

4.8 Action on Proposed Amendments to Registered Military Spouse Rules to Comply with the Servicemembers Civil Relief Act (Cal. Rules of Court, rule 9.41.1, State Bar Rules 3.350 – 3.356)



The State Bar of California

**OPEN SESSION
AGENDA ITEM
4.8 JUNE 2025
COMMITTEE OF BAR EXAMINERS**

DATE: June 20, 2025

TO: Members, Committee of Bar Examiners

FROM: Brady R. Dewar, Assistant General Counsel, Office of General Counsel
Donna S. Hershkowitz, Chief of Admissions / Legislative Director

SUBJECT: Action on Proposed Amendments to Registered Military Spouse Rules to Comply with the Servicemembers Civil Relief Act (Cal. Rules of Court, rule 9.41.1, State Bar Rules 3.350 – 3.356)

EXECUTIVE SUMMARY

This item seeks the Committee of Bar Examiners' (CBE) approval of proposed amendments to the California Rule of Court governing the current registered military spouse attorney program to reflect recent changes to federal law, specifically amendments to the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. §§ 3901, et seq., requiring, in effect, reciprocity in attorney admissions for attorney service members who are under military orders to be located in California, and their spouses.

The most significant changes to the program, all necessary to align with federal law, would:

- Expand the program to include service members in addition to service member spouses
- Eliminate the requirement that applicants submit an Application for Determination of Moral Character
- Remove the limitation that program participants may only practice under supervision
- Eliminate the five-year time limit on participation in the program.

This item also requests CBE approval of repeal of the State Bar Rules governing the current registered military spouse attorney program upon the effective date of the proposed amended Rule of Court.

RECOMMENDED ACTION

Staff recommends that the CBE recommend that the Board of Trustees approve the proposed amendments to California Rules of Court, rule 9.41.1 (rule 9.41.1) (see Attachment A (clean) and Attachment B (redline)) and submit the amendments to the Supreme Court for adoption.

Because the Rules of the State Bar governing the current registered military spouse attorney program would be superseded by the proposed amended rule 9.41.1, staff recommends that the Committee recommend that the Board of Trustees repeal those rules (Rules of the State Bar of California, rules 3.350 – 3.356; see Attachment C) upon the effective date of the proposed amended rule 9.41.1.

DISCUSSION

The State Bar has been a leader in the portability of service member spouse licensure. The existing registered military spouse attorney (RMSA) category of special admission was voluntarily created in 2019, without federal incentive, to create portability for the law licenses of spouses of servicemembers and expand access to legal services in California. In adopting these rules, California at that time joined 32 other states to have incorporated a special admission policy for military spouses.

The core requirements of the existing RMSA program are that the attorney:

1. Be an active licensee in good standing of another bar;
2. Be married to, in a civil union with, or be a registered domestic partner of a service member;
3. Reside in California;
4. Meet all requirements for admission including the State Bar requirements for acceptable moral character, except the attorney need not take the California Bar Exam or MPRE (but cannot have taken and failed the bar exam within the previous 5 years) and can practice while their Application for Determination of Moral Character is pending;
5. Practice under the supervision of an active licensee in good standing of the State Bar of California;
6. May not practice under this program for more than five years;
7. Comply with all regular MCLE requirements for licensees and additional MCLE requirements specific to the program in the first year of practice; and
8. Pay application and registration fees.

There are currently nine participants in the RMSA program.

On December 23, 2024, Congress passed amendments to the SCRA intended to make it easier for service members and their spouses to continue to practice in licensed professions if military orders required relocation. The amendments removed a prior exemption for law licenses from

previous federal law governing license portability and require that qualifying law licenses (which must be in good standing and meet other specifications) “be considered valid for the scope of practice in the State of the new residence.” 50 U.S.C. §4025a(a). (See Attachment D.)

The amended SCRA specifically enumerates the conditions licensing authorities such as the State Bar can impose before a service member or their spouse who qualify under the SCRA must be permitted to practice in the state. 50 U.S.C. §4025a(c) sets forth an application process that requires proof of military orders and status as a spouse, if applicable. It also requires an affidavit affirming that the applicant “meets and shall comply with the requirements...to receive a license, and the scope of practice, of the State of the licensing authority.” 50 U.S.C. §4025a(c)(3)(C) & (D). The State Bar is also entitled, under 50 U.S.C. §4025a(d), to conduct a background check and verify the information provided in the application and affidavit.

The SCRA, as amended, appears constitutional pursuant to Congress’s broad power to raise and support armies for national defense. *See Torres v. Texas Dep’t of Pub. Safety*, 597 U.S. 580, 594 (2022) (allowing damages suit against state for violating SCRA provision requiring states to rehire returning service members, holding that by ratifying the U.S. Constitution, the states waived their sovereign immunity to suits seeking to enforce laws enacted under Congress’ broad power to build and support the Armed Forces).

Thus, to conform to the SCRA, rule 9.41.1 should be amended as set forth in Attachments A (clean) and B (redline). With respect to program eligibility, these proposed changes:

1. Expand eligibility to include service members in addition to service member spouses;
2. Eliminate the requirement that applicants submit an Application for Determination of Moral Character;
3. Eliminate the requirement that program participants practice under supervision;
4. Remove the limitation that applicants cannot have taken and failed a bar exam within the last five years;
5. Eliminate the five-year time limit on participation in the program; and
6. Eliminate additional MCLE requirements in the first year of practice.

The proposed amendments align the program’s application process with that specified by the amended SCRA by requiring applicants to submit an application including proof of military orders; proof of marriage, civil union, or registered domestic partnership (as applicable); and an affidavit confirming under penalty of perjury that the applicant has read and understands the requirements to become and remain a State Bar licensee, will comply with the requirements to remain an active State Bar licensee¹, including submitting to the disciplinary jurisdiction of the State Bar and Supreme Court, and that the applicant is in good standing in all jurisdictions where they are licensed and has not been disbarred or resigned with charges pending from any

¹ The affidavit requires program applicants to attest to their understanding of the requirements to become and remain a licensee of the State Bar, and to attest that they will comply with the requirements to remain a licensee (thus making clear program participants, once in the program, are subject to the same obligations as licensees).

other jurisdiction. The SCRA does not permit collection of fees as part of the application process, so the proposed amended rule removes reference to such fees.

However, once an applicant is permitted to practice pursuant to the SCRA, the SCRA permits states to treat them like any other licensees (and generally requires states to afford them the same rights as other licensees). Accordingly, the proposed amended rule 9.41.1 makes clear that registered service member attorneys and registered service member spouse attorneys permitted to practice under the rule are subject to the same ongoing requirements as State Bar licensees, including continuing legal education, discipline, and the requirement to pay annual fees. Conversely, the State Bar cannot afford program participants lesser rights than State Bar licensees. Thus, the proposed amended rule 9.41.1 removes the supervision requirement applicable to registered military spouse attorneys.

The State Bar may keep portions of its current program that provide more protection than federal law, such as the inclusion of civil unions and registered domestic partnerships, rather than only marriages. Similarly, while the SCRA permits states to exclude applicants who have had any discipline imposed in other states (such as past suspensions), the current registered military spouse attorney program bars only those who are currently suspended in the states(s) where they are licensed or who have been disbarred or resigned with charges pending in any other state. Especially given that, as discussed more below, the proposed amended rule 9.41.1 is not being circulated for public comment because the amendments are necessary to conform to changes to federal law, revisiting this policy decision regarding what level of past discipline should bar entry to the program (i.e., a change not necessary to conform to federal law) is not advised at this time.

The proposed amended rule 9.41.1 is sufficient to initiate and operate the proposed registered service member attorney and registered service member spouse attorney program without new State Bar Rules. (Indeed, the State Bar Rules governing the current registered military spouse attorney program are largely duplicative of the existing rule 9.41.1.) If it is determined that new State Bar Rules are desirable to facilitate implementation of the amended program, they will be proposed at a later date. Because the State Bar Rules governing the current program (Rules of the State Bar of California, rules 3.350 – 3.356) will be superseded by proposed rule 9.41.1, this item recommends repeal of those rules upon the effective date of proposed amended rule 9.41.1.

The proposed amendments to rule 9.41.1 are required to “conform to specific changes in a law,” (i.e., amended Servicemembers Civil Relief Act, 50 U.S.C. § 4025a), public comment is not required for the proposal. Rules of the State Bar, rule 1.10(B)(1).

PREVIOUS ACTION

On August 24, 2018, the CBE discussed and provided feedback to staff on a draft of proposed rule 9.41.1. Please see the [staff report](#) from that item.

On November 16, 2018, the Board of Trustees, after public comment, approved proposed rule 9.41 for submission to the California Supreme Court. Please see the [staff report](#) from that item. Rule 9.41.1 was approved by the Supreme Court, effective March 1, 2019.

FISCAL/PERSONNEL IMPACT

Additional costs are projected to be absorbable. Admissions processes applications for the current registered military spouse attorney program and will do so for the program pursuant to the proposed amended rule. The proposed amendments are not expected to increase the administrative burden on personnel. While the removal of application fees may decrease revenue, this could be offset by an increase in annual fee revenue should the streamlined application process, broader eligibility, and removal of supervision requirement increase program participation.

AMENDMENTS TO RULES

California Rules of Court, rule 9.41.1

Rules of the State Bar of California, rules 3.350 – 3.356

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – compliance

RESOLUTIONS

Should the Committee of Bar Examiners concur, it is:

RESOLVED, that the Committee of Bar Examiners recommends that the Board of Trustees approve the proposed amendments to California Rules of Court, rule 9.41.1 (see Attachment A and Attachment B) and submit the amendments to the Supreme Court for adoption; and it is

FURTHER RESOLVED, that the Committee of Bar Examiners recommends that the Board of Trustees repeal Rules of the State Bar of California, rules 3.350 – 3.356, upon the effective date of the proposed amended California Rules of Court, rule 9.41.1, should it be adopted by the Supreme Court.

ATTACHMENT(S) LIST

- A. Proposed amended California Rules of Court, rule 9.41.1 (clean)
- B. Proposed amended California Rules of Court, rule 9.41.1 (redline)

- C.** Rules of the State Bar of California, rules 3.350 – 3.356
- D.** Relevant section of Servicemembers Civil Relief Act (50 U.S.C. §4025a)

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.

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

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

(a) Definitions

(1) ~~"Military Spouse Attorney"~~A "service member spouse" means ~~an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency and person~~ who is married to, in a civil union with, or a registered domestic partner of, a ~~Service Member~~service member.

(2) ~~"Service Member"~~A "service member" means ~~an active duty~~a member of the United States ~~Uniformed Services~~uniformed services, as that term is defined by 10 U.S.C. § 101, who has ~~been ordered stationed within~~relocated residence to California.

~~(3) "Active licensee in good standing 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 a United States one or more states.~~

~~(5) A "state, jurisdiction, possession" is a state, commonwealth, territory, or dependency (together, "j"), means an attorney 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 a licensee in good standing of with the entity governing the practice of law in licensing authority of each jurisdiction state in which the attorney is licensed to practice law, who has holder has a license;~~

~~(B) Has not been disbarred, has not resigned with charges pending, or is in any state;~~

~~(C) Is not suspended from practicing law for disciplinary misconduct conduct in any other jurisdiction; 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) 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,~~ and requirements applicable to attorneys who receive a license, an attorney ~~practicing law under~~ 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, ~~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;~~

(1) Be a covered licensee;

(2) Be ~~married to, be in a civil union with, or be a registered domestic partner of, a Service Member~~ service member or a service member spouse, except that ~~the attorney a~~ registered service member spouse may continue to practice ~~as a registered military spouse attorney under this rule~~ for one year after the termination of the marriage, civil union, or domestic partnership as provided in ~~(h)(1)(G);~~ (D) of this rule;

(3) ~~Reside in~~ Submit an application that includes:

(A) Proof of military orders for military service that required relocation of residence to 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~~ (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 supervision penalty of an attorney who 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 in good standing 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 California who has this rule;

(iv) the applicant is in good standing in all states in which the applicant holds a license and has not been admitted to the practice; 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 law for two years or more; this rule, conduct a background check to verify the applicant's eligibility pursuant to (c) of this rule.

(7) Abide (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.

~~(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 United States state, jurisdiction, possession, territory, or dependency 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~~

~~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 ~~military~~service member attorneys and registered service member spouse attorneys under rules adopted by the Board of Trustees of the State Bar.

~~(g) Supervision~~

~~To meet the requirements~~**h) Termination of this rule, an attorney supervising a registered military****service member or service member** **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~~

~~(1) Registration as a registered service member attorney or service member 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 (A) if the attorney is terminated no longer a covered licensee;~~

~~(A) upon receipt of a determination by the Committee of Bar Examiners that (B) if the registered service member attorney or the registered military service member spouse attorney is not of good moral Covered character;~~

~~(B) for failure to annually register as a registered military attorney's 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 service member of;~~

~~(C) if the United States Uniformed Services~~ registered service member attorney or registered service member spouse attorney's spouse ~~is transferred to another state, jurisdiction, territory outside of California or is otherwise no longer under military orders to be located in California,~~ except that if the ~~Service Member~~ service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the ~~military~~ registered service member or registered service member spouse attorney may ~~continue to practice pursuant to the provisions of this rule~~ remain registered until the ~~Service Member~~ service member is assigned to a location with dependents authorized; ~~or~~

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

~~(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.~~

~~(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 ~~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 amended effective ; adopted by the Supreme Court effective March 1, 2019.

TITLE 3. PROGRAMS AND SERVICES

Adopted March 1, 2019

DIVISION 3. NON-LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 1. Registered Military Spouse Attorney

Rule 3.350 Definitions

- (A) A “Registered Military Spouse Attorney” is an attorney who meets the eligibility requirements of Rule 9.41.1 of the California Rules of Court (“Rule 9.41.1”) and is registered by the State Bar as a Registered Military Spouse Attorney.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Military Spouse Attorney.

Rule 3.350 adopted effective March 1, 2019.

Rule 3.351 Application

- (A) To apply to register as a Registered Military Spouse Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.41.1 must
 - (1) submit an Application for Registration¹ as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;²
 - (2) submit an Application for Registered Military Spouse Attorney³ with the fee set forth in the Schedule of Charges and Deadlines;
 - (3) meet State Bar requirements for acceptable moral character;
 - (4) 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

¹ See Rule 4.16(B).

² See Rule 4.3(B).

³ See Rules of Court, rule 9.41.1.

- (5) submit a Declaration signed by the supervising attorney.⁴
- (B) An application to practice law as a Registered Military Spouse Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

Rule 3.351 adopted effective March 1, 2019.

Rule 3.352 Duties of Registered Military Spouse Attorney

An attorney employed as Registered Military Spouse Attorney must

- (A) annually renew registration as a Registered Military Spouse Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of five years as a Registered Military Spouse Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.41.1;
- (D) report a change of supervising attorney in accordance with State Bar requirements;
- (E) use the title “Specially Registered Attorney” in connection with activities performed as a Registered Military Spouse Attorney;
- (F) not imply or claim in any way to be a licensed attorney of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney’s employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
 - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney’s status of good standing, suspension, resignation, disbarment, or a functional equivalent;
 - (2) termination of supervision by the supervising attorney; or

⁴ See Rules of Court, rule 9.41.1(a)(3)(F)

- (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (I) be supervised by a qualifying supervising attorney who meets the requirements of Rule 9.41.1;
- (J) submit a new application to register as a Registered Military Spouse Attorney before beginning employment with a new qualifying supervising attorney; and
- (K) otherwise comply with the requirements of Rule 9.41.1 and these rules.

Rule 3.351 adopted effective March 1, 2019.

Rule 3.353 Duties of employer

A qualifying supervising attorney who meets the requirements of Rule 9.41.1 must

- (A) complete the Application for Approval, and be approved by the State Bar, as a qualifying supervising attorney;
- (B) complete and sign a Declaration before supervising a Registered Military Spouse Attorney, attesting that he or she
 - (1) is a qualified supervising attorney;
 - (2) to supervise Registered Military Spouse Attorney (“attorney”) and otherwise comply with the requirements of Rule 9.41.1 and these rules;
 - (3) deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
 - (4) agrees to notify the State Bar of California, in writing, within thirty days if
 - (a) the attorney has terminated employment;
 - (b) the attorney is no longer eligible for employment as required by Rule 9.41.1 and these rules;
 - (c) the supervising attorney no longer meets the requirements of these rules;
 - (d) their status as a qualifying supervising attorney has changed; or
 - (e) he/she has changed their office address.

Rule 3.353 adopted effective March 1, 2019.

Rule 3.354 Termination of Registration

- (A) Registration as a Military Spouse Attorney terminates
- (1) as required by Rule 9.41.1;
 - (2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;
 - (3) upon admission to the State Bar of California;
 - (4) upon repeal of Rule 9.41.1 or termination of the Registered Military Spouse Attorney program; or
 - (5) upon request.
- (B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Registered Legal Aid Attorney in order to practice law in California.
- (C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

Rule 3.354 adopted effective March 1, 2019.

Rule 3.355 Reinstatement after termination

An attorney terminated as a Registered Military Spouse Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

Rule 3.355 adopted effective March 1, 2019.

Rule 3.356 Public information

State Bar records for attorneys permitted to practice law as Registered Military Spouse Attorney are public to the same extent as licensed attorney records.

Rules 3.356 adopted effective March 1, 2019

Relevant section of Servicemembers Civil Relief Act (50 U.S.C. §4025a)

§ 4025a. Portability of professional licenses of servicemembers and their spouses

(a) In general

If a servicemember or the spouse of a servicemember has a covered license and relocates residence because such servicemember receives military orders for military service in a State other than the State of the licensing authority that issued the covered license, such covered license shall be considered valid for the scope of practice in the State of the new residence if such servicemember or spouse submits to the licensing authority of such State an application described in subsection (c).

(b) Temporary licenses

If a licensing authority is required to consider a covered license valid under subsection (a) but cannot carry out such requirement during the 30 days after receiving an application described in subsection (c), the licensing authority may issue to the applicant a temporary license that confers the same rights, privileges, and responsibilities as a permanent license.

(c) Application

An application described in this subsection includes the following:

- (1) Proof of military orders described in subsection (a).
- (2) If the applicant is the spouse of a servicemember, a copy of the marriage certificate.
- (3) A notarized affidavit affirming, under the penalty of law, that--
 - (A) the applicant is the person described and identified in the application;
 - (B) all statements made in the application are true and correct and complete;
 - (C) the applicant has read and understands the requirements to receive a license, and the scope of practice, of the State of the licensing authority;
 - (D) the applicant certifies that the applicant meets and shall comply with requirements described in subparagraph (C); and
 - (E) the applicant is in good standing in all States in which the applicant holds or has held a license.

(d) Background checks

A licensing authority that receives an application described in subsection (b) may conduct a background check of the applicant before carrying out subsection (a) or (b).

(e) Interstate compacts

If a servicemember or spouse of a servicemember has a covered license to operate in multiple States pursuant to an interstate compact described in section 1784 of Title 10--

(1) the servicemember or spouse of a servicemember shall be subject to the requirements of such compact or the applicable provisions of law of the applicable State; and

(2) this section shall not apply to such servicemember or spouse of a servicemember.

(f) Definitions

In this section:

(1) The term “covered license” means a professional license that, with respect to a scope of practice--

(A) is in good standing with the licensing authority that issued such license;

(B) has not been revoked or had discipline imposed by any State;

(C) does not have an investigation relating to unprofessional conduct pending in any State relating to it; and

(D) has not been voluntarily surrendered while under investigation for unprofessional conduct in any State.

(2) The term “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, a particular profession.

(3) The term “licensing authority” means any State board, commission, department, or agency that--

(A) is established in the State for the primary purpose of regulating the entry of persons into or the conduct of persons within, a particular profession; and

(B) is authorized to issue licenses.

(4) The term “military orders” has the meaning given such term in section 3955 of this title.

(5) The term “scope of practice” means the defined parameters of various duties or services that may be provided by an individual under a license.



The State Bar of California

4.8: Action on Proposed Amendments to Registered Military Spouse Rules to Comply with the Servicemembers Civil Relief Act (Cal. Rules of Court, rule 9.41.1, State Bar Rules 3.350 – 3.356)

Committee of Bar Examiners, June 20, 2025

December 2024 Amendments to Section 4025a Servicemembers Civil Relief Act (SCRA)

- Effective December 23, 2024, federal law requires states to permit servicemembers and servicemember spouses who relocate to a new state to practice law if they meet a few basic requirements. These are essentially limited to:
 - Proof of military orders requiring relocation to the new state
 - Proof of marriage to a servicemember
 - Affidavit affirming
 - Good standing in state(s) where they have a license
 - Understanding of the requirements to receive/maintain a license in the new state, and that they will comply with the requirements to maintain a license in the new state
 - They are the person described in the application, and all statements are true



Current Registered Military Spouse Attorney (RMSA) Program Does Not Align with SCRA

- Under amended federal law, if the State Bar were to receive an application from a servicemember or servicemember spouse that met the requirements of the SCRA, such person would need to be permitted to practice with same rights and responsibilities as State Bar licensee
- The current RMSA program, pursuant to California Rules of Court, rule 9.41.1 (Rule 9.41.1), does not provide a mechanism to effectuate amended SCRA
- There are several misalignments between the current RMSA and the amended SCRA. RMSA:
 - Does not include servicemembers
 - Requires submission of Application for Determination of Moral Character
 - Requires supervised practice
 - Limited to five years
 - Imposes additional first-year MCLE requirements



Proposed Amended Rule 9.41.1

- Staff has developed a proposed amended Rule 9.41.1 that preserves the parts of the existing program that do not conflict with the amended SCRA (such as including civil unions and registered domestic partners), while amending the program to allow participation by all who meet federal requirements
- The key changes to the existing RMSA program are:
 - Including service members
 - Eliminating Application for Determination of Moral Character
 - Eliminating the requirement that program participants practice under supervision
 - Removing limitation that applicants cannot have taken and failed a bar exam within last five years
 - Eliminating five-year time limit
 - Eliminating additional first-year MCLE requirements
 - Adding temporary licensure program after 30 days



Proposed Changes Based on CBE Comments

- For registered service member spouse attorneys, add death of spouse to termination of marriage/civil union/registered domestic partnership as ground that will allow continued program participation for one year before termination (Proposed Amended Rule 9.41.1(h)(1)(D))
- Provide a grace period of 90 days after service member's transfer outside of California or, for registered service member spouse attorney in the case of transfer with no dependents authorized, after service member assignment to location with dependents authorized; and remove registered service member attorney from exception for transfer to location with no dependents authorized (Proposed Amended Rule 9.41.1(h)(1)(C))

