

Proposed amended California Rules of Court, rule 9.41.1 (clean)

Rule 9.41.1. Registered service member attorney and registered service member spouse attorney

(a) Definitions

(1) A “service member spouse” means a person who is married to, in a civil union with, or a registered domestic partner of, a service member.

(2) A “service member” means a member of the United States uniformed services, as that term is defined by 10 U.S.C. § 101, who has relocated residence to California due to military orders for military service that required relocation of residence to California.

(3) A “license” means any license, certificate, or other evidence of qualification that an individual is required to obtain before the individual may engage in, or represent himself or herself to be, a member of the attorney bar of one or more states.

(5) A “state” is a state, commonwealth, territory, or possession of the United States, or the District of Columbia.

(4) A “covered licensee” means the holder of a license in one or more states who:

(A) Is in good standing with the licensing authority of each state in which the holder has a license;

(B) Has not been disbarred in any state;

(C) Is not suspended from practicing law for disciplinary conduct in any state; and

(D) Has not resigned with charges pending in any state.

(5) “Registered service member attorney” and “registered service member spouse attorney” mean an attorney who has met the requirements in (c) of this rule and is registered with the State Bar pursuant to (e) of this rule.

(b) Scope of Practice

Subject to all applicable rules, regulations, statutes, and requirements applicable to attorneys who receive a license, an attorney registered pursuant to (e) of this rule or issued a temporary license pursuant to (f) of this rule is permitted to practice law in California in all

forms of legal practice that are permissible for a licensed attorney of the State Bar, including pro bono legal services.

(c) Requirements

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

- (1) Be a covered licensee;
 - (2) Be a service member or a service member spouse, except that a registered service member spouse may continue to practice under this rule for one year after the termination of the marriage, civil union, or domestic partnership as provided in (h)(1)(D) of this rule;
 - (3) Submit an application that includes:
 - (A) Proof of military orders for military service that required relocation of residence to California;
 - (B) Proof of marriage, civil union, or registered domestic partnership status with the service member, if the applicant is a service member spouse; and
 - (C) An affidavit that affirms, under the penalty of perjury, that:
 - (i) the applicant is the person described and identified in the application;
 - (ii) the applicant has read and understands the requirements to be admitted as and to remain an active licensee of the State Bar, including the requirement to be subject to the disciplinary authority of the Supreme Court and the State Bar;
 - (iii) the applicant certifies that the applicant shall comply with the requirements to remain an active licensee of the State Bar, including the requirement to be subject to the disciplinary authority of the Supreme Court and the State Bar during the time the applicant practices law as a registered service member attorney or registered service member spouse attorney or with a temporary license pursuant to (f) of this rule;
 - (iv) the applicant is in good standing in all states in which the applicant holds a license and has not been disbarred or resigned with charges pending in any other state; and
- (ii) all statements made in the application are true and correct and complete.

(d) Background Check

The State Bar may, before registering an applicant as a registered service member or registered service member attorney pursuant to (e) of this rule, conduct a background check to verify the applicant's eligibility pursuant to (c) of this rule.

(e) Registration as registered service member attorney or registered service member spouse

If the State Bar determines that a service member or service member spouse meets the requirements of (c) of this rule, including after performing a background check pursuant to (d) of this rule, the service member or service member spouse shall be registered by the State Bar as a registered service member attorney or registered service member spouse attorney.

A service member spouse who is registered with the State Bar registered military spouse attorney program on [effective date] shall be automatically registered with the State Bar as a registered service member spouse attorney.

Registered service member attorneys and registered service member spouse attorneys must 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 as set forth in State Bar Rules 2.70 and 2.71. If the registered service member attorney's or registered service member spouse attorney's compliance group is required to report in fewer than thirty-six months, the MCLE requirements will be reduced proportionally. Registered service member attorneys and registered service member spouse attorneys must comply with rule 9.9.5, governing attorney fingerprinting, within thirty (30) days of registration. Registered service member attorneys and registered service member spouse attorneys must pay to the State Bar annual fees equal to the annual fees required to be paid by State Bar licensees.

Registered service member attorneys and registered service member spouse attorneys are subject to the disciplinary authority of the Supreme Court and the State Bar.

(f) Temporary Licensure

If the State Bar cannot register the applicant pursuant to (e) of this rule within thirty (30) days of receipt of a complete application pursuant to (c)(3) of this rule, the State Bar shall issue a temporary license to the applicant to be valid for ninety (90) days, and the temporary license's validity shall be extended for subsequent periods of ninety (90) days until the State Bar registers the applicant pursuant to (e) of this rule. Notwithstanding the foregoing, if the State Bar determines at any time that the applicant is not eligible for registration pursuant to (c) of this rule, any temporary license shall no longer be valid, the applicant shall not be registered pursuant to (e) of this rule, and the applicant shall be notified of this determination.

(g) State Bar registered service member attorney and registered service member spouse attorney program

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

(h) Termination of service member or service member spouse attorney registration

(1) Registration as a registered service member attorney or service member spouse attorney is terminated

(A) if the attorney is no longer a covered licensee;

(B) if the registered service member attorney or the registered service member spouse attorney's spouse is no longer a service member;

(C) if the registered service member attorney or registered service member spouse attorney's spouse is transferred outside of California or is otherwise no longer under military orders to be located in California, except that if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the registered service member or registered service member spouse attorney may remain registered until the service member is assigned to a location with dependents authorized;

(D) for registered service member spouse attorneys, one year after the date of termination of the registered service member spouse attorney's marriage, civil union, or registered domestic partnership with a service member; or

(E) if their registration is terminated through the same process and on the same grounds applicable to State Bar licensees in disbarment proceedings; registered service member attorneys and registered service member spouse attorneys are subject to non-disbarment discipline as well as non-disciplinary suspensions or inactive enrollments, such as for nonpayment of fees, pursuant to the same procedures and on the same grounds as licensees of the State Bar.

(i) Inherent Power of Supreme Court

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

(j) 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.

Rule 9.41.1 amended effective _____; adopted by the Supreme Court effective March 1, 2019.