



# California Rules of Court

(Revised July 1, 2020)

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ATTACHMENT N

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## **Rule 9.41.1. Registered military spouse attorney**

### **(a) Definitions**

- (1) "Military Spouse Attorney" means an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency and who is married to, in a civil union with, or a registered domestic partner of, a Service Member.
- (2) "Service Member" means an active duty member of the United States Uniformed Services who has been ordered stationed within California.
- (3) "Active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:
  - (A) Is a licensee in good standing of the entity governing the practice of law in each jurisdiction in which the attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and;
  - (B) Remains an active licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered military spouse attorney in California.

### **(b) Scope of Practice**

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is permitted to practice law in California, under supervision, in all forms of legal practice that are permissible for a licensed attorney of the State Bar of California, including pro bono legal services.

### **(c) Requirements**

For an attorney to qualify to practice law under this rule, the attorney must:

- (1) Be an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (2) Be married to, be in a civil union with, or be a registered domestic partner of, a Service Member, except that the attorney may continue to practice as a registered military spouse attorney for one year after the termination of the marriage, civil union, or domestic partnership as provided in (i)(1)(G);
- (3) Reside in California;
- (4) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
  - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
  - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character from the State Bar of California.

- (5) Comply with the rules adopted by the Board of Trustees relating to the State Bar Registered Military Spouse Attorney Program;
- (6) Practice law under the supervision of an attorney who is an active licensee in good standing of the State Bar of California who has been admitted to the practice of law for two years or more;
- (7) Abide by all of the laws and rules that govern licensees of the State Bar of California, including the Minimum Continuing Legal Education ("MCLE") requirements;
- (8) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered military spouse attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered military spouse attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- (9) Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

#### **(d) Application**

The attorney must comply with the following registration requirements:

- (1) Register as an attorney applicant, file an Application for Determination of Moral Character with the Committee of Bar Examiners, and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and
- (3) Submit to the State Bar of California a declaration signed by a qualifying supervising attorney. The declaration must attest:
  - (A) that the applicant will be supervised as specified in this rule; and
  - (B) that the supervising attorney assumes professional responsibility for any work performed by the registered military spouse attorney under this rule.

#### **(e) Application and Registration Fees**

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered military spouse attorney.

#### **(f) State Bar Registered Military Spouse Attorney Program**

The State Bar may establish and administer a program for registering registered military spouse attorneys under rules adopted by the Board of Trustees of the State Bar.

#### **(g) Supervision**

To meet the requirements of this rule, an attorney supervising a registered military spouse attorney:

- (1) Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (2) Must have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;
- (3) Must assume professional responsibility for any work that the registered military spouse attorney performs under the supervising attorney's supervision;

- (4) Must assist, counsel, and provide direct supervision of the registered military spouse attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered military spouse attorney, and review such activities with the supervised military spouse attorney, to the extent required for the protection of the client or customer;
- (5) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered military spouse attorney before their filing, and must read and approve any documents prepared by the registered military spouse attorney before their submission to any other party;
- (6) Must agree to assume control of the work of the registered military spouse attorney in the event the registration of the military spouse attorney is terminated, in accordance with applicable laws; and
- (7) May, in his or her absence, designate another attorney meeting the requirements of (g)(1) through (g)(6) to provide the supervision required under this rule.

#### **(h) Duration of Practice**

A registered military spouse attorney must renew his or her registration annually and may practice for no more than a total of five years under this rule.

#### **(i) Termination of Military Spouse Attorney Registration**

- (1) Registration as a registered military spouse attorney is terminated
  - (A) upon receipt of a determination by the Committee of Bar Examiners that the registered military spouse attorney is not of good moral character;
  - (B) for failure to annually register as a registered military spouse attorney and submit any related fee set by the State Bar;
  - (C) for failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar;
  - (D) if the registered military spouse attorney no longer meets the requirements under (a)(3) of this section;
  - (E) upon the imposition of any discipline by the State Bar of California or any other professional or occupational licensing authority, including administrative or stayed suspension;
  - (F) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a licensee of the State Bar of California;
  - (G) if the Service Member is no longer an active member of the United States Uniformed Services or is transferred to another state, jurisdiction, territory outside of California, except that if the Service Member 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 Service Member is assigned to a location with dependents authorized; or
  - (H) one year after the date of termination of the registered military spouse attorney's marriage, civil union, or registered domestic partnership.
- (2) The supervising attorney of registered military spouse attorney suspended by these rules will assume the work of the registered military spouse attorney in accordance with applicable laws.

#### **(j) Inherent Power of Supreme Court**

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

**(k) Effect of Rule on Multijurisdictional Practice**

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not licensees of the State Bar of California.

*Rule 9.41.1 adopted by the Supreme Court effective March 1, 2019.*