

**AMERICAN BAR ASSOCIATION**  
**STANDING COMMITTEE ON BAR ACTIVITIES AND SERVICES**  
**LAW STUDENT DIVISION**

**REPORT TO THE BOARD OF GOVERNORS**

**RESOLUTION**

1           RESOLVED, That the American Bar Association strongly urges the highest  
2 court or bar admission authority of each jurisdiction to immediately adopt  
3 emergency rules that would authorize

4  
5                   (1) 2019 and 2020 law graduates, and

6  
7                   (2) graduates of prior years who have been since graduation serving  
8 as judicial law clerks,

9  
10 who have not yet taken a bar examination, and who apply for admission to the  
11 bar, to engage in the limited practice of law, if the July 2020 bar examination in  
12 their jurisdiction is cancelled or postponed due to public health and safety  
13 concerns arising from the coronavirus pandemic.

14  
15 FURTHER RESOLVED, That this authorization to engage in limited law practice  
16 should apply only if the applicant is a graduate of a law school accredited or  
17 provisionally accredited by the Council of the Section of Legal Education and  
18 Admissions to the Bar of the American Bar Association and the applicant has  
19 successfully completed all requirements to be eligible to take the July 2020  
20 examination.

21  
22 FURTHER RESOLVED, That this authorization to engage in the limited practice  
23 of law would extend through licensure of the applicant, or until further order of the  
24 court or bar admission authority.

25  
26 FURTHER RESOLVED, That this limited authority to practice law should be an  
27 emergency measure, available only for a specified time, as necessary to  
28 accommodate public health and safety concerns arising from the coronavirus  
29 pandemic.

30  
31 FURTHER RESOLVED, That in adopting such an emergency rule, the court or  
32 bar admission authority should consider requiring that:

33

34 (1) The applicant register with the jurisdiction's bar admissions  
35 authority (or other appropriate agency) and comply with all applicable  
36 registration requirements;  
37

38 (2) The applicant be directly supervised by a lawyer authorized to  
39 practice in the jurisdiction whose license is active and in good standing; the  
40 supervising lawyer confirms in writing to the appropriate agency that he or  
41 she will directly supervise the practice of the applicant; and the supervising  
42 lawyer is identified as such in all papers submitted to a court, government  
43 agency or authority, or alternative dispute resolution tribunal, on which the  
44 applicant's name appears;  
45

46 (3) The applicant be subject to the disciplinary authority of the  
47 jurisdiction in which the applicant is practicing and the applicant comply  
48 with all ethics and related rules of the jurisdiction, including specifically but  
49 not limited to rules requiring truthful and non-misleading advertising or  
50 other public statements concerning his or her limited authority to practice;  
51

52 (4) The applicant and the supervising lawyer disclose, in a clear and  
53 prominent manner, the applicant's limited authority to practice to any client  
54 for whom the applicant does any work, and the supervising lawyer, by  
55 direct contact with the client, obtain the client's consent to be represented  
56 by the applicant and provide the client with the supervising lawyer's name  
57 and contact information;  
58

59 (5) The applicant disclose, in a clear and prominent manner, the  
60 applicant's limited authority to practice to any person with whom he or she  
61 interacts in the practice, including any court, government agency or  
62 authority, or alternative dispute resolution tribunal;  
63

64 (6) The applicant adhere to any conditions set by the emergency  
65 rule as to limitations on the authorization given to appear before any court,  
66 tribunal, governmental agency, or alternative dispute resolution tribunal.  
67

68 (7) The applicant take the bar examination by the end of 2021; and  
69

70 (8) The applicant's limited authorization will terminate if the applicant  
71 fails the bar examination.  
72

73 FURTHER RESOLVED, That nothing in the Resolution shall be construed to  
74 amend, limit, or call into question, the historic and longstanding policy of the  
75 American Bar Association supporting the use of a bar examination as an  
76 important criterion for admission to the bar.

## **REPORT<sup>1</sup>**

As this Resolution and Report are written, the United States and the world are in the midst of a deadly coronavirus pandemic, and no U.S. community appears to have reached the peak of new infections or deaths. All business and government activities other than those involving health care and public safety have slowed dramatically, and much ordinary business activity has ceased. The primary focus of virtually all government and business has turned to health and safety.

Still, the judicial system, law schools, and the legal profession are today attempting to continue operations, as best they can, while complying with public health and safety orders and guidance that, for example, ban almost all in-person activities like in-person court proceedings, law school classes, and meetings with clients.

In recent days, several jurisdictions, in an effort to comply with public health and safety orders and guidance have decided to cancel or postpone the traditional July administration of the bar examination in 2020. As of this writing, at least four jurisdictions have canceled or postponed the July 2020 bar examination – Connecticut, Hawaii, Massachusetts, and New York.<sup>2</sup> Other jurisdictions have acknowledged they are contemplating the same action.<sup>3</sup> No one can doubt these decisions are necessary to public health and safety. This Resolution in no way questions the necessity for such decisions.

Yet there also can be no doubt that canceling or postponing a bar exam will significantly affect the lives, careers, and immediate personal plans of law graduates, their families, and the lawyers or other organizations with whom they

---

<sup>1</sup> This Report was prepared and was current as of its submission to the Board of Governors on April 6, 2020. Between that time and approval by the Board, both Arizona and New Jersey have adopted rules similar to the kind proposed in the Resolution.

<sup>2</sup> Stephanie Francis Ward, “New York bar exam planned for September; Hawaii postpones exam, too,” [www.ABAJournal.com](http://www.abajournal.com/news/article/ny-bar-planned-for-september-court-explores-supervised-practice-for-recent-law-grads) (April 1, 2020), available at <https://www.abajournal.com/news/article/ny-bar-planned-for-september-court-explores-supervised-practice-for-recent-law-grads>.

<sup>3</sup> Tennessee has not yet canceled or postponed the July 2020 bar examination, but its high court entered an order extending its current rule allowing law students to engage in limited practice to law graduates. (Order Temporarily Modifying Certain Provisions of Tennessee Supreme Court Rule 7 Related to The July 2020 Bar Examination, *In re: Covid-19 Pandemic*, No. ADM2020-00428 (entered April 2, 2020), available at: [http://tncourts.gov/sites/default/files/docs/ble\\_covid-19\\_order.pdf](http://tncourts.gov/sites/default/files/docs/ble_covid-19_order.pdf) (copy of order and underlying amended rule attached as Exhibit A).

might otherwise practice. Every law graduate in this country has planned and worked for years toward the goal not only of graduation from law school, but admission to the bar and licensure. The inability of a law graduate to take the bar examination in July 2020 would mean a delay, at the very least, of months in their ability to begin the practice of law. This delay may lead not only to tangible financial and family hardship, but disruption in the plans and operations of the organization and clients for whom these law graduates may already be planning to work.

Cancelling or postponing a bar examination for public health and safety reasons is not without consequence. The livelihoods, families, and careers of 2019 and 2020 law graduates may be uprooted, and financial security immediately threatened, with even a delayed exam. Upon graduation, the average 2020 law graduate will bear a debt load of \$142,870.<sup>4</sup> That debt load remains unchanged while their job prospects disappear or diminish in part were their jurisdiction to deny them the opportunity to take the exam in July 2020 and begin to practice law. Public health and safety and the professional and financial security of law graduates need not be mutually exclusive.

This Resolution strongly encourages jurisdictions' supreme courts and bar admission authorities to adopt emergency rules that would mitigate these hardships and disruptions.<sup>5</sup> One state (Tennessee) has recently adopted such a rule;<sup>6</sup> another state (Arizona) has published a proposed rule that would accomplish what this Resolution proposes now pending before its high court;<sup>7</sup>

---

<sup>4</sup> Tiffane Cochrane, "What Do We Know About Law Student Indebtedness?," AccessLex Institute (Aug. 23, 2019), available at: <https://www.accesslex.org/xblog/what-do-we-know-about-law-student-indebtedness>.

<sup>5</sup> A few commentators have proposed other means to address these issues. See Angelos, Claudia and Berman, Sara and Bilek, Mary Lu and Chomsky, Carol L. and Curcio, Andrea Anne and Griggs, Marsha and Howarth, Joan W. and Kaufman, Eileen R. and Merritt, Deborah Jones and Salkin, Patricia E. and Wegner, Judith W., *The Bar Exam and the COVID-19 Pandemic: The Need for Immediate Action* (March 22, 2020), Ohio State Public Law Working Paper No. 537 (2020), available at: <https://ssrn.com/abstract=3559060> or <http://dx.doi.org/10.2139/ssrn.3559060>; Letter, New York Law Deans to Chief Judge Janet DiFiore, dated April 3, 2020, available at: <https://www.albanylaw.edu/coronavirus/law-dean-letter-to-court-of-appeals>.

<sup>6</sup> See Tennessee Order, *supra* fn. 2 (copy attached as Exhibit A).

<sup>7</sup> Petition, *In the Matter of Petition to Amend Arizona Rule of the Supreme Court 38*, Ariz. Sup. Ct. No. R-20-2007 (filed Jan. 9, 2020), petition and appendix available at: <https://www.azcourts.gov/DesktopModules/ActiveForums/viewer.aspx?portalid=0&moduleid=23621&attachmentid=7440> and <https://www.azcourts.gov/DesktopModules/ActiveForums/viewer.aspx?portalid=0&moduleid=23621&attachmentid=7442> (copy attached as Exhibit B).

and a third state (New York) appears to be considering such a rule<sup>8</sup> There may also be some states whose rules already permit limited practice of this kind. Arizona's petition, for example, asserts that its rule "currently allows recent law graduates to engage in a limited practice of law until the first offering of the Arizona bar examination, [but] the rule was drafted in a way that downplayed or masked this opportunity for recent law graduates," and thus the petition seeks to clarify and add important elements to the grant of limited practice authority.<sup>9</sup> This Resolution strongly supports these efforts and sets out a number of necessary and appropriate criteria that should be considered by jurisdictions in considering such rules.

Arizona's pending petition for a rule change notes that at least sixteen jurisdictions allow recent law graduates to engage in the limited practice of law post-graduation and pre-bar admission.<sup>10</sup> While these existing programs do share some common features, not all directly or clearly address the currently anticipated issue of the cancellation or postponement of the July 2020 bar examination. For example, as noted above, Tennessee recently acted to expand its program for this reason.<sup>11</sup> Whether a jurisdiction chooses to use this approach to achieve limited practice authority for recent graduates pending admission in this context is, of course, a matter for each jurisdiction.

### **The Effects of Cancelling or Postponing the Bar Examination**

Without adoption of a rule to mitigate the effect of the cancellation or postponement of the July 2020 bar examination, a delay in law graduates' eligibility to practice law will place an unprecedented financial burden on thousands of law graduates. During this unexpected delay in admission, job security will be in question; reduced salaries are likely; and law student debt remains. Law graduates and their families have invested tens of thousands of dollars into their education with the expectation of promptly graduating, passing the bar exam, and entering the practice of law. Those expectations have been uprooted by an act of God. Without action, this financial burden will fall

---

<sup>8</sup> See Ward, *supra* n. 1. Indeed, the deans of all fifteen New York law schools have urged the New York high court to adopt "a broad and universal system of *provisional, temporary* authorization for 2020 graduates to practice law under the supervision of an attorney admitted to practice in New York" (original emphasis). See Letter, New York Law Deans to Chief Judge Janet DiFiore, dated April 3, 2020, at 3 (original emphasis), available at <https://www.albanylaw.edu/coronavirus/law-dean-letter-to-court-of-appeals>.

<sup>9</sup> See *supra*, fn. 5.

<sup>10</sup> Petition, *supra* fn. 5, at 4-5.

<sup>11</sup> Order, *supra* fn. 4.

disproportionately on law graduates who had grounded their futures on taking the 2020 bar examination.

Further, law graduates are by no means the only ones affected. The immediate legal needs of individuals and businesses, from small to large, as a result of this pandemic, are already enormous and will continue to grow. Tens of thousands of graduating law students stand ready to help with those needs, if they are given the regulatory permission to do so. This resolution encourages states to permit these trained law graduates to help serve the public in this crisis.

### **Components of the Rule that the Resolution Advocates**

This Resolution calls for the immediate adoption of an emergency rule, regulation, or policy. The Resolution recognizes that the problem is one of immediate concern and should be addressed as soon as possible. At least one state (Tennessee) has wisely addressed this issue *before* making any decision on whether its bar examination will be offered in July 2020. The Resolution calls for immediate action.

The Resolution also advocates for adoption of a rule that would be considered an emergency rule. The current public health and safety environment is changing daily, and a rule such as this might well need to be adapted to changed conditions in a few months. The Resolution does not advocate for adoption of any change in policy that would be permanent or survive the current challenges created by the coronavirus pandemic as it presents itself today.

Examples of rules of the type advocated by this Resolution include the rules very recently adopted by the supreme courts of Arizona and Tennessee, copies of which are attached to this Report.

A number of the specific features of the type of rule advocated by this Resolution bear comment. The Resolution urges that the following would be the most important features of a rule:

- The rule would cover law graduates from both 2019 and 2020. Some law graduates do, for legitimate reasons (such as judicial clerkships), delay taking the bar example for a time after their graduation.
- The rule would only apply to first-time takers of the bar examination, consistent with its emergency nature. Thus, a law graduate who had taken either the bar examination of the jurisdiction adopting the rule or any other jurisdiction, whether the law graduate passed or failed the exam, would not qualify under the rule.

- The rule would only cover 2019 and 2029 law graduates who apply for admission to the bar, again consistent with the narrow, emergency nature of the relief granted by the rule.

- Applicants must also be graduates of law schools accredited or provisionally accredited by the Council of the Section of Legal Education and Admissions to the Bar of the ABA.

- The limited authority to practice law would extend through an applicant's licensure, including the taking of the bar examination, the time needed for the examination to be graded and results known, and any time after that ordinarily needed for the bar admission authority to complete its normal licensure process.

The Resolution also advocates that adopting jurisdictions should seriously consider the following features be included as part of such a rule:

- A requirement that the applicant register with an appropriate regulatory authority and comply with any appropriate registration requirements, ranging from completing an application to paying fees associated with the process. The Resolution contemplates that a jurisdiction might decide to impose certain fees associated with the regulation of the profession, as they might deem appropriate.

- Direct supervision of the applicant's limited practice by an identified lawyer already admitted in the jurisdiction. The Resolution contemplates that this supervision be consistent with that required by ABA Model Rule of Professional Conduct 5.1(b) concerning the responsibility of a lawyer with "direct supervisory authority" over another lawyer. The supervising lawyer would be required to commit in writing to the requirements of this role as a part of the applicant's application for this limited authority.

- Disclosure to clients, courts, and others of the limited nature of the applicant's authority to practice law would be required, as would appropriate disclosure of the same limitations in any interactions with others or the public.

- The rule would allow court appearances by the law graduate, but each jurisdiction should consider what conditions it wishes to set on this authorization, such as court permission or attendance by the supervising lawyer.

- The rule would also require that the applicant actually take and pass the bar examination by the end of 2021.

This Resolution does not take any position on decisions that are appropriately within the authority and discretion of the highest court or bar admission authority of each jurisdiction, such as whether the July 2020 administration of the bar examination by any jurisdiction should be canceled or postponed, or whether the July 2020 administration of the bar examination by any jurisdiction should be administered online, remotely, or in small groups.

Finally, the Resolution does not intend in any way modify or limit the historic and longstanding policy of the ABA supporting the use of a bar examination as an important criterion for admission to the bar.



# Exhibit A

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

04/02/2020

Clerk of the  
Appellate Courts

**IN RE: COVID-19 PANDEMIC**

---

**No. ADM2020-00428**

---

**ORDER TEMPORARILY MODIFYING CERTAIN PROVISIONS OF  
TENNESSEE SUPREME COURT RULE 7 RELATED TO  
THE JULY 2020 BAR EXAMINATION**

Consistent with the Tennessee Supreme Court's COVID-19 Pandemic Orders entered March 13, 2020, and March 25, 2020, and in furtherance of the Judicial Branch's obligation to mitigate the risks and effects of mitigation of risks associated with COVID-19, the Court adopts temporary changes to the provisions of Tennessee Supreme Court Rule 7 listed below. These changes are intended to provide applicants for the July 2020 administration of the Uniform Bar Examination ("UBE") assurance regarding application deadlines and the steps that the Board of Law Examiners (the "Board") is to take in the event a July 2020 examination is not deployed and/or a fall 2020 UBE is offered. With the exception of the modification to sections 3.05(a) of Rule 7, these modifications apply to applicants to the July 2020 administration of the Uniform Bar Examination (UBE) in Tennessee.

1. Section 11.03 of Tennessee Supreme Court Rule 7 is suspended temporarily only for applicants for the July 2020 bar examination to permit limited transfer of applications or full refund of fees, as follows:

- a. The July 2020 application for admission by examination and fee paid to the Board will be valid for the UBE administered in July 2020 or on an as-yet-unscheduled fall 2020 date.
  - b. Applicants will be given the option to choose either the July or fall 2020 UBE, but not both.
  - c. After a decision is made regarding the July bar examination and regardless of what that decision is, applicants for the July 2020 administration of the UBE who complete the application process prior to the May 20 deadline will be given the option to transfer the July 2020 application and fee paid to the Board to either the fall 2020 UBE, if one is scheduled, or the February 2021 administration of the UBE on or before a deadline to be set by the Board.
  - d. If a fall examination is not offered and a July 2020 examination is not deployed or cannot be administered, applications and fees paid to the Board will be transferred to the February 2021 examination automatically unless the applicant requests a full refund of the fee paid to the Board on or before a deadline to be set by the Board.
2. Section 10.04 of Tennessee Supreme Court Rule 7 (practice under supervision) is modified for applicants who graduated from law school between March 1, 2020, and July 24, 2020, who completed the application process by the deadline for the July 2020 administration of the UBE, and who register for § 10.04 practice under supervision, by extending the time applicants are permitted to engage in supervised

practice until November 15, 2021. This modification permits qualified applicants the opportunity to practice under supervision until the admission ceremonies in November 2021.

3. Section 10.07 of Tennessee Supreme Court Rule 7 (practice pending admission) is modified for applicants who have an active license in good standing in another jurisdiction, who completed the application process by the deadline for the July 2020 bar examination, and who register for practice pending admission under § 10.07, by extending the time applicants are permitted to engage in practice pending admission until November 15, 2021, provided however, that the applicant sits for and completes the earliest examination offered. This modification permits qualified applicants the opportunity to practice pending admission until completion of the admission ceremonies in November 2021.

4. Section 4.07(d) of Tennessee Supreme Court Rule 7 is modified for applicants who have completed the application process by the deadline for the July 2020 bar examination and have a qualifying score from the August 2018 or November 2018 administration of the MPRE, to extend the validity of the scores for the August and November 2018 MPRE scores through grade release for the February 2021 examination.

5. Section 3.05(a) of Tennessee Supreme Court Rule 7 is modified to permit concurrent applications in order to prevent delays in licensing that applicants for the July 2020 UBE would otherwise experience. A “concurrent application” permits an applicant to apply for admission by Uniform Bar Examination administered in another state and, prior to earning that score, apply to Tennessee for admission by transferred Uniform Bar

Examination score. Sec. 3.05(a)(1) is amended to permit filing of an application to transfer a UBE Score prior to the time an applicant has achieved the required score as long as the applicant achieves the required score on an examination administered between July 2020 and February 2021.

Nothing in this order is to be construed as changing the current status of the July 2020 bar examination. The modifications to Rule 7 are applicable to July 2020 bar examination applicants only and all other provisions of Rule 7 and Board Policies remain unchanged. The Board of Law Examiners remains open and shall continue to provide services, while balancing the health and safety of Board members, staff, exam proctors and the public.

It is so ORDERED.

PER CURIAM

West's Tennessee Code Annotated  
State and Local Rules Selected from West's Tennessee Rules of Court  
Rules of the Supreme Court of the State of Tennessee  
Rule 7. Licensing of Attorneys  
Article X. Special or Limited Practice

Sup.Ct.Rules, Rule 7, § 10.04

Sec. 10.04. Practice Before Admission by Examination Score

Currentness

**(a) Eligibility.**

(1) An applicant may register with the Board in order to perform the services described in paragraph (c) of this section provided the applicant:

(A) has never been licensed to practice law in another state in the United States, the District of Columbia, or U.S. Territories;

(B) has submitted an application pursuant to [section 3.01](#) or 3.05 of this Rule;

(C) meets the educational requirements of [section 2.01](#) and 2.02 of this Rule;

(D) works in Tennessee under the supervision of a licensed lawyer who is admitted and in good standing in Tennessee; and

(E) has:

(i) not yet had an opportunity to take the Tennessee bar examination;

(ii) taken the examination but not yet received notification of the results of the examination; or

(iii) taken the examination or submitted a UBE score transfer application, but has not yet been admitted as a member of the Tennessee bar.

(2) An applicant is eligible for supervised practice under this section beginning with the submission of the first Application to the Bar of Tennessee or the graduation from law school, whichever is later.

(3) Applicants registered for supervised practice who are unsuccessful on the examination and who submit a re-examination application for the next available exam within ten days of the release of examination results may continue to practice under supervision subject to the time limits in paragraph (4). The privilege to engage in supervised practice expires for applicants who are unsuccessful on the examination and do not submit a re-examination application within ten days of notification of examination results.

(4) The privilege to engage in supervised practice expires: upon admission of eligible examination or UBE score transfer applicants; as provided in paragraph (3) for unsuccessful examinees; upon admission in any other state, the District of Columbia, or U.S. Territory; or upon issuance of an order to show cause. In no event shall the privilege to engage in supervised practice continue for more than sixteen months from the date an applicant graduated from law school.

(5) The Board shall have no discretion to extend the time an applicant may engage in limited practice.

(6) An applicant who is licensed in another jurisdiction and seeking admission under [sections 3.01, 3.05, 5.01, or 10.06](#) of this Rule may practice pending admission as provided in [section 10.07](#).

**(b) Registration Process.** In order to perform the services described in paragraph (c), the applicant must submit to the Board the NCBE application, the Tennessee Supplemental application, and the fees associated with the application. Additionally, the applicant must register for supervised practice according to the procedures established by the Board and pay the required fee. The applicant must include with the registration an affidavit from an attorney licensed and in good standing in Tennessee stating that the attorney agrees to undertake the supervision of the applicant in accordance with this section.

**(c) Supervision.**

(1) The applicant shall be under the immediate and personal supervision of an attorney who meets the requirements of paragraph (3), below.

(2) It is the responsibility of the supervising attorney to ensure that the applicant is properly supervised and instructed including compliance with [Tenn. Sup. Ct. R. 8, RPC 5.3](#), and be present as provided in paragraph (d)(2), below; however, it is not necessary that the supervising attorney be present when the applicant engages in activities such as interviewing, investigation, drafting, and negotiation.

(3) The supervising attorney must:

(A) be a lawyer licensed and in good standing in Tennessee;

(B) have practiced for a minimum of three years; and

(C) assume professional responsibility for the direct and immediate supervision for the professional work of the applicant.

**(d) Services Permitted.** Under the supervision of the supervising attorney, and with the written consent of the person on whose behalf the applicant is acting, an applicant approved for supervised practice may render the following services.

(1) Applicant may counsel and advise clients, negotiate in the settlement of claims, represent clients in mediation and other non-litigation matters, and engage in the preparation and drafting of legal instruments. Any communication other than internal communications may be signed by the applicant with the accompanying designation “Tennessee Bar Applicant” but must also be signed by the supervising attorney.

(2) Applicant may appear in the trial courts, courts of review and administrative tribunals of this state, including court-annexed arbitration and mediation, subject to the following qualifications:



(A) Written consent to representation of the person on whose behalf the applicant is acting shall be filed in the case and brought to the attention of the judge or presiding officer.

(B) Appearances, pleadings, motions, and other documents to be filed with the court may be prepared by the applicant and may be signed with the accompanying designation “Tennessee Bar Applicant.”

(C) In criminal cases in which the penalty may be imprisonment, in proceedings challenging sentences of imprisonment, and in civil or criminal contempt proceedings, the applicant may participate in pretrial, trial, and post-trial proceedings as an assistant of the supervising attorney, who shall be present and responsible for the conduct of the proceedings.

(D) In all other civil and criminal cases in the trial courts or administrative tribunals, the applicant may conduct all pretrial, trial, and post-trial proceedings with the Supervising Attorney present unless the applicant is permitted by the judge or presiding officer to participate without direct supervision.

(E) In matters before appellate courts, the applicant may prepare briefs, excerpts from the record, abstracts, and other documents. If any such filings set forth the name of the applicant as a counsel of record in addition to the supervising attorney, the name of the applicant must be accompanied by the designation “Tennessee Bar Applicant” but must be filed in the name of the supervising attorney. Upon motion by the supervising attorney, the applicant may request authorization to argue the matter before the appellate court but, even if the applicant is permitted to argue, the supervising attorney must be present and is responsible for the conduct of the applicant at the hearing.

**(e) Compensation.** An applicant rendering services authorized by this section shall not request or accept any compensation from the person for whom applicant renders the services. The supervising attorney may make an appropriate charge. The applicant may be compensated as an employee of a firm, agency, clinic or other organization so long as the rate of such compensation is established independent of compensation paid for representation.

**(f) Aid in Establishing Supervised Practice.** Any applicant who otherwise meets all the qualifications contemplated in this section, but who is unable to make a connection or association with a practicing attorney for purposes of serving as a Supervising Attorney as required by this

section, may apply to any trial judge holding court in the county of such applicant's residence for aid in the establishment of a supervised practice under this section. Such practice must accord strictly with the provisions of this section. No deviation will be permitted.

**(g) Disciplinary Complaints.**

(1) In the event a disciplinary complaint is filed in a case in which an applicant has been permitted to practice under this section, the authority with whom such complaint is filed shall immediately report the complaint to the Board. Upon receipt of a notice of a complaint, the Board shall provide the Board of Professional Responsibility the name of the supervising attorney for the applicant.

(2) By operation of this Rule, a disciplinary complaint against an applicant permitted to practice under this section constitutes a complaint against the supervising attorney. The Board of Professional Responsibility shall have jurisdiction over the complaint against both the applicant and the supervising attorney and may refer the complaint against the applicant to the Office of the Attorney General and Reporter or the Board.

**(h) Board Permitted to Disclose.** Notwithstanding the provisions of [section 12.11](#), the Board may disclose that an applicant is authorized to practice pursuant to this section and may disclose if and when that authorization is terminated.

**Credits**

[Article X amended effective March 1, 1984; effective October 1, 1984; effective May 1, 1999; effective June 2, 2006; May 18, 2009; 10.05 adopted September 3, 2009; December 21, 2015, effective January 1, 2016; effective November 27, 2017; effective April 18, 2018; effective March 29, 2019.]

Sup. Ct. Rules, Rule 7, § 10.04, TN R S CT Rule 7, § 10.04

State court rules are current with amendments received through December 1, 2019.

# Exhibit B

Dave Byers<sup>1</sup>  
Executive Director, Administrative Office of Courts  
Member, Task Force on the Delivery of Legal Services  
State Courts Building  
1501 West Washington  
Phoenix, Arizona 85007  
Telephone: (602) 452-3303

**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of	)	
	)	Arizona Supreme Court No. R-20-____
PETITION TO AMEND ARIZONA	)	
RULE OF THE SUPREME	)	
COURT 38	)	
_____	)	

Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Task Force on the Delivery of Legal Services (“Task Force”) petitions the Court to amend Arizona Rules of the Supreme Court 38, as reflected in the attachments hereto, effective January 1, 2021.

**I. INTRODUCTION AND BACKGROUND.**

Established on November 21, 2018, by Arizona Supreme Court Administrative Order 2018-111, the Task Force was asked to address five charges and to make recommendations on each. The Administrative Order gave the chair

---

<sup>1</sup> Mr. Byers files this petition in his capacity of a member of the Task Force.

discretion to consider and recommend other rule changes on any topic concerning the delivery of legal services. Members of the legal community approached the Task Force with a proposal to amend Rule 38(d). The Task Force agreed to consider the proposal and worked with members of the legal community to draft this proposed rule amendment.

Although Rule 38(d) currently allows recent law graduates to engage in a limited practice of law until the first offering of the Arizona bar examination,<sup>2</sup> the rule was drafted in a way that downplayed or masked this opportunity for recent law graduates. Further, current Rule 38(d) is unduly complicated and unclear in large part and fails to include certain program essentials. Thus, the amendments proposed in this petition revise and reorganize the rule for clarity and substantive completeness. As revised, the proposed rule sets out the program requirements and practice restrictions for both law students and recent law graduates in a clear, organized, consistent, and complete manner.

The Task Force presented its recommendation to the Arizona Judicial Council (“AJC”) on October 24, 2019. The Report and Recommendations of the Task Force (*Report*), along with other Task Force information, can be found at the Task Force’s webpage: <https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force>. The

---

<sup>2</sup> Certification of a certified limited practice student shall commence on the date indicated on a notice of certification and shall remain in effect . . . [until] the certified student fails to take or pass the first general bar examination for which the student is eligible. Ariz. R. S. Ct. 38(d)(5)(F)(iv).

AJC adopted all recommendations of the Task Force, including the recommendation to amend Rule 38(d), identified as Recommendation 4 of the report.

## **II. SUMMARY OF PROPOSED AMENDMENTS TO ARIZONA RULE OF SUPREME COURT 38(d).**

In Arizona, law students can practice law under the supervision of a licensed attorney in accordance with Arizona Supreme Court Rule 38(d). Participants in this limited practice of law must be supervised by an attorney in a public or private legal office or by a clinical law professor in conjunction with a law school clinical program. As discussed above, although Rule 38(d) currently allows recent law graduates to engage in a limited practice of law until the first offering of the Arizona bar examination, the rule was drafted in a way that downplayed or masked this opportunity for recent law graduates. The proposed amendments clarify that recent law graduates may be certified to engage in the limited practice of law under the supervision of an attorney. The proposed amendments also clarify that neither law students nor law graduates must also participate in a clinical law program.

At least 16 states allow recent law graduates to engage in the limited practice of law post-graduation and pre-bar admission. These state programs share common features:

- All programs have specified durations. For example, some programs authorize practice only during the period in which the graduate has applied to take the first bar examination after his or her graduation and is awaiting the

results. Other programs include similar restrictions and incorporate a tiered expiration date for the authorization to practice, such as no later than 12 or 18 months after the graduate graduated from law school.

- Most of these programs authorize graduates to practice law to the same extent law students are authorized to practice law under programs like existing Rule 38(d)(5). Thus, graduates are permitted to meet with clients, go to court, try cases, argue motions, and the like. Most of the states authorize graduates to handle civil and criminal cases, although some restrict the criminal cases to misdemeanors or less-serious felonies.
- Several programs authorize graduates to practice for certain types of employers, such as legal-aid clinics, public defenders, prosecutor's offices, or city, county, and state offices or agencies.
- Many programs impose supervisory requirements that are similar to the supervisory requirements imposed under existing Rule 38(d).
- A few programs require the dean of the graduate's law school, or the graduate's proposed supervising attorney, to certify the graduate's good character and competence to the state supreme court or another entity. Other programs simply require the employer to comply with the requirements of the program and do not require the employer to file any other documentation with any court or state agency.

Although these other state programs vary in operational details, they all provide a means by which law students and non-licensed law graduates may practice law, and effectively result in expanding the delivery of legal services, especially by public agencies or public service groups that provide legal services to individuals with limited resources. These programs do this by allowing recent law school graduates in the process of becoming licensed to gain experience by practicing law under the supervision of admitted lawyers for a limited duration. Because this limited exception to licensure is anticipated to benefit the public, the Task Force's proposed amendments to Rule 38(d) fall squarely within the mandate to consider and evaluate new models for delivering legal services.

Further, the amendments would eliminate, or at least lessen, many of the practical problems experienced by law school graduates given the workload of the individuals involved in the admission and character and fitness process. The amendments permit recent law graduates to practice under the supervision of a lawyer after graduation from an ABA accredited law school if the graduate takes the first Arizona uniform bar examination, or the first uniform bar examination offered in another state for which the graduate is eligible. Certification to practice terminates automatically if the graduate fails the bar examination, if the Committee on Character and Fitness does not recommend to the Supreme Court the graduate's admission to practice, if the graduate is denied admission to practice law by the Supreme Court, or on the expiration of 12 months from the date of the graduate's



graduation from law school unless the Supreme Court extends the 12-month period. If the graduate passes the bar examination, certification terminates 30 days after the graduate has been notified of approval for admission to practice and eligibility to take the oath of admission. Certification to practice for both graduates and law students also terminates on the occurrence of other events such as failure to meet the requirements for certification.

Finally, the amendments set out the program requirements and practice restrictions for both law students and recent law graduates in a clear, organized, consistent, and complete manner. Thus, for example, the amendments separately set out the program details for law students and law graduates and clarify as well as simplify the supervisory obligations of the supervising attorneys.

## **CONCLUSION**

Petitioner respectfully requests that the Court consider this petition and proposed rule changes at its earliest convenience. Petitioner additionally requests that the petition be circulated for public comment, and that the Court adopt the proposed rules as they currently appear, or as modified considering comments received, with an effective date of January 1, 2021.

DATED this 9th day of January, 2020.

\_\_\_\_\_/s/\_\_\_\_\_  
Dave Byers  
Executive Director  
Arizona Administrative Office of Courts

## **APPENDIX 1A: ARIZONA RULE OF SUPREME COURT 38 (CLEAN)**

**(a) – (c) No change.**

### **(d) Clinical Law Professors, Law Students, and Law Graduates**

1. *Purpose.* This purpose of this rule is to provide law students and recent law school graduates with supervised instruction and training in the practice of law for a limited time, and to facilitate volunteer opportunities for those individuals in pro bono contexts.

#### 2. *Definitions.*

A. “Law school” means a law school either provisionally or fully accredited by the American Bar Association.

B. “Certified limited practice student” is a law student of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. “Certified limited practice graduate” is a law graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice graduate.

D. “Clinical Law Professor” is a faculty member teaching a clinical law program at a law school in Arizona either provisionally or fully accredited by the American Bar Association.

E. “Dean” means the dean, the academic associate dean, or the dean’s designee of the accredited law school where the law student is enrolled or the law graduate was enrolled on graduation.

F. “Period of supervision” means the dates for which the supervising attorney has declared, on the application for certification or recertification, that he or she will be responsible for any work performed by the certified limited practice student or the certified limited practice graduate under his or her supervision.

G. “Supervising attorney” is an active member of the State Bar of Arizona in good standing who has practiced law or taught law in an accredited law school as a full-time occupation for at least two years, and agrees in writing to supervise the certified limited practice student or certified limited practice graduate pursuant to

these rules, and is identified as the supervising attorney in the application for certification or recertification. The supervising attorney may designate a deputy, assistant, or other staff attorney to supervise the certified limited practice student or certified limited practice graduate when permitted by these rules.

H. “Volunteer legal services program” means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

### *3. General Provisions.*

A. Limited Bar Membership. To the extent a professor, law student, or law graduate is engaged in the practice of law under this rule, the professor, law student, or law graduate shall, for the limited purpose of performing professional services authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. Nonapplicability of Attorney Discipline Rules to Terms of the Certification. The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor, certified limited practice student, or certified limited practice graduate pursuant to these rules. Termination of certification shall be without prejudice to the privilege of the professor, law student, or law graduate to apply for admission to practice law if the professor, law student, or law graduate is in other respects qualified for such admission.

C. Effect of Certification on Application for Admission to Bar. The certification of a clinical law professor, law student, or law graduate shall not be considered as an advantage or a disadvantage to the professor, law student, or law graduate in an application for admission to the state bar.

D. Privileged Communications. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising and designated attorneys, certified limited practice students, and certified limited practice graduates.

### *4. Clinical Law Professors.*

A. Activities of Clinical Law Professors. A clinical law professor who is certified pursuant to this rule may appear as a lawyer solely in connection with supervision of students in a clinical law program in a law school in Arizona. A clinical law professor may appear in any court or before any administrative tribunal in this state in the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. To appear as a lawyer pursuant to these rules, the clinical law professor must:

- i. be admitted by examination to the bar of any state or the District of Columbia;
- ii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered;
- iii. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers; and
- iv. submit evidence that the clinical law professor has successfully completed the course on Arizona law described in [Rule 34\(j\)](#).

C. Certification of the Clinical Law Professor. The certification shall be signed by the clinical law professor and the dean of the law school on the form prescribed by the clerk of the Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. The clinical law professor must ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program.

E. Termination of Certification.

- i. The dean at any time, with or without cause or notice or hearing, may terminate

a certification of a clinical law professor by filing a notice of the termination with the clerk of the Supreme Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

ii. The Court at any time, with or without cause or notice or hearing, may terminate a certification of a clinical law professor by filing notice of the termination with the clerk of this Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

## *5. Law Students*

A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, an applicant must

i. have successfully completed legal studies amounting to at least two semesters, or the equivalent academic hour credits if the law school or the student is on some basis other than a semester, at an accredited law school;

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law student, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the law school where the student is enrolled as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. Application to become a Certified Limited Practice Student or Extend the Certification Period

i. All applications to become a certified limited practice student or to extend the period of certification must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.

ii. The application for certification or extension must be signed by the applicant, the dean of the law school in which the applicant is enrolled, and the supervising attorney.

iii. The applicant must attest that he or she meets all of the requirements of this rule; will immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules; and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school in which the applicant is enrolled must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice student no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for supervising the applicant and attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

#### C. Permitted Activities and Requirements of a Certified Limited Practice Student; Presence of Supervising or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has provided written approval of that appearance. The written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge or presiding officer and the certified limited practice student must advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice student in the following circumstances:

- a. In any civil case in justice, municipal, and magistrate court, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;
- b. In any civil case in superior court or before any administrative tribunal.
- c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;
- d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;
- e. In any misdemeanor criminal defense case, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and
- f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.
- g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the supervision of the supervising attorney, but outside the supervisor's presence, a certified limited practice student may:

- a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney;

- b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;
- c. assist indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;
- d. give legal advice and perform other appropriate legal services, but only with the consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation or request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

- a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;
- b. the student's supervising attorney is associated with the particular volunteer legal services program;
- c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

#### D. Use of the Title "Certified Limited Practice Student."

- i. A certified limited practice student may use the title "Certified Limited Practice Student" only in connection with activities performed pursuant to these rules.
- ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written



material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney or designated attorney; and otherwise comply with these rules.

iii. A certified limited practice student shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

i. supervise and assume professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

ii. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper training of the certified limited practice student and the protection of the client;

iii. read, approve, and sign any pleadings, briefs or other documents prepared by the certified limited practice student before the filing thereof, and read and approve any document prepared by the certified limited practice student for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney shall still provide general supervision;

iv. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice student during the period of certification, the certified limited practice student must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice student. The substitute supervising attorney

must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice student shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

- i. The certified limited practice student requests termination of the certification in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.
- ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease before the date specified in the notice of certification. In such event, the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar. The dean may issue a modified certification reflecting the substitution of a new supervising attorney.
- iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.
- iv. The Court at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.
- v. One or more of the requirements for certification no longer exists or the certified limited practice student or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule, or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

## *6. Law Graduates*

A. Law Graduate Eligibility for Limited Practice Certificate. To be eligible to become a certified limited practice graduate, an applicant must:

- i. have graduated from an accredited law school;
- ii. neither ask for nor receive any compensation or remuneration of any kind for

services rendered by the certified limited practice graduate from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law graduate, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the law graduate has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the accredited law school where the law graduate was enrolled on graduation as having graduated in good academic standing and being of good character.

#### B. Application to Become a Certified Limited Practice Graduate

i. All applications to become a certified limited practice graduate must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved graduate limited practice certifications to the admissions department of the state bar.

ii. The application for certification must be signed by the applicant, the dean of the law school where the applicant was enrolled on graduation, and the supervising attorney.

iii. The applicant must attest that he or she meets all of the requirements of this rule, will immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules, and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school where the applicant was enrolled on graduation must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice graduate no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read and will abide by, the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice Graduate; Presence of Supervising Attorney or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice graduate may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has also provided written approval of that appearance. In each case, the written consent and approval must be filed in the case and be brought to the attention of the judge or the presiding officer. In addition, the certified limited practice graduate must advise the court at the law graduate's first appearance in the case of the certification to appear as a law graduate pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice graduate in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal;

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the general supervision of the supervising attorney or designated attorney, but outside his or her presence, a certified limited practice graduate may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney if filed in the superior court, Arizona Court of Appeals, Arizona Supreme Court, or with an administrative tribunal;

b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;

c. assist indigent inmates of correctional institutions or other persons who request assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;

d. give legal advice and perform other appropriate legal services, but only after consultation with and consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice graduate may appear as a law graduate volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an

uncontested proceeding without entering an appearance as counsel;

b. the certified limited practice graduate's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice graduate has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Graduate."

i. A certified limited practice graduate may use the title "Certified Limited Practice Graduate" only in connection with activities performed pursuant to these rules.

ii. When a certified limited practice graduate's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the law graduate is a certified limited practice graduate pursuant to these rules, state the name of the supervising attorney, be signed by the supervising attorney or designated attorney if required by these rules, and otherwise comply with these rules.

iii. A certified limited practice graduate shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice graduate from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

i. supervise and assume professional responsibility for any work performed by the certified limited practice graduate while under his or her supervision;

ii. assist and counsel the certified limited practice graduate in the activities authorized by these rules and review such activities with the certified limited practice graduate, all to the extent required for the proper training of the certified limited practice graduate and the protection of the client;

iii. read and approve all pleadings, briefs, or other documents prepared by the certified limited practice graduate as required by these rules; sign any pleading, brief, or other document if required by these rules, and read and approve any document prepared by the certified limited practice graduate for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney must still provide general supervision;

iv. assume professional responsibility for all pleadings, briefs, or other documents filed in any court or with an administrative tribunal by the certified limited practice graduate under his or her supervision;

v. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited graduate has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice graduate during the period of certification, the certified limited practice graduate must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice graduate. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice graduate shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

i. The certified limited practice graduate requests termination of the certification in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice graduate will cease before the date specified in the certification. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and

the state bar.

iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

iv. The Court at any time, with or without cause or notice or hearing, files notice of the termination with the clerk of the Court.

v. One or more of the requirements for certification no longer exists or the certified limited practice graduate or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

vi. The law graduate fails to take the first Arizona uniform bar examination, or the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

vii. The law graduate fails to pass the first Arizona uniform bar examination for which the law graduate is eligible or fails to obtain a score equal to or greater than the acceptable score established by the Committee on Examinations on the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

viii. Thirty days after the Court notifies the law graduate that he or she has been approved for admission to practice law and is eligible to take the oath of admission.

ix. The Committee on Character and Fitness does not recommend to the Court that the law graduate be admitted to practice law.

x. The law graduate is denied admission to practice law by the Court.

xi. The law graduate is admitted to practice law.

xii. Expiration of 12 months from the date of the law graduate's graduation from law school unless, before expiration of the 12-month period and for good cause shown by the law graduate, the Court extends the 12-month period.



## Appendix 1B: RULE 38, ARIZONA RULES OF SUPREME COURT (REDLINE)

(a) – (c) No Change.

### (d) Clinical Law Professors, ~~and Law Students,~~ and Law Graduates

1. *Purpose.* ~~This rule is adopted to encourage law schools to provide clinical instruction of varying kinds~~ The purpose of this rule is to provide law students and recent law school graduates with supervised instruction and training in the practice of law for a limited time, and to facilitate volunteer opportunities for those individuals in pro bono contexts.

#### 2. *Definitions.*

A. ~~“Accereditd law school”~~ “Law school” means a law school either provisionally or fully ~~approved and~~ accredited by the American Bar Association.

B. “Certified limited practice student” is a law student ~~or a graduate~~ of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. “Certified limited practice graduate” is a law graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice graduate.

D. “Clinical Law Professor” is a faculty member teaching a clinical law program at a law school in Arizona either provisionally or fully accredited by the American Bar Association.

~~E.~~ E. “Dean” means the dean, the academic associate dean, or the dean’s designee of the accredited law school where the law student is enrolled or the law graduate was enrolled on graduation.

~~D.~~ “Designated attorney” is, ~~exclusively in the case of government, any deputy, assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.~~

~~E.~~ F. “Period of supervision” means the dates for which the supervising attorney has declared, on the application for certification or recertification, that he or she

will be responsible for any work performed by the certified limited practice student or the certified limited practice graduate under his or her supervision.

F. ~~“Personal presence” means the supervising attorney or designated attorney is in the physical presence of the certified limited practice student.~~

G. ~~“Rules” means Rule 38, Rules of Supreme Court.~~

H. G. ~~“Supervising attorney” is an attorney admitted to Arizona full or limited practice who~~ active member of the State Bar of Arizona in good standing who has practiced law or taught law in an accredited law school as a full-time occupation for at least two years, and agrees in writing to supervise the certified limited practice student or certified limited practice graduate pursuant to these rules, and is identified as the supervising attorney in ~~and whose names appears on the application for certification or recertification. The supervising attorney may designate a deputy, assistant, or other staff attorney to supervise the certified limited practice student or certified limited practice graduate when permitted by these rules.~~

H. ~~“Volunteer legal services program” means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.~~

### 3. *General Provisions.*

A. Limited Bar Membership. To the extent a professor, ~~or a law student, or law graduate~~ is engaged in the practice of law under this rule, the professor, ~~or law student, or law graduate~~ shall, for the limited purpose of performing professional services authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. Nonapplicability of Attorney Discipline Rules to Terms of the Certification. The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor, ~~or a certified limited practice student, or certified limited practice graduate~~ pursuant to ~~this rule~~ these rules. Termination of certification shall be without prejudice to the privilege of the professor, ~~or the law student, or law graduate~~ to ~~make application~~ apply for admission to practice law if the professor,

~~or the~~ law student, or law graduate is in other respects qualified for such admission.

C. Effect of Certification on Application for Admission to Bar. The certification of a clinical law professor, ~~or a limited practice~~ law student, or law graduate shall ~~in no way~~ not be considered as an advantage or a disadvantage to the professor, ~~or the~~ law student, or law graduate in an application for admission to the state bar.

D. Privileged Communications. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising and designated attorneys (~~and designated attorneys~~), and certified limited student practice students, and certified limited practice graduates.

#### 4. *Clinical Law Professors.*

A. Activities of Clinical Law Professors. A clinical law professor ~~not a member of the state bar but~~ who is certified pursuant to this rule may appear as a lawyer solely; in connection with supervision of students in a clinical law program approved by the dean and faculty of in a law school in Arizona ~~either provisionally or fully approved and accredited by the American Bar Association~~. A clinical law professor may appear in any court or before any administrative tribunal in this state in the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. ~~In order to make an appearance~~ To appear as a lawyer pursuant to ~~this~~ these rules, the clinical law professor must:

~~i. be duly employed as a faculty member of a law school in Arizona either provisionally or fully approved or accredited by the American Bar Association for the purpose, *inter alia*, of instructing and supervising a clinical law program approved by the dean and faculty of such law school;~~

~~ii~~ i. be admitted by examination to the bar of ~~another~~ any state or the District of Columbia;

~~iii~~ ii. neither ask for nor receive any compensation or remuneration of any kind

for such services from the person on whose behalf the services are rendered;

~~iv.~~ iii. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers; and

~~v.~~ iv. submit evidence that the clinical law professor has successfully completed the course on Arizona law described in [Rule 34\(j\)](#).

C. Certification of the Clinical Law Professor. The certification shall be signed by the clinical law professor and the dean of the law school on the form prescribed by the clerk of ~~this~~ the Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. ~~It shall be the responsibility of t~~The clinical law professor must ~~to ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program. In the case of a certified student who has graduated and participates in the program pending the taking of the bar examination, the clinical law professor shall, on a monthly basis, based on such reporting from the certified limited practice student and the supervising attorney as the law school shall require, confirm that the certified graduate has received and is receiving adequate attorney supervision and guidance.~~

E. ~~Withdrawal or~~ Termination of Certification.

i. ~~The dean at any time, with or without cause or notice or hearing, may withdraw terminate a certification of a clinical law professor at any time by filing a notice to that effect, with or without stating the cause for the withdrawal, of the termination with the clerk of this Court, who shall forthwith mail copies thereof to the clinical law professor and the State Bar of Arizona the Supreme Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.~~

ii. The Court at any time, with or without cause or notice or hearing, may terminate ~~the~~ a certification of a clinical law professor ~~at any time without cause and without notice or hearing~~ by filing notice of the termination with the clerk of this Court ~~and with the state bar~~. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

## 5. *Practical Training of Law Students*

A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, ~~a law student applicant~~ an applicant must

i. have successfully completed legal studies amounting to at least two semesters, or the equivalent academic hour credits if the law school or the student is on some basis other than a semester, at an accredited law school, ~~subject to the time limitation set forth in these rules;~~

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered, ~~but this shall not;~~ this requirement does not prevent a supervising lawyer, legal aid bureau services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law student, ~~nor shall it or prevent any such lawyer or agency from making such charges for its services as it may otherwise properly require~~ requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct, ~~and the rules of the Supreme Court of Arizona,~~ and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the ~~accredited~~ law school where the student is enrolled (~~or was enrolled on graduation~~), ~~or by the dean's designee,~~ as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending; academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. Application ~~for~~ to become a Certified Limited Practice Student or Extend the Certification Period

i. All applications ~~for student~~ to become a certified limited practice ~~certification student~~ or ~~requests to change or add a supervising attorney or to~~ extend the period of certification ~~pursuant to these rules~~ must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated ~~appropriate nonrefundable processing~~ fee. The clerk of the Court shall send a copy of all approved student limited practice

certifications to the admissions department of the state bar.

ii. ~~The application for certification shall require the signature of the applicant, the dean, associate dean, or assistant dean of the accredited law school in which the applicant is enrolled, and the signature of the supervising attorney. The~~ application for certification or extension must be signed by the applicant, the dean of the law school in which the applicant is enrolled, and the supervising attorney.

iii. The applicant ~~shall~~ must attest that he or she meets all of the requirements of ~~the~~ these rules; ~~agrees to and shall~~ will immediately notify the clerk of the Court ~~in the event if~~ he or she no longer meets the requirements of the rules; and ~~that he or she has read, is familiar with~~ and will abide by the Arizona Rules of Professional Conduct ~~of the State of Arizona~~ and these rules.

iv. The dean, ~~associate dean, or assistant dean~~ of the ~~accredited~~ law school in which the applicant is enrolled ~~shall~~ must attest that the applicant meets the requirements of these rules; ~~that he or she shall immediately notify the clerk of the Court in the event that the certified limited practice student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not~~ and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice student no longer meets the requirements of these rules.

v. The supervising attorney ~~shall~~ must specify the period during which he or she will be responsible for ~~and will supervise~~ supervising the applicant and attest that he or she has read, ~~is familiar with~~, and will abide by the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

#### C. Permitted Activities and Requirements of a Certified Limited Practice ~~Certification~~ Student; ~~Physical~~ Presence of Supervising or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person ~~if that person on whose behalf the student is appearing~~ who has consented in writing to that appearance ~~and if the supervising attorney has also indicated in writing provided written approval of that appearance. IN~~

~~each case, The written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, and the certified limited practice student shall orally must advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A certified limited practice student may appear in the following matters:~~

~~a. Civil Matters. In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.~~

~~b. Criminal Matters on Behalf of the State. In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be present except when such appearance is in justice, municipal, or magistrate courts.~~

~~c. Felony Criminal Defense Matters. In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally be present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.~~

~~d. Misdemeanor Criminal Defense Matters. In any misdemeanor criminal defense matter in justice, municipal, or magistrate courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.~~

~~e. Appellate Oral Argument. A certified limited practice student may participate in oral arguments in the Arizona Supreme Court and Court of Appeals, but only in the presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.~~

~~Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may~~

direct.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice student in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal.

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the ~~general~~ supervision of the supervising attorney ~~(or designated attorney)~~, but outside ~~his or her personal~~ the supervisor's presence, a certified limited practice student may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney ~~(or designated attorney)~~;

b. prepare briefs, ~~abstracts~~ motions, and other documents to be filed in



appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);

c. ~~provide assistance to~~ assist indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. ~~(If there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);~~

d. ~~render~~ give legal advice and perform other appropriate legal services, but only ~~after prior consultation with and upon the express~~ with the consent of the supervising attorney (or designated attorney).

iii. Other Non-Representation Activities. ~~A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the state bar, subject to the approval by the supervising attorney (or designated attorney).~~ In connection with a volunteer legal services program and at the invitation or request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the student's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

#### D. Use of the Title "Certified Limited Practice Student."

i. ~~In connection with activities performed pursuant to these rules, a~~ A certified limited practice student may use the title "Certified Limited Practice Student"

~~only and may not use the title~~ in connection with activities ~~not~~ performed pursuant to these rules.

ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney or designated attorney; and otherwise comply with these rules.

iii. A certified limited practice student ~~may not and shall not in any way~~ hold himself or herself out as ~~a regularly admitted or~~ an active member of the state bar.

iv. Nothing ~~contained~~ in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. ~~Requirements and~~ Duties of the Supervising Attorney. The supervising attorney ~~shall~~ must:

~~i. be an active member of the state bar under these rules, and before supervising a certified limited practice student shall have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;~~

~~ii. supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed full time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than fifty (50) certified students;~~

~~iii.~~ i. supervise and assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

~~iv.~~ ii. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper training of the certified limited practice student and the protection of the client;

~~v.~~ iii. read, approve, and sign any pleadings, briefs or other documents prepared by the certified limited practice student before the filing thereof, and read and approve any document prepared by the certified limited practice student for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney shall still provide general supervision;

~~vi. provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide supervision); and~~

~~vii. in the case of a certified student who is participating in a clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.~~

~~viii.~~ iv. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice student during the period of certification, the certified limited practice student must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice student. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

~~F.~~ G. Duration and Termination of Certification. Certification of a certified limited practice student shall ~~commence~~ begin on the date ~~indicated on~~ specified in the certification and shall remain in effect for the period specified in the ~~notice of~~ certification unless sooner terminated ~~pursuant to~~ by the earliest of the following occurrences:

i. ~~Termination by the Student.~~ The certified limited practice student ~~may request~~ termination of the certification in writing or ~~notify~~ notifies the clerk of the Court that he or she no longer meets the requirements of ~~this rule, and these rules.~~ ~~i~~n such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

ii. ~~Termination by the Supervising Attorney.~~ The supervising attorney ~~may notify~~ notifies the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease before the date specified in the notice of certification. In such event, the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar,~~;~~ ~~and~~ ~~¶~~The dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.

iii. ~~Termination by the Dean.~~ ~~A certification of student limited practice may be terminated by ¶The dean at any time, with or without cause and without notice or hearing, by filing files notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.~~

iv. ~~Failure to take or Pass the Bar Examination.~~ ~~A certification of a student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible. The Court at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.~~

v. ~~Termination by the Arizona Supreme Court.~~ ~~A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if ¶One or more of the requirements for the certification no longer exists or the certified limited practice student, or supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule, or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.~~

## 6. Law Graduates

A. Law Graduate Eligibility for Limited Practice Certificate. To be eligible to become a certified limited practice graduate, an applicant must:

- i. have graduated from an accredited law school;
- ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice graduate from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law graduate, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;
- iii. certify in writing that the law graduate has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and
- iv. be certified by the dean of the accredited law school where the law graduate was enrolled on graduation as having graduated in good academic standing and being of good character.

## B. Application to Become a Certified Limited Practice Graduate

- i. All applications to become a certified limited practice graduate must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved graduate limited practice certifications to the admissions department of the state bar.
- ii. The application for certification must be signed by the applicant, the dean of the law school where the applicant was enrolled on graduation, and the supervising attorney.
- iii. The applicant must attest that he or she meets all of the requirements of this rule, will immediately notify the clerk of the Court if he or she no longer meets

the requirements of the rules, and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school where the applicant was enrolled on graduation must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice graduate no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read and will abide by, the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

#### C. Permitted Activities and Requirements of a Certified Limited Practice Graduate; Presence of Supervising Attorney or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice graduate may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has also provided written approval of that appearance. In each case, the written consent and approval must be filed in the case and be brought to the attention of the judge or the presiding officer. In addition, the certified limited practice graduate must advise the court at the law graduate's first appearance in the case of the certification to appear as a law graduate pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice graduate in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal;

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the general supervision of the supervising attorney or designated attorney, but outside his or her presence, a certified limited practice graduate may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney if filed in the superior court, Arizona Court of Appeals, Arizona Supreme Court, or with an administrative tribunal;

b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;

c. assist indigent inmates of correctional institutions or other persons who request assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;

d. give legal advice and perform other appropriate legal services, but only after

consultation with and consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice graduate may appear as a law graduate volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the certified limited practice graduate's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice graduate has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

#### D. Use of the Title "Certified Limited Practice Graduate."

i. A certified limited practice graduate may use the title "Certified Limited Practice Graduate" only in connection with activities performed pursuant to these rules.

ii. When a certified limited practice graduate's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the law graduate is a certified limited practice graduate pursuant to these rules, state the name of the supervising attorney, be signed by the supervising attorney or designated attorney if required by these rules, and otherwise comply with these rules.

iii. A certified limited practice graduate shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice graduate from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

#### E. Duties of the Supervising Attorney. The supervising attorney must:



i. supervise and assume professional responsibility for any work performed by the certified limited practice graduate while under his or her supervision;

ii. assist and counsel the certified limited practice graduate in the activities authorized by these rules and review such activities with the certified limited practice graduate, all to the extent required for the proper training of the certified limited practice graduate and the protection of the client;

iii. read and approve all pleadings, briefs, or other documents prepared by the certified limited practice graduate as required by these rules; sign any pleading, brief, or other document if required by these rules, and read and approve any document prepared by the certified limited practice graduate for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney must still provide general supervision;

iv. assume professional responsibility for all pleadings, briefs, or other documents filed in any court or with an administrative tribunal by the certified limited practice graduate under his or her supervision;

v. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited graduate has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice graduate during the period of certification, the certified limited practice graduate must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice graduate. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice graduate shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

i. The certified limited practice graduate requests termination of the certification

in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice graduate will cease before the date specified in the certification. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

iv. The Court at any time, with or without cause or notice or hearing, files notice of the termination with the clerk of the Court.

v. One or more of the requirements for certification no longer exists or the certified limited practice graduate or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

vi. The law graduate fails to take the first Arizona uniform bar examination, or the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

vii. The law graduate fails to pass the first Arizona uniform bar examination for which the law graduate is eligible or fails to obtain a score equal to or greater than the acceptable score established by the Committee on Examinations on the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

viii. Thirty days after the Court notifies the law graduate that he or she has been approved for admission to practice law and is eligible to take the oath of admission.

ix. The Committee on Character and Fitness does not recommend to the Court that the law graduate be admitted to practice law.

- x. The law graduate is denied admission to practice law by the Court.
- xi. The law graduate is admitted to practice law.
- xii. Expiration of 12 months from the date of the law graduate's graduation from law school unless, before expiration of the 12-month period and for good cause shown by the law graduate, the Court extends the 12-month period.