

**PROPOSED RULE 15-301.3: MILITARY SPOUSE ATTORNEY LIMITED LICENSE**

**A. Definitions.** As used in this rule:

(1) “Dependent” is used as defined by the United States Department of Defense (or, for the Coast Guard when it is not operating as a service in the United States Navy, by the United States Department of Homeland Security);

(2) “military spouse attorney” means an attorney who is the spouse of an active duty servicemember of the United States Uniformed Services stationed within the State of New Mexico and resides, or intends to reside in the State of New Mexico within the next six months of the date of application for limited license; and

(3) “servicemember” is used as defined by the United States Department of Defense.

**B. Eligibility.** Upon application, the clerk of the Supreme Court may issue a limited license to a military spouse attorney who:

(1) is admitted to practice law in another state, territory, or protectorate of the United States or the District of Columbia;

(2) is not under disciplinary disbarment or suspension in any jurisdiction in which the attorney is licensed;

(3) has not resigned from the bar of such other jurisdiction while under disciplinary suspension or while under disciplinary proceedings;

(4) is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and

(5) satisfies the limited license requirements set forth in this rule.

**C. Application procedure.** A military spouse attorney applicant for a limited license shall file with the clerk of the Supreme Court an application for limited license which shall be accompanied by the following:

(1) a certificate of admission to practice and good standing from each jurisdiction in which the applicant currently has an active license to practice law and proof of compliance with Rule 15-103(B)(1) NMRA;

(2) documentation demonstrating receipt of a juris doctor or bachelor of laws and letters degree of a law school formally accredited by the American Bar Association and is licensed to practice law in another jurisdiction; or documentation demonstrating receipt of a juris doctor or bachelor of laws and letters degree of any law school and proof of the active practice of law in another state or states for at least two (2) out of the last four (4) years immediately preceding the military spouse attorney’s application for limited admission to practice in New Mexico;

(3) a certificate signed by the military spouse attorney stating that such attorney has:

(a) read and is familiar with the New Mexico Rules of Professional Conduct, the Creed of Professionalism of the State Bar of New Mexico, and rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys; and

(i) if an applicant is a graduate of a law school accredited by the American Bar Association, the attorney has applied for a character and fitness investigation with the New Mexico Board of Bar Examiners in conformance with Rules 15-104(A), (B), and (C) and 15-301 NMRA; or

(ii) if an applicant is not a graduate of a law school accredited by the American Bar Association, the attorney has applied for a character and fitness investigation with the New Mexico Board of Bar Examiners in conformance with Rules 15-104(A), (B), and (C) and 15-301 NMRA,

excepting that active practice requirements for the certificate required by Rule 15-104(C)(3)(c) are two (2) years of active engagement in the actual practice of law out of the past four (4) years.

(5) evidence of a passing scaled score on the Multistate Professional Responsibility Examination as described in Paragraph E of Rule 15-205 NMRA; and

(6) a docket fee in the amount of one hundred twenty-five dollars (\$125.00) payable to the New Mexico Supreme Court and two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for limited license being nonrefundable.

Certificates of admission from other states may be sent directly to the board under separate cover. All such papers will be returned to the applicant in due course. Other documents submitted will be returned to the applicant, if requested, upon approval by the chair or vice chair of the board.

#### **D. License; issuance and revocation.**

(1) If an applicant for a limited license to practice as a military spouse attorney complies with the provisions of this rule, the clerk of the Supreme Court may issue a limited license to practice law as a military spouse attorney.

(2) A limited license under this rule only permits the licensee to practice law in New Mexico as a military spouse attorney.

(3) The clerk of the Supreme Court shall revoke the limited license of any person found in violation of this rule or any other rule approved by the Supreme Court regulating the licensing or conduct of attorneys or if, after notice from the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board's character and fitness investigation. Upon revocation of a limited license, the military spouse attorney shall not appear in any court in this state as an attorney.

#### **E. Suspension for failure to cooperate.**

(1) *Petition for suspension for failure to cooperate.* The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the military spouse attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by the Board to obtain the military spouse attorney's cooperation and compliance. A copy of the petition shall be served on the respondent-military spouse attorney.

(2) *Response to the petition.* If the respondent-military spouse attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the military spouse attorney's limited license to practice law until further order of the Supreme Court. The military spouse attorney's response shall set forth facts showing that the military spouse attorney has complied with the requests or the reasons why the military spouse attorney has not complied, and the military spouse attorney may request a hearing.

(3) *Supreme Court action.* Upon consideration of a petition for suspension and the military spouse attorney's response, if any, the Supreme Court may suspend the military spouse attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the military spouse attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board's findings of fact

and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board.

(4) *Reinstatement.* A military spouse attorney suspended under this paragraph may apply to the Supreme Court for reinstatement upon proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Court. A copy of the application must be delivered to the Board, who may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate a military spouse attorney suspended under the provisions of this paragraph upon proof of compliance with the requests of the Board.

#### **F. Expiration.**

(1) A limited license issued under this rule shall expire upon the occurrence of any of the earliest of the following events:

- (a) The military spouse attorney ceases to be a dependent;
- (b) the servicemember is permanently transferred outside the jurisdiction pursuant to military orders, except that if the servicemember has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the servicemember is assigned to a location with dependents authorized;
- (c) the military spouse attorney permanently relocates to another jurisdiction for reasons other than the servicemember's permanent transfer outside the jurisdiction;
- (d) the military spouse attorney is admitted to the State Bar of New Mexico under Rules 15-201, 15-202, or 15-107 NMRA; or
- (e) the military spouse attorney requests termination.

If any event listed in this paragraph occurs, the military spouse attorney shall notify the Board of the event in writing within sixty (60) days of the date upon which the event occurs and upon such notification, the limited license shall be terminated. If the event occurs because the servicemember is deceased or disabled, the military spouse attorney shall notify the Board within one hundred eighty (180) days of the date upon which the event occurs.

(2) When a limited license expires or is revoked, a military spouse attorney who resides or maintains a legal residence in this state may be admitted to the practice of law for a particular case under the pro hac vice rules approved by the Supreme Court.

#### **G. Limited licensee status.**

(1) A military spouse attorney granted a limited license under this rule shall be a member of the State Bar of New Mexico and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.

(2) Licensees under this rule shall pay the annual state bar membership fee of one hundred twenty-five dollars (\$125.00) and the annual disciplinary fee assessment under Rule 17-203(A) NMRA of one hundred fifty dollars (\$150.00).

(3) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.