicum" is an experienced-based law-practice program that is not a clinical program. It is designed and implemented by a supervising lawyer to enable a [~~law student~~]legal intern to provide competent, ethically sound legal services, especially, but not necessarily limited to, financially or socially disadvantaged individuals in this state.

7.3. Qualification procedures for [~~law student~~]legal interns.

(a) For a [~~law student~~]legal intern engaged in a clinical program or a law practicum, the supervising [~~attorney~~]lawyer must, before the [~~law student~~]legal intern is authorized to practice, file at the supreme court the following documents:

(1) a declaration from the supervising [~~attorney~~]lawyer, containing the [~~attorney~~]lawyer's bar number, business address, telephone number, and email address, acknowledging the duties imposed by this Rule;

(2) a declaration from the [~~law student~~]legal intern, demonstrating the [~~law student~~]legal intern fulfills the criteria set forth in Rule 7.2(a) of this Rule; and

(3) a signed oath administered as set forth in Rule 7.9 of this Rule.

Authority to practice under this Rule shall commence the day after the filing date of the last document filed.

There is no case or proceeding generated before the supreme court by filing the documents required under Rule 7.3(a).

(b) The supervising [~~attorney~~]lawyer must inform the client that the [~~law student~~]legal intern is performing supervised work for the client and obtain the client's signed, written consent to the [~~law student~~]legal intern's supervised work. Exclusively in the case of a government office or agency, or a state or local political subdivision, the consenting "client" would be the relevant attorney general, executive director, chairperson, chief counsel, or prosecuting attorney.

7.4. Appearances by [~~law-student~~]legal interns.

(a) A [~~law-student~~]legal intern may appear in any court or administrative tribunal in this state in which a licensed attorney may appear, including related discovery events, on behalf of a client, provided that the client's written consent, with the signature of the supervising [~~attorney~~]lawyer, is filed in the record of the court or administrative tribunal before or at the time of the [~~law-student~~]legal intern's first appearance in a matter. For legal interns who are employed by the office of the prosecuting attorney, an appearance on the record with the supervising lawyer that is reflected in the court minutes shall satisfy the requirements of this subsection (a).

(b) Unless prohibited by statute or ordinance, a [~~law-student~~]legal intern may also appear in any matter on behalf of the United States, the State of Hawai'i, or any state political subdivision, subject to the requirements of subsection (a) of this section.

7.5. Permissible [~~law-student~~]legal intern activities.

Any [~~law-student~~]legal intern with the knowledge and approval of a supervising lawyer and the client may also engage in the following activities:

(1) Counsel and advise clients, interview and investigate witnesses, negotiate the settlement of claims, pursue or oppose relief by procedural motion, as well as prepare and draft legal instruments, pleadings, briefs, abstracts and other documents. Any document requiring signature of counsel, and any settlement or compromise of a claim, however, must be signed by the supervising lawyer; and

(2) Render assistance to clients who are inmates of penal institutions or other clients who request such assistance in preparing applications and supporting documents for post-conviction legal remedies.

7.6. Duration of [~~law-student~~]legal intern authorization and compensation limitations.

(a) The [~~law-student~~]legal intern may continue to serve so long as the [~~law-student~~]legal intern is enrolled in a clinical program or is participating in a law practicum as defined by Rule 7.2 of these Rules; authorization to serve shall cease upon any removal of good standing of the supervising [~~attorney~~]lawyer or [~~law-student~~]legal intern or the termination of such enrollment or participation. The supervising [~~attorney~~]lawyer shall file at the supreme court a written notice of any change in the good-standing status of either the supervising [~~attorney~~]lawyer or the [~~law-student~~]legal intern and shall similarly file a written notice of the [~~law-student~~]legal intern's departure from enrollment in the clinical program or participation in the law practicum. [~~After graduation, the law-student intern may continue to represent a client in cases initiated before graduation if such representation is deemed appropriate by the supervising lawyer, but in no case shall the continued representation under this Rule extend beyond the swearing-in date of the next bar examination.~~] The legal intern may

represent a client after graduation if such representation is deemed appropriate by the supervising lawyer, but in no case shall representation under this Rule extend beyond twelve (12) months after the legal intern's graduation date.

(b) A [~~law student~~]legal intern shall neither ask for nor receive any compensation or remuneration directly from the client for services rendered to a client, but this shall not prevent a supervising lawyer, a law school, or public agency from paying compensation to a [~~law student~~]legal intern or from making such charges for services as such lawyer, law school, or public agency may otherwise properly require.

7.7. Supervision of [~~law student~~]legal intern practice.

The supervising lawyer shall counsel and assist the [~~law student~~]legal intern who practices law pursuant to this Rule, and shall provide professional guidance in every phase of such practice with special attention to matters of professional responsibility and legal ethics.

7.8. Miscellaneous.

(a) Disciplinary liability. [~~Law student~~]Legal interns practicing pursuant to this Rule shall be governed by the rules of conduct applicable to lawyers generally, but the termination of practice referred to in Rule 7.6 shall be the exclusive sanction for disciplinary infractions which occur during authorized practice; except that such disciplinary infractions may be considered by a court or agency authorized to entertain applications for admission to the practice of law. Nothing in this provision shall limit the disciplinary liability of the supervising [~~attorney~~]lawyer.

(b) Other lawful acts. Nothing contained in this Rule shall affect the right of any person to do anything that person might lawfully do were this Rule not in existence.

(c) Immunity. Except for use by an attorney-admission or disciplinary authority or judicial-selection authority of any jurisdiction in which the [~~law student~~]legal intern is admitted to practice or seeks to practice, information submitted to this court shall be absolutely privileged and no lawsuit predicated thereon may be instituted. Members of this court and the staff performing duties and functions under this Rule shall be immune from suit and liability for any conduct in the course of their official duties.

7.9. Oath.

A [~~law student~~]legal intern shall swear the following oath before an individual authorized by law to administer oaths, and shall then submit written proof thereof to the supervising [~~attorney~~]lawyer, for filing with this court, as required by Rule 7.3(a) of this Rule:

> I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of the State of Hawai‘i, and that I

will at all times conduct myself in accordance with the Hawai‘i Rules of Professional Conduct.

As an officer of the courts to which I am admitted to practice, I will conduct myself with dignity and civility towards judicial officers, court staff, and my fellow professionals.

I will faithfully discharge my duties as a [~~law student~~]legal intern in the courts of the state to the best of my ability, giving due consideration to the legal needs of those without access to justice.

Subscribed and sworn to before me this ____ day of _____, 20___.

_____
[NAME OF [~~LAW STUDENT~~]LEGAL INTERN]

_____
[NAME OF OATH-ADMINISTRATOR]

_____
Jurisdiction

DATED: Honolulu, Hawai‘i, January 29, 2025.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens