



SUPREME COURT OF MISSOURI

en banc

September 5, 2018
Effective January 1, 2019

In re:

(1) Adoption of new subdivision 8.106, entitled "Temporary Admission for Attorney Spouses of Active Duty Military," of Rule 8, entitled "Admission to the Bar."

(2) Repeal of subdivision (a) of subdivision 8.03, entitled "Requirements for Admission to the Bar;" the Regulations of Board of Law Examiners of subdivision 8.04, entitled "Ineligibility;" subdivisions (a) and (b) of subdivision 8.05, entitled "Application for Character and Fitness Report;" subdivision 8.06, entitled "Temporary Practice by Lawyers Applying for Admission to The Missouri Bar;" and subdivision 8.10, entitled "Admission Without Examination," and paragraphs 1 and 2 of the Regulations of Board of Law Examiners thereto, of Rule 8, entitled "Admission to the Bar," and in lieu thereof adoption of a new subdivision (a) of subdivision 8.03, entitled "Requirements for Admission to the Bar;" new Regulations of Board of Law Examiners of subdivision 8.04, entitled "Ineligibility;" new subdivisions (a) and (b) of subdivision 8.05, entitled "Application for Character and Fitness Report;" a new subdivision 8.06, entitled "Temporary Practice by Lawyers Applying for Admission to The Missouri Bar;" and a

new subdivision 8.10, entitled "Admission Without Examination," and new paragraphs 1 and 2 of the Regulations of Board of Law Examiners thereto.

ORDER

1. It is ordered that effective January 1, 2019, subdivision 8.106 of Rule 8 be and the same is hereby adopted to read as follows:

8.106 TEMPORARY ADMISSION FOR ATTORNEY SPOUSES OF
ACTIVE DUTY MILITARY

(a) A lawyer admitted to the practice of law in another state or territory of the United States or the District of Columbia may receive a temporary license to practice law in this state, without examination, if the lawyer:

(1) Is the dependent spouse of a full-time, active duty service member of the United States Armed Forces, not including duty as a member of the Active Guard and Reserve, and the service member is assigned pursuant to military orders to a permanent duty station in Missouri or a contiguous state;

(2) Is physically working or residing, or will be physically working or residing within six months of properly submitting an application under Rule 8.106, in Missouri due to the service member's military orders for a permanent change of station;

(3) Was conferred a first professional degree in law (J.D. or LL.B) from a law school approved by the American Bar Association at the time the degree was conferred or furnishes to the board satisfactory evidence that he or she

met the requirements of Rule 8.07(d) or (e) at the time the applicant properly submits an application for admission under Rule 8.106;

(4) Has passed a written bar examination and has an active, unlimited license to practice law in at least one state or territory of the United States or the District of Columbia;

(5) Has filed an application and related documentation required by the board and paid the prescribed, non-refundable fees;

(6) Receives approval from the board as required under Rule 8.11;

(7) Successfully completes the MECT described in Rule 8.08(c) no earlier than the date the application is properly submitted and no later than six months after written notification of character and fitness approval;

(8) Has earned a scaled score of not less than 80 on the Multistate Professional Responsibility Examination, which score must be received by the board no later than six months after character and fitness approval;

(9) Has not failed the bar exam administered in Missouri within five years prior to the date the application under Rule 8.106 is properly submitted; and

(10) Satisfies all other applicable requirements of Rule 8.

(b) A person admitted pursuant to Rule 8.106 shall be deemed in all respects a lawyer licensed to practice law in this state and subject to the duties, obligations, and responsibilities of active members of the bar.

(c) The temporary license issued pursuant to Rule 8.106 shall automatically terminate 60 days after the earliest occurrence of any of the following events:

(1) The passage of five years from the date of issuance;

(2) The service member's separation or retirement from the United States Armed Forces, except that if the separation from service is due to death or disability of the service member, the license under Rule 8.106 terminates one year following death or disability;

(3) The military spouse licensed under Rule 8.106 ceases to be a dependent spouse as defined by the applicable United States Department;

(4) The service member is permanently transferred pursuant to military orders to a jurisdiction not included in Rule 8.106(a)(1), unless the service member's assignment does not authorize dependents to accompany;

(5) The military spouse licensed under Rule 8.106 establishes permanent physical residency outside Missouri for reasons other than the service member's relocation;

(6) The military spouse licensed under Rule 8.106 ceases to be employed in Missouri;

(7) The military spouse licensed under Rule 8.106 is admitted to the practice of law pursuant to Rule 8.07, 8.09, 8.10, or 8.105;

(8) The military spouse is no longer licensed to practice law in another state or territory of the United States; or

(9) The military spouse requests termination of the license issued under Rule 8.106.

The military spouse licensed under Rule 8.106 shall provide written notice to the clerk of this Court of any terminating event within 30 days of the event and

shall immediately notify the clerk of this Court of any change in the lawyer's licensure status in other jurisdictions.

(d) A military spouse issued a license pursuant to Rule 8.106 that automatically terminated upon the passage of five years from the date of issuance is not eligible to apply for admission under Rule 8.106 for a period of five years after the date of termination.

(e) The period of time a lawyer practices law in Missouri with a license issued pursuant to Rule 8.106 may be used by the lawyer to fulfill the requirements of Rule 8.10(a)(4)(A).

2. It is ordered that effective January 1, 2019, subdivision (a) of subdivision 8.03; the Regulations of Board of Law Examiners of subdivision 8.04; subdivisions (a) and (b) of subdivision 8.05; subdivision 8.06; and subdivision 8.10, and paragraphs 1 and 2 of the Regulations of Board of Law Examiners thereto, of Rule 8 be and the same are hereby repealed and a new subdivision (a) of subdivision 8.03; new Regulations of Board of Law Examiners of subdivision 8.04; new subdivisions (a) and (b) of subdivision 8.05; a new subdivision 8.06; and a new subdivision 8.10, and new paragraphs 1 and 2 of the Regulations of Board of Law Examiners thereto adopted in lieu thereof to read as follows:

8.03 REQUIREMENTS FOR ADMISSION TO THE BAR

(a) Every applicant for admission to the bar of this state shall meet the following requirements:

- (1) Comply with all provisions set out in this Rule 8;
- (2) File all application forms prescribed by the board and pay all prescribed fees;
- (3) Either:
 - (A) Satisfy the requirements for admission as set out in Rule 8.07 and Rule 8.08; or
 - (B) Satisfy the requirements for admission as set out in Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106;
- (4) Be a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States;
- (5) Satisfy the legal education requirements set out in Rule 8.07, Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106; and
- (6) Receive the approval of the board as to eligibility for admission and character and fitness as set out in Rule 8.11.

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8.04 INELIGIBILITY

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Regulations of Board of Law Examiners

1. A felony conviction as described in Rule 8.04(a) is a per se disqualification to file an application for admission under Rule 8.07, Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106 until after the period of

ineligibility imposed by Rule 8.04(a) has expired. Once the Rule 8.04(a) period of ineligibility has expired, the board will consider the felony in reaching a determination as to the applicant's character and fitness.

2. As part of its character and fitness determination, the board considers any criminal conduct not within Rule 8.04(a).

8.05 APPLICATION FOR CHARACTER AND FITNESS REPORT

(a) Every applicant for admission under Rule 8.07, Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106 shall file with the clerk of this Court a written application for character and fitness report in the form prescribed by the board. Applicants shall pay to the clerk of this Court the prescribed non-refundable fee.

(b) Except as provided in Rules 8.05(c) and 8.05(d), the application for character and fitness report shall be filed concurrently with the application for admission under Rule 8.07, Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106.

* * *

8.06 TEMPORARY PRACTICE BY LAWYERS APPLYING FOR ADMISSION TO THE MISSOURI BAR

(a) Any lawyer meeting the following qualifications may apply to practice law temporarily in Missouri as provided in this Rule 8.06. The lawyer shall not have previously failed the bar examination administered in Missouri and shall be:

(1) An applicant for admission to The Missouri Bar under Rule 8.07, Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106;

(2) An active member in good standing of the highest court of a state

or territory of the United States;

(3) Not under suspension or disbarment by any court of record or the subject of any pending disciplinary complaints; and

(4) Supervised as provided in Rule 4-5.1 by a lawyer who is actively licensed to practice law in Missouri.

(b) The applicant shall file an application with the board, which shall be attested to or sworn and state:

(1) The applicant has applied for admission to The Missouri Bar under Rule 8.07, Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106;

(2) The name and bar number of a supervising lawyer, who need not be in the same firm as the applicant;

(3) The supervising lawyer is actively licensed to practice law in Missouri; and

(4) The applicant will be supervised as provided in Rule 4-5.1.

(c) Attached to the application shall be a statement from the supervising lawyer agreeing to the specified supervision.

(d) Upon approval by this Court, the applicant shall be issued a certificate to practice law in this state temporarily. The certificate shall be valid for 12 months from the date it is issued. No person shall be permitted to practice temporarily pursuant to this Rule 8.06 for more than 12 months.

(e) The certificate shall be revoked immediately without further action by the Court if the applicant:

(1) Fails the bar examination;

(2) Fails to take the bar examination when eligible to do so;

(3) Is denied permission to take the bar examination or is denied approval by the board on character and fitness grounds;

(4) Is denied admission under Rule 8.09, Rule 8.10, Rule 8.105, or Rule 8.106, and is not permitted to take the bar examination; or

(5) No longer meets the qualifications prescribed in Rule 8.06(a).

(f) The board shall notify the chief disciplinary counsel of any person whose certificate is revoked under Rule 8.06(e).

(g) A temporary permit issued pursuant to this Rule 8.06 to an applicant for limited admission as in-house counsel shall authorize the applicant to practice only to the extent allowed under Rule 8.105(c).

8.10 ADMISSION WITHOUT EXAMINATION

(a) A person proving each of the following may be admitted to the practice of law in this state, without examination:

(1) A first professional degree in law (J.D. or LL.B) was received from a law school that was approved by the American Bar Association at the time the person graduated;

(2) Admission to practice law in another state or territory of the United States or the District of Columbia and an active license to practice law in at least one jurisdiction that permits mutuality of admission without examination to Missouri lawyers;

(3) The application and related forms required by the board have been filed and the prescribed, non-refundable fee has been paid;

(4) For five of the 10 years immediately preceding the date upon which the application under this Rule 8.10 is filed, the person has:

(A) Been engaged in the full-time practice of law primarily at or from an office physically located in a state, other than Missouri, or in a territory of the United States or the District of Columbia, while the individual had an active license to practice law in such state, territory or the District of Columbia; or

(B) Served full-time as a lawyer with the United States government or its armed forces; or

(C) Taught full-time in a law school approved by the American Bar Association; or

(D) Been engaged in the full-time practice of law as in-house counsel primarily at or from an office physically located in a state, other than Missouri, or in a territory of the United States or the District of Columbia; or

(E) Been engaged in the full-time practice of law in Missouri pursuant to Rule 8.106; or

(F) Any combination of the foregoing;

(5) The approval of the board required by Rule 8.11 and the other applicable requirements of Rule 8;

(6) Compliance with Rule 15.05(d) within 90 days after the date of written notification that the person's character and fitness has been approved.

(b) A person admitted pursuant to this Rule 8.10 is required to meet the

continuing legal education requirements specified in Rule 15.

Regulations of Board of Law Examiners

1. The "practice of law" is a term of art. Though no broad rule can be drawn to define the "practice of law", it connotes more than merely working with legally-related matters. The applicant bears the burden to prove he or she has been engaged in the full-time practice of law such that the applicant's professional experience and responsibilities are sufficient to satisfy the board that the applicant should be admitted under this Rule 8.10.

2. An applicant's practice of law, including, but not limited to, practice under Rule 8.105 or Rule 8.06, within, or from an office located within, the State of Missouri will not, under any circumstances, be considered by the board in determining compliance with Rule 8.10(a)(4)(A), unless the applicant was lawfully engaged in full-time practice pursuant to a temporary license under Rule 8.106.

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3. It is ordered that notice of this order be published in the Journal of The Missouri Bar.

4. It is ordered that this order be published in the South Western Reporter.

Day – to – Day



ZEL M. FISCHER
Chief Justice