

California Military Spouse Attorney Admission

Executive Summary for the Rules, Admissions, and Discipline Committee of the State Bar Board of Trustees

I. The Need for a Rule: Public Policy and Military Service Member Retention

The United States Department of Defense is concerned about the negative impact on our nation's military readiness that is caused by military spouse professional licensing requirements. The authors of a 2012 Department of Defense and the Department of the Treasury report emphasized, "[g]iven the volunteer nature of our military, the sacrifices military families make for this country, and the importance of retaining these families to maintain the readiness of our military, ensuring that licensing procedures do not needlessly hinder military spouses is *critically important*."¹ The matter is so important that it is one of only ten key issues currently being addressed by the Department of Defense's State Liaison Office.²

II. Military Spouse Attorney Demographics

The unemployment rate for military spouses across employment categories is three times as high as that of their civilian counterparts.³ Within the Military Spouse JD Network specifically, over half of the members are unemployed and actively looking for work, underemployed in non-attorney positions as paralegals/secretaries, or can only find part-time work. A major cause of un- and underemployment of military spouse attorneys is the combination of onerous bar admission requirements coupled with frequent interstate moves. A typical military family moves every two to three years.⁴ It is not uncommon, however, for families to spend only a year in a locale before moving on, especially as the service member advances in rank. If a military spouse attorney wanted to be admitted to the bar in every state where his or her spouse was stationed over the course of a 20-year military career, the spouse could easily face the prospect of taking 10 or more bar exams. Given the costs in both time and money involved in such an endeavor, many military families are faced with a difficult choice: have the attorney give up a legal career; separate the family so that the attorney can remain behind in a jurisdiction where he or she is licensed; or have the service member give up a military career. Numerous national organizations are working hard to offer military families the option stay together in a dual-career household.

¹ DEPT. OF DEFENSE AND DEPT. OF THE TREASURY, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines* (Feb. 2012) at 7 (emphasis supplied), available at <http://www.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF> (last visited May 21, 2012).

² See Department of Defense – State Liaison Office, available at <<http://www.ncsl.org/documents/enviro/DSLO-mission2013.pdf>> (last visited July 1, 2013); see also USA 4 Military Families Website <www.usa4militaryfamilies.dod.mil>.

³ DEPT. OF DEFENSE, *Report on Military Spouse Education and Employment* (Jan. 2008) at 2, available at <images.military.com/spouse/Report_to_Congress_on_Military_Spouse_Education_and_Employment_Jan_2008.pdf> (last visited Feb. 26, 2012).

⁴ Active duty spouses thirty years old or younger move on average every thirty-three months due to the service member's change of duty station. DEFENSE MANPOWER DATA CENTER, *Military Family Life Project* (2010), available at <<http://conferences.cna.org/pdfs/longitudinalstudy.pdf>> (last visited Jan. 26, 2012).

III. Supporters of Military Spouse Attorney License Portability

Since the Military Spouse JD Network first brought the difficult reality of maintaining a legal career as a military spouse to the national stage, support from the legal community has been astounding. The American Bar Association and the Conference of Chief Justices both adopted resolutions in 2012 urging state licensing authorities to promulgate rules to accommodate the unique needs of military spouse attorneys. MSJDN's work has been lauded by the White House's Joining Forces Initiative as a model for change in the military spouse professional licensing arena. Specifically in California, a distinct rule to allow military spouse admission without examination is supported by the National Military Family Association, the Military Officers Association of America, the Association of the United States Army Family Programs, Blue Star Families, and InGear Career. Other states have already passed attorney licensing accommodations, including Illinois, North Carolina, Texas, Arizona, and Idaho.

IV. Precedent for Admission without Examination in California

Every day, attorneys who have not taken the California bar exam practice law in California. Their work stands as testimony that certain public policy considerations warrant a waiver of the California bar exam. Enabling military families to remain together while allowing both the service member and the attorney spouse to continue their careers is one such public policy consideration that warrants a waiver of the California bar exam. As was done for the other types of multijurisdictional practice that are already allowed in California, adequate protections for military spouse attorney licensure can be put into place to protect the public. Given the sacrifices they willingly make so that their partners can defend our country, one might imagine that military spouses understand the need to protect the American populace, perhaps more keenly than most.

V. Summary of proposed California Registered Military Spouse Counsel Rule

The proposed California rule will protect the public while providing admission without examination for qualified military spouses. The Rule will track current requirements for admission without examination including: (a) supervision by a California licensed attorney; (b) additional CLEs; (c) graduation from an ABA accredited law school; (d) licensed by examination in another jurisdiction; (e) good standing in all jurisdictions where licensed; and (f) the license is only valid while in the state due to partner's military orders.