

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER CREATING RULE 55.4 OF §  
THE RULES OF THE SUPREME §  
COURT OF DELAWARE §

Before **STRINE**, Chief Justice; **VALIHURA**, **VAUGHN**, **SEITZ**, and **TRAYNOR**, Justices, constituting the Court *en banc*.

**ORDER**

This 23rd day of September, it appears to the Court that it is desirable to establish Supreme Court Rule 55.4 to permit a military spouse, who is licensed as an attorney in another jurisdiction, to apply for a Certificate of Limited Practice allowing the military spouse to engage in the limited practice of law in Delaware. This rule is effective November 1, 2019.

(1) Supreme Court Rule 55.4 is in effect as set forth below:

**RULE 55.4 LIMITED PERMISSION TO PRACTICE AS A MILITARY SPOUSE**

(a) ***Qualifications.*** An applicant who meets all of the following requirements may apply for a Certificate of Limited Practice as a Military Spouse. The applicant:

(1) is the spouse of either:

(A) an active duty service member of the United States Uniformed Services, and that service member is or will be stationed in Delaware due to military orders; or

(B) a member of the National Guard, based in a jurisdiction other than this State, who is under a call to active service authorized by the President or the Secretary of Defense, and that National Guard member is or will be stationed in Delaware due to military orders;

(2) is or will be physically residing in Delaware due to the service member's orders;

(3) is admitted to practice as an attorney before the highest court in at least one state or jurisdiction in the United States;

(4) is currently an active or inactive member in good standing in every jurisdiction to which the applicant has been admitted;

(5) is not currently subject to attorney discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(6) satisfies the Delaware bar admission requirements set forth in Rules 52(a)(1)–52(a)(6), 52(a)(9) and 52(a)(10);

(7) has not failed the Delaware Bar Examination in the last 5 years;

(8) has never been denied admission to the Delaware Bar; and

(9) has a Supervising Attorney, as defined below.

**(b) *Application.*** An applicant for a Certificate of Limited Practice as a Military Spouse shall file an application with the Delaware Board of Bar Examiners (“Board”) on a form furnished by the Board and which shall include all of the following:

(1) A certificate of good standing from every jurisdiction in which the applicant is admitted as an attorney;

(2) Other evidence as the Supreme Court or the Board may require regarding the applicant's educational and professional qualifications and good moral character;

(3) A certification under oath attesting to all of the following:

(A) The applicant has read, is familiar with, and will abide by the Delaware Lawyers' Rules of Professional Conduct, including Rule 1.15 regarding the safekeeping of property and the maintenance of appropriate financial books and records;

(B) The applicant has read, is familiar with, and will abide by the Delaware Lawyers' Rules of Disciplinary Procedure and the Principles of Professionalism for Delaware Lawyers;

(C) The applicant has read, is familiar with, and will abide by this Rule and all other rules and regulations applicable to individuals receiving a Certificate of Limited Practice as a Military Spouse in this State; and

(D) A Supervising Attorney has agreed to assist and promote the applicant's compliance with the Delaware Lawyers' Rules of Professional Conduct, the Delaware Lawyers' Rules of Disciplinary Procedure, the Principles of Professionalism for Delaware Lawyers, this Rule, and all other rules and regulations applicable to individuals receiving a Certificate of Limited Practice as a Military Spouse in this State;

(4) A copy of the military orders to a military installation in Delaware;

(5) An official military document, which can include the military orders referred to in paragraph (b)(4) of this Rule, identifying the applicant as the spouse of the service member and stating that the applicant is authorized to accompany the service member to Delaware;

(6) A certification from the applicant's Preceptor;

(7) A certification under oath from the applicant's Supervising Attorney, attesting to all of the following:

(A) The Supervising Attorney has performed an inquiry and concluded that the applicant is familiar with the Delaware Lawyers' Rules of Professional Conduct, including Rule 1.15 regarding the safekeeping of property and the maintenance of appropriate financial books and records, the Delaware Lawyers' Rules of Disciplinary Procedure, and the Principles of Professionalism for Delaware Lawyers; and

(B) The Supervising Attorney has agreed to assist and promote the applicant's compliance with the Delaware Lawyers' Rules of Professional Conduct, the Delaware Lawyers' Rules of Disciplinary Procedure, the Principles of Professionalism for Delaware Lawyers, this Rule, and all other rules and regulations applicable to individuals receiving a Certificate of Limited Practice as a Military Spouse in this State; and

(8) An application fee of \$150 payable to the "Delaware Board of Bar Examiners." In addition, the Board may impose on an applicant any additional reasonable fees relating to the application including without limitation expenses incurred in connection with the character investigation set forth in paragraph (c) of this Rule.

**(c) Investigation and Recommendation of the Board; Applicant's Oath.** After the applicant has complied with the requirements of paragraph (b) of this Rule, the Board shall conduct an investigation of the same type described in Supreme Court Rule 51(c)(6), after which the Board shall make a recommendation to the Supreme Court regarding the suitability of the applicant to receive a Certificate of Limited Practice as a Military Spouse. If the application is approved by the Supreme Court, each applicant shall take and subscribe to the following oath or affirmation:

*I \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware; and that I shall conduct myself strictly in accordance with all the terms and conditions of the Rules of the Delaware Supreme Court, in particular Rule 55.4; that I will behave myself in practicing law pursuant to a Certificate of Limited Practice as a Military Spouse according to the best of my learning and ability and with all good fidelity as well to the Court as to the client; that I will use no falsehood nor delay any person's cause through lucre or malice.*

After the applicant has taken and subscribed to the foregoing oath or affirmation, the applicant shall be issued a Certificate of Limited Practice as a Military Spouse entitling the applicant to practice law in this State as provided in this Rule.

**(d) Limitations on Scope of Activities.** An individual receiving a Certificate of Limited Practice as a Military Spouse:

**(1)** shall not be deemed to have been duly admitted to the practice of law before the Court;

**(2)** may engage in the limited practice of law in Delaware only under the supervision of a Supervising Attorney, as defined below in paragraph (e) of this Rule;

**(3)** shall enter into a written engagement letter with any person to whom the individual is providing legal services, which shall be signed by the person and shall disclose both of the following:

**(A)** The individual is engaged in the practice of law in Delaware pursuant to a Certificate of Limited Practice as a Military Spouse; and

(B) The name and contact information for the Supervising Attorney;  
and

(4) shall not represent himself or herself to be a full member of the Delaware Bar or duly admitted to the practice of law in Delaware.

(e) **Supervising Attorney.** For purposes of this Rule, a “Supervising Attorney” is an active member of the Delaware Bar, in good standing with the Court, admitted for five years or more, not subject to any discipline from the Court, and practicing primarily within this State, who has entered into an agreement with the military spouse pursuant to paragraphs (3)(D) and (7)(B) of subsection (b) of this Rule. A Supervising Attorney for a military spouse may also serve as the military spouse’s Preceptor if the Supervising Attorney otherwise meets the qualifications set forth in Rule 10(a) of the Board of Bar Examiners Rules.

(f) **Duration.** A Certificate of Limited Practice as a Military Spouse will be valid for three years provided that the applicant remains a spouse or a dependent of the service member and resides in Delaware due to military orders or continues to reside in Delaware due to the service member’s immediately subsequent assignment specifying that dependents are not authorized to accompany the service member.

(g) **Rights and Obligations.** Subject to the limitations listed in paragraph (d) of this Rule, an individual receiving a Certificate of Limited Practice as a Military Spouse shall be considered a military spouse affiliated with the Delaware Bar and shall be entitled and subject to:

(1) the rights and obligations of a member of the Delaware Bar, including those set forth in the Delaware Lawyers’ Rules of Professional Conduct, or those arising from the other conditions and requirements that apply to a member of the Delaware Bar under the Rules of this Court; and

(2) the obligation to complete the following continuing legal education requirements during the two calendar-year period commencing on January 1 of the year after the individual receives a Certificate of Limited Practice as a Military Spouse, unless the individual’s Certificate of Limited Practice as a Military Spouse is terminated pursuant to paragraphs (j) or (o) of this Rule prior to the end of that two calendar-year period:

(A) Attendance at a Fundamentals of Lawyer-Client Relations offered by the Delaware State Bar Association;

**(B)** Attendance at a Fundamentals of Law Practice Management and Technology offered by the Delaware State Bar Association; and

**(C)** Attendance at any two of the following Fundamentals offered by the Delaware State Bar Association:

- (i) Fundamentals of Civil Litigation;
- (ii) Fundamentals of Criminal Law and Procedure;
- (iii) Fundamentals of Family Law;
- (iv) Fundamentals of Real Estate; or
- (v) Fundamentals of Will Drafting and Estate Administration.

**(3)** An individual receiving a Certificate of Limited Practice as a Military Spouse under this Rule shall be subject to professional discipline in the same manner and to the same extent as members of the Delaware Bar. To this end:

**(A)** Every individual receiving a Certificate of Limited Practice as a Military Spouse:

(i) shall be subject to all rules governing the practice of law in the State of Delaware and to the jurisdiction of the Supreme Court of the State of Delaware; and

(ii) shall execute and file with this Court, in the form and manner as this Court may prescribe:

a. an undertaking or appropriate evidence of any professional liability insurance;

b. a written undertaking to notify the Supreme Court of any change in the military spouse's good standing as a member of the bar of any jurisdiction in which the military spouse is admitted to practice, and of any final action of the professional body or public authority referred to in paragraph (b)(4) of this Rule imposing any disciplinary censure, suspension, or other sanction upon the military spouse; and

c. a duly acknowledged instrument in writing, providing the military spouse's address in this State and designating the Clerk of the Supreme Court as the military spouse's agent for service of process. The military

spouse shall keep the Clerk advised in writing of any changes of address in this State. In any action or proceeding brought against the military spouse and arising out of or based upon any legal services rendered or offered to be rendered by the military spouse within or to residents of this State, service shall first be attempted upon the military spouse at the most recent address filed with the Clerk. Whenever after due diligence service cannot be made upon the military spouse at that address, service may be made upon the Clerk. Service made upon the Clerk in accordance with this provision is effective as if service had been made personally upon the military spouse within this State.

**(B)** Service of process on the Clerk under this Rule shall be made by personally delivering to the Clerk's office, and leaving with the Clerk, or with a deputy or assistant authorized by the Clerk to receive service, duplicate copies of the process together with a fee as set by the Supreme Court. The Clerk shall promptly send one copy of the process to the military spouse to whom the process is directed, by certified mail, return receipt requested, addressed to the military spouse at the most recent address provided to the Clerk.

**(h) *Not Preclusive.*** Nothing in this Rule 55.4 restricts or prevents an individual who is a military spouse from practicing law in this State in accordance with any other applicable Rule of this Court or the Delaware Lawyers' Rule of Professional Conduct.

**(i) *Automatic Suspension.*** An individual's authority to practice as a military spouse as granted by this Rule shall be automatically suspended when (1) the individual fails to comply with any provision of this Rule except for paragraph (a)(7); or (2) the individual is suspended or disbarred for disciplinary reasons in any jurisdiction of the United States or by any federal court or agency before which the individual has been admitted to practice as an attorney. Any individual whose authority to practice as a military spouse has been suspended under this paragraph may be considered for reinstatement in accordance with Rule 22 of the Delaware Lawyers' Rules of Disciplinary Procedure.

**(j) *Effect of Delaware Bar Admission.*** If an individual practicing pursuant to a Certificate of Limited Practice as a Military Spouse under this Rule is subsequently admitted as a member of the Delaware Bar under Supreme Court Rule 52, that individual's Certificate of Limited Practice as a Military Spouse shall be deemed superseded by the license to practice law as a member of the Delaware Bar.

**(k) *Annual Registration and Assessments.*** An individual receiving a Certificate of Limited Practice as a Military Spouse shall, as a condition of remaining a military spouse, no later than March 1 of each year:

**(1)** File with the Clerk of this Court, in a form approved by the Court, a registration statement showing the military spouse's name, residential address, office address, office telephone number, any firm association, and such other information as the Court shall direct; and

**(2)** Pay a registration assessment as determined by the Supreme Court.

**(l) *Late Filing Assessment.*** Any military spouse who fails to file an annual registration statement by March 1 of each year shall pay a \$300 late filing assessment.

**(m) *Changes in Information.*** Each individual receiving a Certificate of Limited Practice as a Military Spouse is required to notify the Clerk of the Court in writing within 30 days of any change in the information provided in military spouse's most recent registration statement.

**(n) *Certain duties of the Clerk of Court.*** The Clerk of the Court shall: (i) within a reasonable time after January 1 each year, provide to each registered military spouse an annual registration form to be filed with the Clerk; (ii) deposit forthwith all assessments received under this Rule to the account specified in Rule 69(i); (iii) mail to each military spouse who files a registration statement and pays the assessments, a registration card, in a form approved by the Court, certifying that such individual is in good standing as a military spouse.

**(o) *Resignation.*** Upon acceptance of the resignation by the Court, the Certificate of Limited Practice as a Military Spouse issued pursuant to paragraph (c) of this Rule shall terminate and the military spouse who resigns shall no longer be entitled to engage in any of the activities enumerated in this Rule in this State.

**(p) *Additional Regulations.*** The Supreme Court may adopt such additional regulations as needed to implement this Rule.

(2) The Clerk of this Court is directed to transmit a certified copy of the Order to the clerk for each trial court in each county.

BY THE COURT:

/s/ Leo E. Strine, Jr.

Chief Justice