IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE AMENDMENT OF RULES 6, 7, and 8 (RPC 5.5), RULES OF THE TENNESEE SUPREME COURT

No. ADMIN2015-00443

FILED
JUN - 8 2015
Clerk of the Courts
Rec'd By

JOINT COMMENT OF THE SIX TENNESSEE LAW SCHOOLS

The six law schools located in Tennessee – Belmont University College of Law, Lincoln Memorial University Duncan School of Law, Nashville School of Law, University of Memphis Cecil C. Humphries School of Law, University of Tennessee College of Law, and Vanderbilt University School of Law - respectfully submit the following comment in support of the Tennessee Board of Law Examiners ("TBLE") petition to amend Tennessee Supreme Court Rule 7, § 2.01. The proposed amendment would require applicants for admission to the Bar of Tennessee to obtain a Bachelor's Degree prior to sitting for the Bar Examination, rather than prior to beginning the study of law. The pertinent portion of the TBLE petition pertaining to Rule 7, § 2.01 resulted from discussions between TBLE and the deans of the Tennessee law schools. The law schools appreciate the interest, support, and leadership of TBLE on this issue.[1]

Background

The high cost of education remains a significant problem in the State of Tennessee and throughout the country. The increasing cost of higher education saddles some students with

[1] The comment is limited to the portion of the TBLE petition dealing with Rule 7, Section 2.01.

student loan debt to the point that it limits their future opportunities. For others, the costs of higher education amount to a significant obstacle to enrollment.

One way law schools throughout the country have addressed the rising costs of tuition is through the creation of 3+3 programs. Typically, these are highly-structured programs in which a student who has completed three years of undergraduate study may enroll in law school and apply the credits earned in the first year of law school toward the student's undergraduate degree. Thus, students are able to receive their Bachelor's Degree and Juris Doctorate in a total of six years instead of the usual seven. In the process, they save a year's tuition.

The American Bar Association (ABA) recently amended its Standards for the Approval of Law Schools to recognize and sanction the establishment of 3+3 programs. ABA Standards for Approval of Law Schools 2014-15, Standard 502(b)(1). ABA Standard 502(a) requires that a law school establish as a standard for admission to its J.D. program a requirement that a student must have received a Bachelor's Degree that has been awarded by an accredited institution. However, new Standard 502(b)(1) clarifies that a law school may also admit "an applicant who has completed three-fourths of the credits leading to a bachelor's degree as part of a bachelor's degree/J.D. degree program . . . ." Thus, the ABA has approved the establishment of 3+3 programs for use by ABA-accredited law schools.

These programs are becoming increasingly common in legal education. They are in place in law schools across the country and at some of the most highly-ranked law schools. These 3+3 programs are still subject to ABA and state accreditation standards. Typically, admission to

these programs is limited to students with outstanding credentials.[2] The University of Tennessee College of Law has proposed a 3+3 program, and other law schools are exploring the concept.

The Problem

In its present form, Tennessee Supreme Court Rule 7, § 2.01 renders a student who has completed a 3+3 program ineligible to sit for the Tennessee Bar Examination. Section 2.01(a) currently provides that an applicant must file as part of an application

> [e]vidence satisfactory to the Board that *prior to beginning the study of law,* the applicant had received a Bachelor's Degree from a college on the approved list of the Southern Association of Colleges and Secondary Schools, or the equivalent regional accrediting association, or any accreditation agency imposing at least substantially equivalent standards. (emphasis added)

Because an applicant who has completed a 3+3 program, by definition, has not received a Bachelor's Degree *prior to beginning the study of law*, the applicant is ineligible to sit for the Tennessee Bar Exam. An applicant may seek a waiver of this rule from the Board of Law Examiners. Id. § 2.01(c). However, as the rule currently exists, an applicant who has completed a 3+3 program would be *prima facie* ineligible to be admitted to the Tennessee Bar and, given the uncertainties associated with a waiver, may be dissuaded from entering such a program or applying for admission to the Bar.

Rule 7, § 2.01 was adopted prior to the creation of 3+3 programs and prior to the ABA's adoption of its new standard regarding 3+3 programs. Therefore, the rule was almost certainly not designed with 3+3 programs in mind. Tennessee is, in fact, the only state in the country with such a rule in place. See Exhibit 1 (attached). Most states simply require that a student receive a

[2]For example, under the plan being considered at the University of Tennessee, students seeking admission to the College of Law would ordinarily be required to have earned a 3.5 undergraduate GPA and a score of 160 on the LSAT. Therefore, the students who enroll in 3+3 programs are usually highly motivated and highly qualified students.

Bachelor's Degree prior to applying for admission to the bar. See, e.g., Ga. R. Gov'g Admis. Prac. Law § 4.

The Solution

The amendment to Rule 7, § 2.01 proposed by the TBLE solves the problem and will permit future lawyers to take advantage of the significant benefits associated with 3+3 programs and so that the Tennessee Bar may benefit from the inclusion of these individuals.[3]
This proposed amendment furthers the State of Tennessee's compelling interests in protecting the public and ensuring the competence of lawyers practicing in the state while enabling aspiring lawyers to take advantage of the significant benefits afforded by 3+3 programs.

All of the law schools in Tennessee support the petition of the TBLE.

Respectfully submitted,

/s/ by permission
Alberto R. Gonzalez, Dean
Belmont University College of Law

/s/ by permission
Matthew R. Lyon, Acting Dean
Lincoln Memorial University – Duncan School of Law

[3] Rule 7, § 2.03(g)(2)(A), which applies exclusively to the Nashville School of Law, contains a cross-reference to section 2.01. Section 2.03(g)(2)(A) states that an applicant to NSL "must have . . . [r]received a bachelor's degree as provided in Rule 7, § 2.01." The law schools interpret the TBLE petition as having the effect of amending section 2.03 as well to maintain consistency.

/s/ by permission
William C. Koch, Jr., Dean
Nashville School of Law

/s/ by permission
Peter V. Letsou, Dean
University of Memphis Cecil C. Humphries School of Law

Douglas A. Blaze, Dean
University of Tennessee College of Law

/s/ by permission
Chris Guthrie, Dean
Vanderbilt University School of Law

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the following individuals by regular U.S. mail, postage prepaid within 7 days of filing with the Court:

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Tennessee Board of Law Examiners
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Nashville, TN 37219

Julian Bibb
Executive Director
Tennessee Board of Law Examiners
401 Church Street, Suite 2200
Nashville, TN 37219

Douglas A. Blaze

EXHIBIT 1

Majority view: States that would permit a student to undertake legal studies after successfully completing three years of undergraduate studies:

Alaska, Arizona, Arkansas, California,* Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois,** Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan,* Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont,** Virginia, Washington, West Virginia, Wisconsin, Wyoming

* requiring at least 60 "semester hours" or 90 "quarter hours" of study in courses for which credit towards a collegiate degree is given

** requiring at least 90 completed credit hours or three-quarters of a bachelor's degree at an approved college before starting a legal education

Minority view: States that would not permit a student to undertake legal studies during their fourth and final year of undergraduate studies:

Tennessee

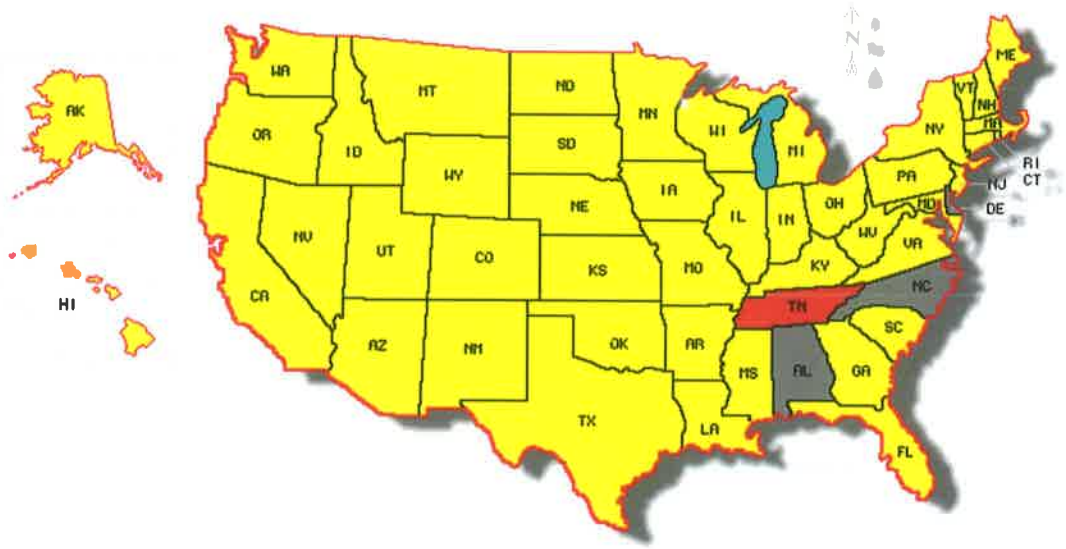
Other:

- **Alabama** (requiring a bachelor's degree prior to starting law school if the applicant did not graduate from a law school accredited by the American Bar Association or the Association of American Law Schools). Ala. R. Gov'g Admis. Bar Rule IV.
- **Delaware** (requiring applicants who attended law school prior to attaining a baccalaureate or equivalent degree to supply a copy of the "law school's statement of considerations…setting forth the basis for the law school's decision to admit" the candidate before the candidate received a degree.) Del. Sup. Ct. R. 52.
- **North Carolina** (requiring applicants to have satisfactorily completed the academic work required for admission to a law school approved by the Council of the North Carolina State Bar). N.C. R. Gov'g Admis. to Practice Law Rule .0701.

MAP OF UNITED STATES BY REQUIREMENT

States that Do/Do Not Require a Bachelor's Degree Prior to Legal Class

- Does Not Require
- Does Require
- Other/Hybrid



Source: dlymaps.net (c)

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Clerk of the Courts
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ADM2015-00443

Tennessee Supreme Court
Public Comment
James Hivner, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Re: Amendment of Rules 6, 7, and 8 (RPC 5.5)
Rules of the Tennessee Supreme Court
and
Practice by Military Spouses

Dear Honorable Members of the Tennessee Supreme Court:

I have recently been contacted by a military spouse, who is also an attorney, but not licensed to practice in the State of Tennessee. She is seeking my support for a change to the Rules of the Tennessee Supreme Court, which would allow for her temporary admission to the Tennessee Bar, waiving the requirement of successful completion of the Bar examination, or the requirement for five years of experience.

I served for 30 years as a military attorney, both on active duty and in the reserve, retiring at the rank of Colonel. Over the course of my service, I spent 18 years working in the Office of the Judge Advocate General (JAG) at Fort Campbell, serving as Chief of the legal division during the first Gulf War. Over the years, I have found JAG attorneys to be some of the most conscientious, dedicated and qualified attorneys with whom I have ever known. I have also found that JAG attorneys who were not admitted to the Tennessee Bar, and only in this area for three to four years on military duty, made obvious mistakes in advising clients on local and state practice. For example, one of the highest ranking attorneys in the JAG Corps attempted to draft a pro se divorce complaint, merely by review of the statute, which simply did not work and resulted in a very frustrated client.

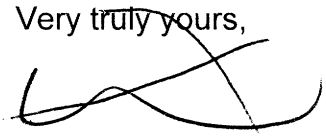
As a practicing attorney in Tennessee for almost 40 years, and a longstanding District Investigating Committee member for the Tennessee Bar Examiners, I have significant concerns about the waiver provision sought. I believe that the Rule change as proposed is overly broad and does not provide enough protection for either the attorney, or the public. In addition, this proposal may open the door to other non Tennessee attorneys who seek to practice in Tennessee under different, but "special" circumstances.

As an alternative, I suggest a streamlined pro hoc vice procedure for military spouses, under the supervision of a licensed Tennessee attorney, which would enable them to practice in Tennessee with reasonable safeguards. From my review, it appears that half of the states with spouse practice rules impose either supervision or a years of practice requirement (Idaho, Arizona, Virginia, Massachusetts, New York, North Carolina).

It is certainly a waste of talent and resources for a licensed attorney to move to Tennessee with their military spouse and not be allowed to practice without taking the Tennessee Bar exam, when they may relocate within a relatively short period of time. I applaud the proponents of a Rule change, but believe that some form of supervision or mentorship by a licensed Tennessee attorney is a reasonable safeguard.

Montgomery County is the home of Fort Campbell and would be most impacted by any rule change. Involvement by regularly licensed Tennessee attorneys should not be seen as a barrier to Bar admission, but rather a safeguard for the public and a resource to the military spouse.

Very truly yours,



Mark A. Rassas
Colonel (RET, USA)

MAR/mlc
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FILED
MAY - 4 2015
Clerk of the Courts
Rec'd By _____

ADM2015-00443

Michael J. Thompson Law

ATTORNEY AT LAW
Licensed in Kentucky & Tennessee

P: (270)-439-1175 F: (270)-439-1177 | 244 Thompsonville Lane, Oak Grove, KY 42262

April 29, 2015

To whom it may concern:

My name is Megan DeZotell Sarrail and I am writing this letter in support of the amendment to the Tennessee Supreme Court Rules 6, 7, and 8 (RPC 5.5). I am currently a California licensed attorney and my husband is stationed at Fort Campbell. Since my move to Tennessee, I have been working as a paralegal in Oak Grove, Kentucky at the Thompson Law Office. Because of the length of time it takes to take the bar exam, receive the results, and get sworn in and because of the possibility that my husband may only be stationed at Fort Campbell for a short period of time, I have chosen not to take the bar exam in Tennessee or Kentucky at this time.

It is unfortunate that military spouses licensed in other jurisdictions have to face the dilemma of choosing to spend the time and money to take another bar exam when there is a possibility that their spouse may be stationed elsewhere within the time it takes to receive bar results.

The new amendment would help military spouses, such as myself, be able to temporarily practice in the jurisdiction so that we do not have to compromise our hard-earned professions while living a mobile military lifestyle. The new amendment also allows attorneys, like myself, to continue to practice while waiting for bar results if our spouses choose to retire and we remain in the jurisdiction. This gives great flexibility to military spouses who want to maintain the integrity of their legal careers while making the decision to remain in the jurisdiction after their spouse's retirement.

This amendment is a great proposal that supports the careers of military spouses who have made the difficult decision to place their spouses and their spouse's military career before their own. This amendment allows us not to compromise and gives us the ability to support our spouses while earning the living that we originally intended when becoming licensed to practice law in our home jurisdiction.

For any additional information or questions, I can be contacted by email at megan.dezotell@gmail.com, by phone at (805) 279-9235, and by mail at 636 Fox Hound Drive, Clarksville, TN 37040.

Sincerely,

Megan Sarrail

Megan DeZotell Sarrail, CA Bar #278458

ORIGINAL

IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE

FILED
2015 APR -6 PM 1:42
APPELLATE COURT CLERK
NASHVILLE

IN RE: PETITION TO AMEND TENNESSEE SUPREME COURT RULES 6, 7 and 8, RPC 5.5	)))	No.: ADMIN2015443

AMENDMENT TO PETITION TO AMEND TENNESSEE SUPREME COURT RULES 6, 7 AND 8 (RPC 5.5) GOVERNING ADMISSION AND LICENSING OF ATTORNEYS

The undersigned attorneys hereby respectfully petition this Honorable Court to amend Tennessee Supreme Court Rule 7 ("Rule 7") to allow for the temporary admission of qualified attorney spouses of active duty servicemembers in the United States Uniformed Services ("servicemember(s)") while in Tennessee or at Fort Campbell, Kentucky, due to military orders of the servicemember spouse. The rule proposed by this petition ("This Petition") is set forth in Exhibit A hereto and is proposed to be inserted in Rule 7, under Article V. Persons Admitted in Other Jurisdictions Seeking Waiver of Examination, as "Section 5.03. Temporary Admission for Attorney Spouses of Servicemembers." Further, the undersigned attorneys ask that This Petition and proposed rule be an amendment to the above captioned petition submitted by the Tennessee Board of Law Examiners ("TBLE") on March 12, 2015, currently pending comment and consideration by this Honorable Court.

In support of This Petition, the undersigned attorneys would respectfully show as follows:

1. Procedure.

At this time, this Honorable Court has pending before it a petition, submitted by the TBLE on March 12, 2015, to amend Tennessee Supreme Court Rules 6, 7 and 8 governing admission and licensing of attorneys. Since the proposal in This Petition addresses the temporary admission of attorneys with spouses in the United States Uniformed Services via an amendment to Rule 7, it is appropriate to consider it along with the other proposed amendments to Rule 7 presented in the TBLE's pending petition. The TBLE received a request in August 2014 to consider this issue, has been provided with a copy of the proposed rule, and has had adequate notice of it. This Petition is timely submitted and sufficient time remains to allow for public comment on it prior to July 31, 2015, the deadline for public comment on TBLE's pending petition. Therefore, This Petition should be considered with the petition currently pending before the Court.

2. Background.

Attorney spouses of active duty servicemembers ("attorney spouse(s)") face significant barriers in their ability to practice in the legal profession as a consequence of the frequent changes in military duty assignments of their servicemember spouses. The proposed rule seeks to address those barriers and

serves the important public policy interest in supporting military servicemembers and their families through a common sense licensing accommodation that provides a temporary license to practice law while the attorney spouse is in Tennessee due to military orders of his or her servicemember spouse.

This is an extraordinary time in our country. We are engaged in an enduring war in the Middle East and Southwest Asia requiring repeated extended deployments for our servicemembers each year. With reduced funding of the military, their ranks are reduced and they have more frequent deployments. Recruitment and retention challenges, inherent in an all-volunteer force, pose an additional impact upon servicemembers often necessitating frequent changes in duty stations across and outside the country. These factors impose incredible pressure on servicemember families and are magnified by frequent and lengthy familial separations for combat deployments.

In addition to the pressures that servicemember families face, attorney spouses also bear a unique burden that limits their ability to practice their profession: the requirement that they must be authorized to practice law in the jurisdiction where they are practicing. When servicemember spouses receive orders for a change in duty assignment, attorney spouses are faced with the untenable choice of remaining in the previous jurisdiction without their sevicemember spouse in order to maintain their practice, or relocating with their servicemember spouse to

a jurisdiction where they are not authorized to practice law. This Petition and the proposed rule remove this obstacle and provide a reasonable accommodation through a temporary law license.

An attorney spouse's ability to maintain a career can be a critical factor in a servicemember's determination as to whether to continue service in the military. This provides an additional compelling public policy justification for the reasonable accommodation provided by the proposed rule.

Military families can expect to move every two to three years; in fact, 79 percent of military families have moved across state lines in the past five years.[1] Moves are based on the needs of the military service without regard for bar exam deadlines or licensing restrictions. Frequent moves make it nearly impossible for an attorney spouse to fulfill experience requirements for reciprocity or comity admission. For attorney spouses, this means that while 80 percent maintain an active law license, only 34 percent work full time in a job requiring a license.[2] Four out of five attorney spouses report that their servicemember spouse's military service has negatively impacted their legal career. Half of attorney spouses have lived apart from their servicemember spouse (excluding deployments) in order to

[1] Military Officers Association of America & Institute for Veterans and Military Families at Syracuse University, *Military Spouse Employment Report* (February 2014), available at http://vets.syr.edu/research/research-highlights/milspouse-survey/.

[2] Military Spouse JD Network, *2013 Member Survey Report of Findings* (January 2014), available at http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf.

maintain their legal career.

Since 2011, the Military Spouse JD Network has been working with state bar licensing authorities to enact common sense licensing accommodations to ease the burdens attorney spouses face when maintaining their legal career. Most state law licensing bodies already have a provision for admission without examination for in-house counsel, law professors, or pro bono attorneys. These provisions represent good public policy decisions made by states to provide an exception to the normal route to licensure. To date, twelve states have enacted rules or policies aimed at enabling attorney spouses to continue their legal practice when their servicemember spouse has been assigned for duty within their state without the need for bar examination, avoiding further separation and stress upon the military family.[3] These states recognize the importance of reducing licensing barriers for military spouses, representing another good policy decision. This Petition is further supported by public policies in federal law recognizing the important justification for reasonable accommodation for servicemembers and their service to our nation.[4]

The licensing accommodations provided in those states for attorney spouses typically require applicants to have been admitted to the practice of law in another

[3] *See* Exhibit B: Military Spouse Rule Changes & Policies and Their Impact on the Bar.

[4] See, *e.g.*, Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, as amended by Section 565 of the National Defense Authorization Act for Fiscal Year 2010, Pub.L. 111-84, to provide for exigency and military caregiver leave for employees of servicemembers; and the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub.L. 103-353, 28 U.S.C. §§ 4301-4335.

state, to be in good standing with no disciplinary actions in all jurisdictions admitted, to possess the moral character and fitness required for admission, and to comply with continuing legal education and license maintenance requirements of the accommodating state. The rule proposed in This Petition strikes a careful balance, providing a temporary admission procedure to enable attorney spouses to continue their careers with minimal disruption to their families while maintaining the high standards of the legal community within Tennessee. The number of attorney spouses availing themselves of similar rules has been small; thus, this proposed rule will not be administratively burdensome for Tennessee.[5]

A report and proposal was originally sent to the TBLE in August of 2014 (Exhibit C). Since that time, and in collaboration with the legal community of Tennessee, the rule proposed by This Petition was developed. The proposed rule has achieved increasing support of legal communities across Tennessee. The Boards of the Lawyers' Association for Women Marion Griffin Chapter, Memphis Bar Association, Nashville Bar Association, and Knoxville Bar Associations have all endorsed resolutions of support for temporary military spouse attorney licensure (Exhibit D). Additionally, over 100 military veteran attorneys from Nashville and Knoxville have individually voiced their support for the rule. The list includes 13 active and retired state and federal judges (Exhibit E).

[5] *Id.*

The American Bar Association, Conference of Chief Justices, the White House, U.S. Chamber of Commerce, Military Officers Association of America and National Military Family Association all support comparable rules and have encouraged state licensing authorities to implement rules allowing admission without examination for attorney spouses of servicemembers.

One of the undersigned, Ms. Josie Beets, is representative of the problem often confronting attorney spouses of servicemembers. Her husband has served on active duty in the United States Army since 2008. She is licensed in Louisiana, the jurisdiction of her husband's first duty station with the military, where she practiced for three years. In 2012, Ms. Beets' husband was reassigned to Fort Campbell. Since her husband anticipated being reassigned for duty elsewhere within a couple of years, applying and going through the process for a Tennessee license was not time-efficient or cost-effective. This summer, Ms. Beets' servicemember spouse will again be reassigned, this time for military duty in Virginia, and she will be faced with the same predicament again before their next reassignment.

Adoption of this proposed rule is consistent with public policy recognizing the importance of reasonable accommodation to enable and support the ability of servicemembers to perform their military service. Adoption of the proposed rule is also a tangible way this Honorable Court and the Tennessee legal community can

express its support for the military, their families, and women attorneys, who are by far the largest component of attorney spouses. This is an opportunity to embrace our reputation as the Volunteer State and the state that gave American women the right to vote.

3. Proposed Rule Change.

i) *Rule 7, Section 5.03.* Adding this provision would provide attorney spouses of servicemembers in the Uniformed Service the ability to apply for a temporary license to practice while in the state of Tennessee pursuant to military orders. It requires the applicant to have been admitted after examination in another state, possess the moral character and fitness required of all applicants, and be a member in good standing in each jurisdiction licensed. It provides for the timely termination of the license at either the end of a three-year period or upon specific events triggering expiration, such as permanent relocation of the servicemember or divorce. A copy of the amended Rules delineating the deletions, additions and changes, is attached hereto as "Exhibit A."

Wherefore, for the foregoing reasons, the undersigned attorneys respectfully request that this Honorable Court to enter an Order amending Tennessee Supreme Court Rule 7, as set forth herein.

Respectfully submitted,

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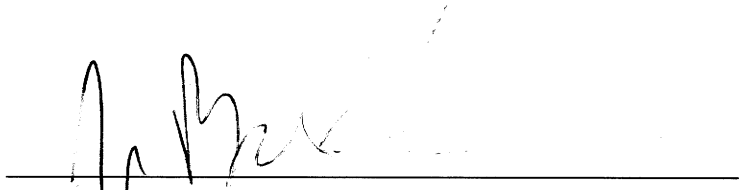
CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of This Amendment to Petition to Amend Tennessee Supreme Court Rules 6, 7 and 8 (RPC 5.5) has been served upon the individuals and organizations identified in "Exhibit F" by regular U.S. Mail, postage prepaid first class mail within seven (7) days of filing with the Court.



Josie Beets

EXHIBIT A

Rule 7. Licensing of Attorneys.

. . . .

ARTICLE V. – Persons Admitted in Other Jurisdictions Seeking Waiver of Examination

. . . .

Section 5.03. Temporary Admission for Attorney Spouses of Servicemembers

(a) Qualifications. An applicant who is the spouse of an active duty servicemember of the United States Uniformed Services as defined by the United States Department of Defense may be temporarily admitted as an attorney of this State, without examination, provided that the applicant:

(i) has been admitted, after examination, as an attorney of another state, commonwealth, or territory of the United States with educational qualifications for admission to the bar equivalent to those of this State; and

(ii) possesses the moral character and fitness required of all applicants for admission in this State; and

(iii) has not failed the Tennessee bar examination; and

(iv) resides in Tennessee or Fort Campbell, Kentucky, due to the servicemember's military orders; and

(v) is at the time of application an active member of the bar in good standing in

at least one jurisdiction of the United States; and

(vi) is a member of the bar in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every jurisdiction without any pending or later disciplinary actions.

(b) Application for Temporary Admission. An application for temporary admission shall be made, without fee required, to the Board of Law Examiners, in accordance with its rules. Upon receipt of an application for temporary admission, the Board of Law Examiners shall expeditiously determine whether the applicant meets each of the requirements set forth in paragraph (a) of this Section, and present the application to the Clerk of the Supreme Court for appropriate disposition. In addition to the completed application, the applicant must submit:

(i) a completed character questionnaire;

(ii) a copy of the Applicant's Military Spouse Dependent Identification;

(iii) documentation evidencing a spousal relationship with the servicemember; and

(iv) a copy of the servicemember's military orders to a military installation in Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met;

(v) Certificate(s) of Good Standing and of Disciplinary History(ies) to

demonstrate satisfaction of the requirements of (a)(6) of this rule;

(vi) all other documentation as required in the character application process by the Board of Law Examiners.

(c) Duration and Extension.

(i) A temporary license to practice law issued under this rule will be valid for three years and will terminate as set forth in paragraph (e) below. Holders of a temporary license have an affirmative duty to immediately notify the Board of Law Examiners within thirty (30) days upon occurrence of any event in paragraph (e)(5)-(8) which will cause the temporary license to expire.

(ii) Persons who hold a temporary license under this provision may apply, without additional fee, for a two-year extension to their license if they submit an application for extension verifying that they continue to meet all of the qualifications for a temporary license as set forth in paragraph (a) above. Requests for extension must be submitted to the Board of Law Examiners at least one month prior to the expiration of the temporary license and must include a copy of the servicemember's military orders or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met. Requests for extension must be approved by the Board of Law Examiners and approved by the Supreme Court to be effective.

(d) Practice Requirements. During the duration of the temporary license, the

temporary attorney shall: (1) comply with the rules of the Supreme Court of the State of Tennessee; (2) comply with the registration requirements as required for all Tennessee licensed attorneys; and (3) make payment of annual assessments as required of all Tennessee licensed attorneys.

(e) Termination. The temporary license shall expire:

(i) upon the temporary attorney's failure to meet any licensing requirements applicable to all active attorneys possessing a license to practice law in this state; or

(ii) upon the request of the temporary attorney; or

(iii) upon the issuance to the temporary attorney of a Tennessee license under Article III (by examination) or Article V (by comity admission) of these rules; or

(iv) upon receipt by the temporary attorney of a failing score on the Tennessee bar examination; or

(v) six months following the date of permanent relocation of the servicemember outside of Tennessee or Fort Campbell, Kentucky, except when such relocation is due to unaccompanied orders for a permanent change of station outside of Tennessee; or

(vi) six months following the date of termination of the temporary attorney's spousal relationship to the servicemember; or

(vii) if the temporary attorney ceases to reside in Tennessee or Fort Campbell,

six months following the date when the temporary attorney ceased to reside in Tennessee or Fort Campbell; or

(viii) six months following the date of the servicemember's death, separation or retirement from the United States Uniformed Services; or

(ix) one year following the date of the event of the servicemember's death, separation or retirement from the United States Uniformed Services, or divorce or marital separation from the servicemember, provided that during the first six months following the date of such event the temporary attorney applies to sit for the Tennessee bar examination.

MILITARY SPOUSE RULE CHANGES & POLICIES AND THEIR IMPACT ON THE BAR

State	Rule/Policy	Date Adopted	Supervision Requirement	Years of Practice Requirement	Duration of License	Spouses Admitted Per Rule Jan. 2015
Idaho	Rule 229	April 2012	Yes	No	1 year (renewable)	1
Arizona	Rule 38(i)	Dec. 2012	Yes	No	1 year (renewable)	0
Texas	Rule XXII	Feb. 2013	No	No	Permanent	3
North Carolina	Rule .0503	March 2013	No	Yes[1]	Permanent	2
Illinois	Rule 719	July 2013	No	No	Ends conditionally[2]	2
South Dakota	Rule 13-10	Sept. 2013	No	No	Permanent	0
Virginia	Rule 1A:8	May 2014	Yes	No	1 year (renewable)	2
Massachusetts	No formal rule	March 2014	No	Yes[3]	Permanent	1
Colorado	Rule 204.4	June 13, 2014	No	No	Ends conditionally[4]	2
New Jersey	Rule 1:27-4	July 22, 2014	No	No	2 years (renewable)	0
New York	No formal rule	Unknown	No	Yes[5]	Permanent	1
Oklahoma	Rule 2, Section 7	Jan. 2015	No	No	Ends conditionally[6]	1 pending

[1] Requires active engagement in the full-time practice of law for 4 out of 8 prior years.

[2] Illinois license shall terminate upon the following: the service member is no longer a member of the military; the military spouse attorney is no longer married to the service member; a change in the service member's military orders reflecting a permanent change of station to a military installation other than Illinois, except that if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the service member is assigned to a location with dependents authorized; or the lawyer is admitted to the practice of law under any other rule of the Court.

[3] Massachusetts generally requires, for admission on motion, that the attorney be in practice for 5 out of the 7 prior years; however, the Massachusetts Board of Bar Examiners may support a waiver of this requirement on a case-by-case basis for qualified applicants that are military spouse attorneys (and may expedite the character review process). Telephone conversation with Marilyn Wellington, Executive Director, Massachusetts Board of Bar Examiners, Friday, May 23, 2014.

[4] Colorado license shall terminate when: the service member is no longer a member of the military; military spouse attorney is no longer a spouse of the service member; (the service member receives a transfer outside Colorado, except that if the service member has been assigned to an unaccompanied or remote assignment (no dependents authorized), the military spouse attorney may continue to practice law until the service member is assigned to a location with dependents authorized; the military spouse is disciplinarily suspended or disbarred or placed on disability inactive status in any jurisdiction, court, or agency before which the attorney is admitted; or the military spouse is suspended in any jurisdiction for failure to pay child support or failure to cooperate in a disciplinary matter.

[5] New York generally requires, for admission on motion, that the attorney practice for 5 out of the 7 prior years; however, the New York Board of Bar Examiners may support a waiver of this requirement on a case-by-case basis for qualified applicants that are military spouse attorneys. Telephone conversation with John McAlary, Executive Director, New York Board of Bar Examiners, Friday, August 1, 2014.

[6] Oklahoma license shall terminate upon termination of the military status of either the dependent or the service member; or, in the event of a military transfer outside of Oklahoma, the right of such person to practice law in the Oklahoma shall terminate unless such person shall have been admitted to practice law in the state under some other rule.

EXHIBIT B

EXHIBIT C

REPORT & PROPOSED RULE:

REVISIONS TO TENNESSEE'S LICENSE REQUIREMENTS IN SUPPORT OF MILITARY SPOUSE ATTORNEYS

AUGUST 8, 2014

MILITARY SPOUSE JD NETWORK

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Summary

This report (this "Report") encourages the Tennessee Supreme Court to adopt Rule 5.04 as set forth in Addendum 1 (the "Proposed Rule"), proposed by the Military Spouse JD Network ("MSJDN"), a bar association for attorneys married to U.S. military servicemembers ("military spouse attorneys").[6] The rule provides for admission to the Tennessee bar of qualified military spouse attorneys who can establish that their servicemember is on military orders in the State of Tennessee or at Fort Campbell, Kentucky, and explicitly provides that military spouse attorneys will be subject to the same rules and regulations, including the rules of professional conduct, applicable to all other Tennessee-barred attorneys. The Proposed Rule provides an opportunity for Tennessee to demonstrate its support of military families while maintaining the high professional standards of the legal profession.

In July 2012, the Conference of Chief Justices passed a Resolution in support of military families.[7] The Resolution urges bar admission authorities to participate in the development and implementation of rules permitting admission without examination for qualified attorneys who are dependents of servicemembers of the United States Uniformed Services. Recognizing that frequent geographic relocations are required of military families, admission without examination permits military spouses to continue to contribute to our profession and to support their families while their servicemembers are stationed across the country. Reducing licensing barriers in all states will improve the well-being of military families upon whose service our country's defenses depend.

In February 2012, the American Bar Association (the "ABA") passed a resolution urging states to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys.[8] First Lady Michelle Obama encouraged more states and professional associations to follow the ABA's lead.[9] At the same time, the Department of Defense (the "DoD") issued a report highlighting the impact of state licensing requirements on the careers of military spouses and on military readiness.[10]

Eleven states have created new policies or passed favorable rule accommodations for military spouse attorneys.[11]

- Eight states enacted rule changes through their state supreme courts.
    - *Idaho*: In January 2012, the Idaho Supreme Court approved the first rule providing for the admission of military spouse attorneys while they reside in Idaho on military orders.[12]

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[6] MSJDN advocates for initiatives that improve the lives of military families, including licensing accommodations for military spouses.

[7] CONFERENCE OF CHIEF JUSTICES, *Resolution 15,* available at http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/07252012-Encouraging-Adoption-of-Rules.ashx (last visited July 31, 2014).

[8] AMERICAN BAR ASSOCIATION HOUSE OF DELEGATES, *Resolution 108,* available at http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2012_hod_midyear_meeting_108.doc (last visited July 31, 2014).

[9] *Remarks by the First Lady and Dr. Biden On Military Spouse Licensing*, available at http://www.whitehouse.gov/the-press-office/2012/02/15/remarks-first-lady-and-dr-biden-military-spouse-licensing; *see also Remarks by the First Lady and Dr. Biden Discussing Military Spouse Employment at National Governors Association Annual Meeting*, available at http://www.whitehouse.gov/photos-and-video/video/2012/02/27/first-lady-michelle-obama-and-dr-jill-biden-speak-military-spouse-#transcript (last visited Nov. 15, 2013).

[10] DEPT. OF DEFENSE AND DEPT. OF THE TREASURY, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines, available at* http://www.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF (last visited Nov. 15, 2013).

[11] MILITARY SPOUSE JD NETWORK STATE RULE CHANGE INITIATIVES, *available at* http://www.msjdn.org/rule-change/ (last visited July 30, 2014).

[12] Press Release, MILITARY SPOUSE JD NETWORK, *First State Approves Military Spouse Admission,* available at http://www.msjdn.org/2012/04/first-state-approves-military-spouse-attorney-admission/ (last visited Nov. 15, 2013).

- *Arizona*: Similarly, in December 2012, the Arizona Supreme Court approved a similar rule admitting military spouse attorneys to practice.[13]
- *North Carolina*: In April 2013, North Carolina modified its comity licensure requirements for military spouse attorneys who can prove that they reside in the state due to their spouses' military orders.[14]
- *Illinois*: In June 2013, Illinois became the fifth state to pass a rule allowing military spouse attorneys to obtain a license while in the state with their spouse on military orders.[15]
- *South Dakota*: In September 2013, the South Dakota Supreme Court approved a rule, proposed by the Governor, allowing military spouse attorneys to obtain licenses while they reside with their servicemembers in the state.[16]
- *Virginia*: In May 2014, Virginia passed its military spouse attorney rule.[17]
- *Colorado*: Colorado followed suit in June 2014; its rule will be effective September 1, 2014.[18]
- *New Jersey*: After hearing oral arguments on the issue, the New Jersey Supreme Court enacted its rule for military spouse attorneys in July 2014, to be effective September 1, 2014.[19] (See Addenda 2 through 11, respectively, for the full text of each rule listed above).

- Three states enacted policies without a formal rule change so that consideration of military spouse applications could begin immediately. In February 2013, Texas was the first,[20] followed by Massachusetts[21] and New York.[22]
- Twelve other states currently considering similar rule accommodations, including: Alabama, Alaska, California, Delaware, Florida, Georgia, Indiana, Maryland, Ohio, Oklahoma, Oregon, and Utah.

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[13] Press Release, MILITARY SPOUSE JD NETWORK, *Arizona Supreme Court Recognizes Service of Military Spouse Attorneys*, available at http://www.militaryspousejdnetwork.org/apps/blog/arizona-supreme-court-recognizes-service-of-military (last visited Nov. 15, 2013).

[14] Press Release, MILITARY SPOUSE JD NETWORK, *MSJDN Reform Efforts Succeed in Fourth State*, available at http://www.msjdn.org/2013/04/msjdn-reform-efforts-succeed-in-fourth-state/ (last visited Nov. 15, 2013).

[15] Press Release, MILITARY SPOUSE JD NETWORK, *Illinois Becomes the Fifth State to Support Military Spouses in the Legal Profession*, available at http://www.msjdn.org/2013/06/illinois-becomes-fifth-state-to-support-military-spouses-in-the-legal-profession/ (last visited Nov. 15, 2013).

[16] Press Release, MILITARY SPOUSE JD NETWORK, *South Dakota Becomes Sixth State to Adopt a Military Spouse Attorney Rule*, available at http://www.msjdn.org/2013/09/south-dakota-becomes-sixth-state-to-adopt-a-military-spouse-attorney-rule/ (last visited Nov. 15, 2013).

[17] Press Release, MILITARY SPOUSE JD NETWORK, *Virginia Adopts Military Spouse Rule, Joins Growing Number of States Supporting Military Spouse Attorneys*, available at http://www.msjdn.org/2014/05/virginia-adopts-military-spouse-rule-joins-growing-number-of-states-supporting-military-spouse-attorneys/ (last visited May 26, 2014).

[18] Press Release, MILITARY SPOUSE JD NETWORK, *Colorado Becomes Ninth State to Support Military Spouse Attorneys with a Licensing Accommodation*, available at http://www.msjdn.org/2014/06/colorado-becomes-ninth-state-to-support-military-spouse-attorneys-with-a-licensing-accommodation/ (last visited July 29, 2014).

[19] Press Release, MILITARY SPOUSE JD NETWORK, *New Military Spouse Rule Adopted in New Jersey*, available at http://www.msjdn.org/2014/07/military-spouse-rule-adopted-in-new-jersey/ (last visited July 29, 2014).

[20] Press Release, MILITARY SPOUSE JD NETWORK, *Texas Becomes First State to Initiate Recognition to Attorney Military Spouses and Their Services*, available at http://www.msjdn.org/2013/02/texas-becomes-first-state-to-initiate-recognition-of-attorney-military-spouses-and-their-service/ (last visited Nov. 15, 2013).

[21] Massachusetts Board of Bar Examiners, *Instructions for Attorney Bar Applicants*, available at http://www.mass.gov/courts/court-info/sjc/attorneys-bar-applicants/bbe/ (last visited May 26, 2014). In March 2014, the Massachusetts Board of Bar Examiners voluntarily enacted a military spouse attorney licensing policy. *Id.*

[22] Press Release, MILITARY SPOUSE JD NETWORK, *New York State of Mind: 11th State Adopts Military Spouse Attorney Licensing Policy*, available at http://www.msjdn.org/2014/08/newyorkpolicy/ (last visited Aug. 6, 2014). The New York Board of Law Examiners (BOLE) recently published a military spouse attorney licensing policy. The New York BOLE encourages military spouse attorneys to contact the Executive Director and seek a waiver of the strict requirements of Section 520.14 of the Rules of Court for admission on motion. *Id.*

Accommodating the unique needs of military spouse attorneys comes at little cost to the state but makes a meaningful difference in the financial and personal well-being of military families. While the number of military spouse attorneys may not be large,[23] approval of this Proposed Rule would send a message of support to the entire Tennessee military community.

Tennessee's Historic Support of the Military Community

The legal profession has a long history of ensuring that legal procedures do not unduly prejudice servicemembers and their families.[24] The Soldiers' and Sailors' Civil Relief Act of 1940[25] was amended in 1942 to add a section specifically extending certain protections to military dependents, including spouses, "to avoid situations in which dependents suffered as a result of the servicemember's period of service."[26] A number of amendments to the Servicemembers Civil Relief Act have increased the protections available to both servicemembers and their families. Tennessee has continued this tradition; in 2011, it passed legislation to ease licensing burdens on military spouses in professions where the state licensing body is governed by the state legislature.[27]

The Tennessee legal community has steadfastly demonstrated its deep support for servicemembers and their families. In 2012, the Tennessee Bar Association's ("TBA") Access to Justice Committee launched "Hometown Support," a program to provide free legal help to servicemembers and their families with limited income facing legal problems in Tennessee.[28] The program, a collaborative effort among volunteer attorneys, the TBA, the Tennessee National Guard, and legal services offices statewide, evidences broad support for the Tennessee active duty community.

In 2012, the Tennessee Supreme Court, with the encouragement of the Tennessee legislature, authorized several state courts to serve justice-involved veterans.[29] These courts were awarded additional funds to operate in 2013, and continue to be a model for the rest of the state.[30] In 2013, the Tennessee Legislature voted to continue funding unemployment benefits for spouses of transferred military servicemembers, rendering Tennessee one of forty-four states to provide such protections for active duty military families.[31]

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[23] The Military Spouse JD Network has identified over 1000 military spouse attorneys worldwide as of May 2014.

[24] "During the Civil War, Congress enacted legislation suspending any statute of limitations where the war worked to thwart the administration of justice. In World War I, the Soldiers' and Sailors' Civil Relief Act of 1918 directed trial courts to take whatever action equity required when servicemembers' rights were involved in a controversy." The Judge Advocate General's Legal Center & School, U.S. Army, JA 260, *servicemembers Civil Relief Act* at 1-1 (Mar. 2006) (citations omitted) (hereinafter "JAG SSCRA Report"), available at www.americanbar.org/content/dam/aba/migrated/legalservices/lamp/downloads/SCRAguide.authcheckdam.pdf (last visited Nov. 15, 2013).

[25] 54 Stat. 1178 (1940).

[26] JAG SSCRA Report at 4-1.

[27] Tennessee 107th General Assembly, *Public Chapter 230*, available at http://state.tn.us/sos/acts/107/pub/pc0230.pdf (last visited July 29, 2014).

[28] Journal News, *Hometown Support Provides Legal Help for Military*, available at http://www.tba.org/journal/news-7 (last visited March 30, 2014).

[29] Press Release, Tennessee Supreme Court, *Veterans Court Comes to Clarksville*, available at https://www.tncourts.gov/news/2012/07/18/veterans-court-comes-clarksville, (last visited March 30, 2014).; Press Release, TN Supreme Court, *Shelby County Forms Veterans Court*, available at https://www.tncourts.gov/news/2012/07/30/shelby-county-forms-veterans-court (last visited March 30, 2014).

[30] Press Release, Tennessee Supreme Court, *Shelby, Montgomery Veterans Courts Receive Boost With Commission Funding*, available at http://www.tncourts.gov/press/2013/04/08/shelby-montgomery-veterans-courts-receive-boost-commission-funding (last visited March 30, 2014).

[31] Press Release, Tennessee Labor and Workforce Development, *Legislature renews funding of unemployment benefits for spouses of transferred military service members*, available at https://news.tn.gov/node/10607 (last visited March 30, 2014)

The Military Spouse J.D. Network, through this Report, calls on Tennessee to continue its tradition of supporting the military community by adopting the Proposed Rule to recognize the obstacles faced by those military spouses who are members of the legal community. The legal community should recognize the sacrifices of military families within its own ranks by eliminating the licensing restrictions burdening military spouses.

Unique Challenges Faced by Military Spouse Attorneys

The unemployment rate for military spouses is three times as high as their civilian counterparts.[32] High rates of unemployment and underemployment of military spouses impact the entire family and are primarily the result of frequent geographic relocations of military families.[33] Military spouse licensing and employment in all professions are a DoD priority because they impact retention, readiness, and family well-being.

Military spouses are ten times more likely to have moved across state lines in the last year compared to their civilian counterparts.[34] A typical military family moves every two to three years.[35] Research indicates that "the feature of military life that most negatively affects military wives' careers is being asked to move often and far."[36] For servicemembers, failure to comply with transfer orders may be chargeable as a federal offense.[37] Although families may decide not to move with the servicemembers, the resulting separations only compound the hardship on families already subject to lengthy separations due to training and overseas deployments and require the family to support the expenses of two separate households. According to a 2007 report by the RAND Corporation, "unlike civilian couples, who can make relocation decisions considering advantages and disadvantages for all family members, military couples must move according to the timing and placement of the servicemembers' new assignment."[38]

Frequent geographic dislocations have a particularly negative effect on military spouse attorneys, for whom state licensing requirements create enormous barriers to the maintenance of a continuous professional career.[39] A 2013 survey of MSJDN members found that even though eighty percent hold an active law license, only thirty-four percent are working full time in a job requiring a law license. Forty-one percent have taken two or more bar examinations. Four out of five members reported that their

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[32] Nelson Liam, *et al*, RAND CORPORATION, *Measuring Underemployment Among Military Spouses.* (2010) xvi,, available at http://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG918.pdf (last visited Nov. 15, 2013).

[33] Margaret Harrell *et al.*, RAND CORPORATION, *Working Around the Military: Challenges to Military Spouse Employment and Education* (2004), at 40, available at http://www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG196.pdf (last visited July 30, 2014) (a husband's military service is "the major explanatory factor" for the disparity between military and civilian wife unemployment).

[34] DEPT. OF DEFENSE AND DEPT. OF THE TREASURY, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines*, at 3, *available at* http://www.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF (last visited Nov 15, 2012).

[35] David R. Segal *et al*, Population Reference Bureau and Hopkins Population Center, *The Effects of Military Deployment on Family Health*, 10, *available at* http://www.prb.org/pdf11/segal-military-families-presentation.pdf (last visited Nov. 15, 2013).

[36] Margaret Harrell *et al.*, RAND CORPORATION, *Working Around the Military: Challenges to Military Spouse Employment and Education*, at 40 (2004), available at http://www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG196.pdf ("RAND 2004") (last visited Nov. 15, 2013).

[37] UCMJ, 10 U.S.C. § 885.

[38] Nelson Liam *et al.*, RAND CORPORATION, *"Working Around the Military" Revisited: Spouse Employment in the 2000 Census Data*, at 4, *available at* http://www.rand.org/pubs/monographs/2007/RAND_MG566.pdf (last visited Nov. 15, 2013).

[39] The White House acknowledged the effects of these barriers in a wide variety of professions, noting that "[t]he lack of broad-based reciprocity among the states to recognize professional licenses or certificates held by military spouses creates a significant barrier to employment." WHITE HOUSE, *Strengthening America's Military Families: Meeting America's Commitment*, at 16 (Jan. 2011), *available at* http://www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf (last visited May 3, 2013).

spouse's military service has negatively impacted their legal career, and half have lived apart from their spouse in order to maintain their legal career.[40]

Anecdotal evidence of these difficulties abound.

- One such example is Carly Summers-O'Rourke, who, upon graduating from the University of Tennessee College of Law in December 2012, took the Tennessee bar, only to be told that her Army husband was likely to be stationed in Georgia. Right before she sat for the Georgia bar examination, she and her husband received new orders to Oklahoma. Several thousand dollars later, she had two state bar licenses and yet still was precluded from practicing in the jurisdiction in which she was located.
- Likewise, Natalie Teemer has made three moves in three years with her Army husband since being sworn in to practice in Tennessee. Now living in Kansas, she commutes over two hours each way to do document review in an attempt to maintain her legal career; this summer, she will add Kansas to her list of bar examinations she has taken.
- Eleanor Magers Vuono, former Army JAG and now a military spouse, has been licensed and practiced in three jurisdictions. After relocating to a fourth jurisdiction, the timing of the bar examination and the constraints of her husband's military assignment prevented her from being hired as an attorney or even serving in a *pro bono* capacity despite her practice experience.[41]
- Reda Hicks, an Army spouse, has been licensed in four jurisdictions in her seven years of practice, taken and passed bar examinations in two of those jurisdictions, and lived remotely from her Army pilot husband for the past four years due to licensing constraints.

If the states to which their spouses were transferred had military spouse admission rules in place, these qualified women would not have had to choose between living with their spouses and practicing law during the tenure of their husbands' service our country.

Because of geographic insecurity and licensing restrictions, many military spouses do not pursue the legal profession despite having attended law school and earned a *juris doctorate*. Likewise, military spouses attorneys who are currently practicing law forego traditional legal careers in order to support the servicemember, or, alternatively, the servicemember chooses to leaves the military prematurely, causing the military to lose extensively trained, highly skilled, and talented servicemembers.

Recently, Congress specifically recognized and ameliorated some of the hardships endured by military spouses based solely on their marital status and their spouses' profession through the Military Spouses Residency Relief Act.[42] The Military Spouses Residency Relief Act amends the Servicemembers Civil Relief Act to provide that a spouse shall neither lose nor acquire domicile or residence in a state when the spouse is present in the state solely to be with the servicemember in compliance with the servicemember's military orders. This change is part of the national initiative to reduce the burden on military families as they move from state to state.

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[40] *See* MSJDN 2013 Member Survey Report of Findings, *available at* http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf (last visited May 27, 2014).

[41] *See* Eleanor Magers Vuono, *Lower the Licensing Barriers So We May Serve*, UVA Lawyer, Spring 2012 *available at* http://www.law.virginia.edu/html/alumni/uvalawyer/spr12/opinion.htm (last visited Nov. 15, 2013).

[42] Pub. L. No. 111-97, 123 Stat. 3007.

The White House, through its Joining Forces initiative, is leading a coordinated and comprehensive federal approach to supporting military families, outlined in the 2011 White House initiative, "Strengthening Our Military Families: Meeting America's Commitment," which states in relevant part:

> *The lack of broad-based reciprocity among the states to recognize professional licenses or certificates held by military spouses creates a significant barrier to employment. Additionally, frequent moves result in military spouses incurring high costs for recertification and increased delays before they are able to work due to state licensing requirements in fields such as teaching and medical services.*[43]

The White House also highlighted the efforts of MSJDN to address licensing issues in the legal profession. [44]

The ability to maintain or transfer a professional license when moving from state to state has a direct impact on the ability of the military spouse to find employment. The Department of Defense, through its Military Community and Family Policy ("MCFP") office, has addressed the licensing issue through state legislation for those career fields that are governed by state regulatory agencies,[45] including nearly all medical professions, real estate brokerage, social workers, and other professions. However, the practice of law is not governed by a state regulatory agency; therefore, the legislation for which the MCFP has advocated does not include the practice of law. The Proposed Rule identifies specific ways the legal profession itself can eliminate professional licensing barriers for military spouse attorneys.

Admission on motion for military spouse attorneys benefits both the legal community and the United States Uniformed Services. MSJDN's Proposed Rule supports the essential national goal of military readiness because spouse employment opportunities have a significant impact on the ability of the U.S. military to recruit and retain qualified servicemembers.[46] This impact has particular salience in the context of military spouse attorneys, whose relatively high earnings potential creates an even higher incentive for servicemembers to leave the military in favor of their spouses' careers.

The Current Tennessee Rule

Currently, an attorney who moves to Tennessee due to a servicemember spouse's military orders and wishes to continue practicing law faces a difficult situation. Although the rules governing attorney licensure in the state do provide options for continuing practice, none of these options address the challenging realities faced by military spouse attorneys.

Admission upon motion without examination

Tennessee Supreme Court Rule Seven, Section Five, requires that an applicant for admission without examination must show that she has been "actively engaged in the practice of law" for five of the past seven years.[47] Military spouse attorneys have trouble meeting this requirement when the servicemember has been assigned overseas, is recently admitted, or has been unable to find legal work at a prior duty

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[43] WHITE HOUSE, *supra* note 24, www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf.

[44] Posting of Brad Cooper to White House Blog, Military Spouse Attorneys Answer the Joining Forces Challenge, http://www.whitehouse.gov/blog/2012/06/14/military-spouse-attorneys-answer-joining-forces-challenge (Nov. 21, 2013, 11:22 EST).

[45] Lisa Daniel, *Military Spouses Get Help with Professional Licenses*, American Forces Press Service, June 13, 2011, *available at* www.defense.gov/news/newsarticle.aspx?id=64285. (last visited Nov. 15, 2013).

[46] *See* Harrell, *supra* note 22, at xvii.

[47] Tennessee Supreme Court Rules, Rule 7, Section 5.

station in a remote location. Additionally, under the current rule, the Tennessee Board of Law Examiners requires three letters of recommendation from attorneys or judges.[48] Unfortunately, frequent relocations mean that many military spouse attorneys will have substantial gaps in licensure and practice that make it difficult for them to accrue the required years of "active" practice or letters of recommendation from attorneys or judges.

Tennessee Supreme Court Rule Seven, Section Ten, allows an incoming military spouse attorney to register as In-House Counsel provided the attorney's full-time employment is as "a lawyer by an organization, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services."[49] Unfortunately, once again, the geographic insecurity, geographic location of military installations, and employment barriers created by military life make it difficult for military spouse attorneys to obtain employment in these roles.

Admission by examination

Tennessee Supreme Court Rule Seven, Section 5, requires that attorneys not eligible for admission on motion take the bar examination and provide, at their own expense, a report by the National Conference of Bar Examiners.[50] Bar examinations are offered only twice per year and applications must be submitted three months prior to the date of examination in Tennessee.[51] Military spouse attorneys often do not know where they will be stationed more than a few months in advance, so by the time the attorney learns of an impending move, the application deadline for the next examination likely will have passed. Even if the military spouse is able to meet the deadlines, the application process requires the military spouse attorney to purchase preparation materials, study and sit for a bar examination, wait months for the results, proceed through the swearing-in process, and only then seek employment as an attorney. Thus, even assuming substantial notice of a military reassignment, each relocation that requires the military spouse attorney to take a bar examination to practice will result in a minimum of six to ten months of unemployment for a military spouse attorney[52]occurring, on average, every two to three years (each time the servicemember is reassigned). As a result, these periods of unemployment cascade into difficulties meeting the practice requirements imposed by most states as a condition of admission on motion.

In short, given the frequency of relocations, a military spouse attorney seeking a Tennessee license may spend thousands of dollars on the bar examination process[53] and receive a license to practice only to have a year or two left in the state with which to use that license. This not only minimizes the opportunity to seek paid practice experience in Tennessee, but it greatly lessens chance of practicing in the next jurisdiction to which the servicemember is reassigned because of state time-in-practice requirements and the necessity of paying and preparing for another bar examination and character and fitness review.

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[48] See, e.g. Application for Admission to Practice Law in Tennessee Supplements – Comity, http://www.state.tn.us/lawexaminers/docs/TN%20Supplement%20Comity%20Synergy.pdf (last visited March 30, 2014).

[49] Tennessee Supreme Court Rules, Rule 7, Section 10.

[50] Tennessee Supreme Court Rules, Rule 7 Section 6.03(b).

[51] *See, e.g.*, The Tennessee Board of Law Examiners Bar Examination Schedule, http://www.state.tn.us/lawexaminers/feeSched.htm. (last visited June 5, 2014)

[52] Assuming four to six months to apply and study for the examination, then two to four months to receive results and get sworn in.

[53] The exam itself costs $450 for a first time Tennessee applicant, plus $375 for the NCBE (not including the various fees required to gather the documentation necessary for the application, laptop fee, late fees if military orders are received past the deadline, etc.), *see* Tennessee Board of Law Examiners Fee Schedule, http://www.state.tn.us/lawexaminers/docs/Fee%20Schedule%20restated%20and%20posted.pdf, (last visited July 30, 2014), and exam preparation classes through BarBri cost an additional $3,125, *see* BarBri Website, *at* http://www.barbri.com (last visited July 30, 2014).

Thus, because Tennessee offers no options addressing these challenges unique to the military lifestyle, a military spouse attorney must choose among four alternatives if her spouse is stationed in Tennessee, even if she is already admitted elsewhere: (1) spend thousands of dollars and delay employment for many months to sit for the Tennessee Bar Examination; (2) severely limit her job search to non-legal or in-house positions not requiring a Tennessee license; (3) abandon the practice of law (temporarily or, as often happens after multiple military relocations to states without accommodations, permanently); or (4) increase the already lengthy family separations by staying behind in a state where the attorney is licensed to practice, forcing the family to maintain the expenses of two households.

Tennessee Proposed Rule

The Proposed Rule seeks to accommodate military spouse attorneys while supporting their spouses' military service. It achieves this purpose by modifying the requirements of licensure for military spouse attorneys who can establish that their servicemember is on military orders in the State of Tennessee or at Fort Campbell, Kentucky. Under the Proposed Rule:

1. Qualified military spouse attorneys would be full members of the Tennessee bar and subject to the same requirements as other attorneys regarding ethics, continuing legal education, and licensing fees.
2. Military spouses would only qualify for admission if they
    a. have been admitted by bar examination in at least one other jurisdiction,
    b. hold a degree from an ABA-approved law school,
    c. submit a passing score on the MPRE,
    d. are members in good standing in all jurisdictions in which they have been admitted,
    e. are subject to no pending disciplinary matters in any jurisdiction, and
    f. possess the character and fitness requirements necessary to practice law in Tennessee.

Tennessee is a unique jurisdiction since there is a major military installation that straddles the Tennessee/Kentucky border. Since the Post Office for Fort Campbell is located on the Kentucky side, the official address for the post is in Kentucky, despite the fact that *over eighty percent of active duty Soldiers stationed at Fort Campbell, Kentucky, live in Clarksville, Tennessee.*[54] Many military spouse attorneys living in Tennessee could be deemed ineligible if the Proposed Rule did not include Fort Campbell as their servicemember spouses technically have orders for Kentucky, not Tennessee. Therefore, we have crafted a rule that specifically addresses the situation in which a military spouse lives in Tennessee while her servicemember has orders to Fort Campbell.

In addition to the obvious benefits for military families, the Proposed Rule allows the Tennessee legal community to benefit from the diversity of experience and skills offered by military spouse attorneys. These attorneys have a wide variety of legal backgrounds, but their experience as military spouses means that they possess an ability to adapt to rapidly changing circumstances and learn quickly in new environments—all qualities that Tennessee should embrace in its attorneys. In addition, military spouse attorneys are in an ideal position to act as ambassadors from Tennessee's legal community to its military community because they are enthusiastic about using their legal skills to help other military families.[55]

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[54] City of Clarksville: About Clarksville, available at http://www.cityofclarksville.com/index.aspx?page=181 (last visited March 30, 2014).

[55] *See* MSJDN 2013 Member Survey Report of Findings, ***available at*** http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf (last visited May 27, 2014).

Conclusion

Difficulties with licensure requirements are hardly the only challenges that military spouse attorneys face in their attempts to maintain career continuity. Finding professional employment can be extremely difficult given the uncertainty surrounding the length of time the family will be stationed in a given state, the patchwork of prior positions, and gaps in employment. Military spouse attorneys face the additional challenge of finding themselves in new locales where they likely have no personal or professional contacts and must build their networks from scratch in very short period of time. Tennessee can and should ameliorate these obstacles to practice for qualified military spouse attorneys by enacting the Proposed Rule.

EXHIBIT D

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Re: Proposed Rule Change for Licensing of Military Spouse Attorneys

Dear Members of the Board of Law Examiners:

We, the undersigned 42 attorneys, are writing to you as members of the Tennessee Bar and as veterans of the armed forces. The families of Servicemembers often sacrifice as much, if not more, than their family members in uniform. Military families are required to move from state to state, often every two or three years. As you can imagine, this makes it very difficult for spouses who hold law degrees to practice their chosen profession. These spouses have a great deal to offer the bar and to our country. We urge you to adopt the proposed rule submitted by Ms. Josie Beets on behalf of the Military Spouse's JD Network.

Very truly yours,

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Re: The Lawyers' Association for Women, Marion Griffin Chapter Recommendation and Endorsement of Proposed Rule Change Regarding Licensing of Military Spouse Attorneys Pending Before the Tennessee Board of Law Examiners

Dear Members of the Tennessee Board of Law Examiners:

The Lawyers' Association for Women, Marion Griffin Chapter strongly recommends and endorses the proposed rule for Temporary Admission of a Military Spouse currently pending for consideration by the Board.

Military spouse attorneys face significant barriers and disadvantages when their servicemember spouse is assigned for duty in Tennessee. This proposed rule strikes a careful balance, providing a temporary admission procedure to enable military spouse attorneys to continue their careers with minimal disruption to their families while maintaining the high standards of the legal community within our state. LAW urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Since our Chapter was first founded in 1981, our members have been committed to promoting and ensuring the efficient administration of justice and the constant improvement of the law, especially as it relates to women. We are mindful that the demands of military service today have changed and that many spouses have their own careers upon which the family depends.

Women make up 95 percent of military spouse attorneys and while 80 percent maintain an active law license, only 34 percent work full time in a job requiring a license.[1] Four out of five military spouse attorneys also report their spouse's military service has negatively impacted their legal career. Military spouse attorneys face a potential income loss of $33,745 per year compared with their civilian attorney counterparts.[2] The inability to maintain a career due to changes in duty stations across state lines can place stress on the family, stress already magnified by frequent separations for duty and lengthy combat deployments. A spouse's ability to maintain a career can be a critical factor in a servicemember's determination as to whether to continue service in the military.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress faced by military families. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In unanimously endorsing this rule, the Board of Directors of the Lawyers' Association for Women shows its support for military spouse attorneys and their families.

Sincerely,

LBaker

Laura B. Baker
President

cc:
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[1] Military Spouse JD Network, *2013 Member Survey Report of Findings* (January 2014), available at http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf.
[2] Military Officers Association of America & Institute for Veterans and Military Families at Syracuse University, *Military Spouse Employment Report* (February 2014) available at http://vets.syr.edu/research/research-highlights/milspouse-survey/.

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Re: Memphis Bar Association Recommendation and Endorsement of Proposed Rule Change Regarding Licensing of Military Spouse Attorneys Pending Before the Tennessee Board of Law Examiners

Dear Members of the Tennessee Board of Law Examiners:

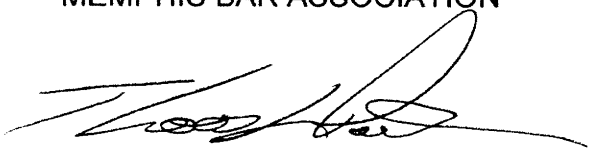
On February 26, 2015 the Memphis Bar Association Board of Directors adopted a resolution recommending and endorsing the proposed rule for temporary admission of a military spouse currently pending for consideration by the Board. Enclosed is a copy of the approved resolution.

The MBA urges the Board to proceed with the favorable consideration of the proposed temporary admission rule as expeditiously as possible.

Thank you very much for considering the views of the leadership of our association.

Respectfully,

MEMPHIS BAR ASSOCIATION



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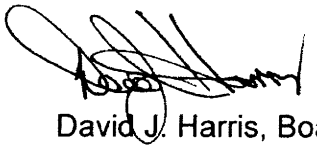

David J. Harris, Board Member

RESOLUTION IN SUPPORT OF PROPOSED RULE CHANGE FOR LICENSING OF MILITARY SPOUSE ATTORNEYS

Be it resolved that the Memphis Bar Association Board of Directors hereby adopts this resolution in support of the proposed rule change for the temporary licensing of attorney spouses of military servicemembers currently pending before the Tennessee Board of Law Examiners:

The Memphis Bar Association recommends and endorses the proposed rule for the Temporary Admission of a Military Spouse currently pending for consideration by the Board of Law Examiners.

Military spouse attorneys face significant barriers and disadvantages when their servicmember is assigned for duty in Tennessee. This rule strikes a careful balance providing a temporary admission procedure to enable spouses to continue their careers with minimal disruption to their military families while maintaining the high standards of the legal community within our state. The MBA urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress military families face. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In adopting this rule, the Board will show its support for servicemembers, sworn to protect and defend the Constitution of our freedoms, and their families.

Adopted: February 26, 2015

Thomas L. Parker, President

RESOLUTION IN SUPPORT OF PROPOSED RULE
CHANGE FOR LICENSING OF MILITARY SPOUSE ATTORNEYS

Be it resolved that the Memphis Bar Association Board of Directors hereby adopts this resolution in support of the proposed rule change for the temporary licensing of attorney spouses of military servicemembers currently pending before the Tennessee Board of Law Examiners:

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Adoption of the proposed rule is one way the Tennessee legal community can ease the stress military families face. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In adopting this rule, the Board will show its support for servicemembers, sworn to protect and defend the Constitution of our freedoms, and their families.

Adopted: February 26, 2015

Thomas L. Parker, President

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RE: THE NASHVILLE BAR ASSOCIATION'S RECOMMENDATION AND ENDORSEMENT OF A PROPOSED RULE CHANGE REGARDING LICENSING OF MILITARY SPOUSE ATTORNEYS PENDING BEFORE THE TENNESSEE BOARD OF LAW EXAMINERS

Dear Members of the Tennessee Board of Law Examiners:

The National Bar Association supports a Rule that would allow military spouses not admitted in Tennessee to be admitted to practice on a temporary and provisional license, without commenting on any particular rule language at this time.

Respectfully submitted,

Edward D. Lanquist, Jr.
President

EDL/jb

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Re: Knoxville Support for Attorney Spouses of Servicemembers

Dear Members of the Board of Law Examiners:

We, the undersigned attorneys, are writing to you as members of the Knoxville Bar Association and as veterans of the armed forces. The families of Servicemembers often sacrifice as much, if not more, than their family members in uniform. Military families are required to move from state to state, often every two or three years. As you can imagine, this makes it very difficult for spouses who hold law degrees to practice their chosen profession. These spouses have a great deal to offer the bar and to our country. We urge you to adopt the proposed rule submitted by Ms. Josie Beets on behalf of the Military Spouse's JD Network.

Sincerely,

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