

FILED

June 5, 2020

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8002

ORDER ADOPTING SUPERVISED PRACTICE RULES

The Minnesota State Board of Law Examiners filed a petition on April 20, 2020, proposing amendments to the Student Practice Rules to broaden the scope of those rules by allowing recent law school graduates to practice under the supervision of a Minnesota licensed lawyer in good standing. The Board also proposes to re-title the rules as the Supervised Practice Rules and re-organize provisions within those rules.

We opened a public comment period. The comments filed unanimously support the Board's proposed amendments to broaden the rules governing practice under the supervision of a Minnesota licensed lawyer in good standing. These proposed amendments will provide flexibility for recent law school graduates, while also enhancing the transition from law school to the licensed practice of law. Thus, we will adopt the Supervised Practice Rules as proposed by the Board of Law Examiners.

Two comments, filed by the New Lawyers Section of the Hennepin County Bar Association and the New Lawyers Section of the Minnesota State Bar Association, proposed additional amendments to the rules to expand the scope of the authorized supervised practice beyond recent law school graduates who are taking the bar examination for the first time.¹

¹ The Sections also propose changes to the administration of the July 2020 bar examination, but the current Student Practice Rules do not govern the administration of that exam, and the Board of Law Examiners has not proposed amendments to the Rules for

The proposed expansion of these rules, to encompass additional situations in which an applicant for admission to the Minnesota bar may be taking a written examination, implicates regulatory matters beyond the Supervised Practice Rules. Thus, further review and study by the Board of Law Examiners is appropriate before making a final decision on these suggested changes. With that additional input, the Board of Law Examiners can provide recommendations to the court as the Board deems appropriate.

IT IS HEREBY ORDERED that the petition of the Board of Law Examiners is granted. The Supervised Practice Rules as attached here are adopted effective as of July 1, 2020. The Supervised Practice Rules shall supersede the Student Practice Rules as of the effective date.

Dated: June 5, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice

Admission to the Bar to change the administration of that exam. *See* Minn. R. Admission to the Bar 6.A. Thus, we do not address these proposed changes further here.

FILED

April 20, 2020

SUPERVISED PRACTICE RULES

Rule 1. Purpose.

The Minnesota Board of Law Examiners (Board) administers these Rules to ensure that law students and recent graduates certified under these Rules have sufficient legal education and adequate supervision to perform lawyering tasks in an effective and confidential manner, while protecting the interests of the client.

Rule 2. Definitions. In these Rules,

- A. "Eligible law student" means a student who:
 - 1. is duly enrolled at the time of certification in a law school approved by the American Bar Association (ABA);
 - 2. has completed legal studies equivalent to at least two semesters of full-time study prior to certification;
 - 3. has been certified by the dean or designee of the law school as:
 - a. being of good academic standing; and
 - b. qualified to participate either in a paid or unpaid capacity in a practice placement or clinical program in order to provide legal services to clients as a law student practitioner.
- B. "Eligible recent graduate" means a person who meets the following criteria:
 - 1. has graduated from an ABA approved law school within the previous 18 months;
 - 2. has been certified by the dean or designee of the law school as qualified to participate, either in a paid or unpaid capacity, in supervised legal employment or placement to provide legal services to clients as a supervised practitioner.
- C. "Jurisdiction" means the District of Columbia or any state or territory of the United States.
- D. "Law student practitioner" means an individual certified under these Rules who is a current law student.
- E. "Student observer" means a student certified under these Rules to observe any and all professional activities of a member of the bar as part of an academic program or course for academic credit, including client communication. Communication between the client and the student shall be privileged under the same rules that govern attorney-client privilege and work product doctrine, and the presence of a student during communication between the lawyer and the client shall not, standing alone, waive these evidentiary privileges.
- F. "Supervising lawyer" means a member of the Minnesota bar in good standing who accepts responsibility for a law student practitioner or supervised practitioner.

- G. "Supervised practitioner" means an individual certified under these Rules who has graduated from an ABA approved law school within the previous 18 months.

Rule 3. Scope of Representation. A law student practitioner or supervised practitioner may perform, under the supervision of a supervising lawyer, all functions that a lawyer may perform in representing and appearing on behalf of a client.

Rule 4. Obligations of Law School.

- A. Certification: A law school seeking to certify or recertify eligible law students or recent graduates under these Rules shall file with the Board a statement signed by the dean or dean's designee stating the following:
1. The name of each eligible law student or recent graduate;
 2. Verification that the individual is either in good academic standing or has graduated from the law school;
 3. For eligible recent graduates, the date on which the graduate's degree was conferred;
 4. For eligible law students, confirmation that the student has completed the equivalent of at least two semesters of full-time study;
 5. The name of the supervising lawyer who has agreed to supervise the individual's work; in the case of an entity, the name of the contact at the legal employer that will verify that all work is properly supervised;
 6. For student observers, confirmation that the placement is part of an academic program or course for academic credit;
 7. A statement that the law school will notify the Board in writing upon notice that any of the following have occurred:
 - a. The law student practitioner or student observer is placed on academic probation;
 - b. The law student practitioner graduates from law school;
 - c. The supervising lawyer advises the school that the employment or placement of the law student or supervised practitioner has ended.
 - d. The law school becomes aware that the supervised practitioner:
 1. Has failed the bar examination any jurisdiction; or
 2. Has been admitted to the bar of any jurisdiction.
- B. Continuing Obligation: A law school shall provide written notice to the Board within 30 days of becoming aware of any event noted in Rule 4A(7).
1. If a law student practitioner graduates, the law school shall advise the Board if the certification should convert from law student practitioner to supervised practitioner and, if so, provide the date of conferral and confirmation that there is ongoing employment with the same or a new supervising lawyer.

Rule 5. Obligations of Supervising Lawyer.

- A. When supervising a law student practitioner or supervised practitioner, the supervising attorney shall:
 - 1. Assume personal professional responsibility for and supervision of the law student or supervised practitioner;
 - 2. Sign all pleadings;
 - 3. Ensure the law student or supervised practitioner is identified to the client and the tribunal and knowingly accepted by both;
 - 4. Appear with the law student or supervised practitioner in all trials and all other proceedings, except in a proceeding where the client and judge or judicial officer waives the appearance after accepting the representation made by the supervising lawyer that the law student or supervised practitioner is prepared to proceed alone;
 - 5. Provide appropriate supervision and assistance as needed;
 - 6. Send written notice to the law school and the Board if the supervising lawyer terminates the supervisory relationship with the law student or supervised practitioner for any reason; and
 - 7. Abide by all obligations set forth in these Rules.
- B. When supervising a student observer, the supervising attorney shall ensure that the student observer has:
 - 1. Been identified as a student and accepted by the client; and
 - a. Signed a statement certifying the student observer will maintain the confidentiality that a lawyer is required to maintain under Rule 1.6 of the Minnesota Rules of Professional Conduct.

Rule 6. Obligations of Law Student Practitioner.

- A. Once certified, the law student practitioner shall take the following actions:
 - 1. Identify himself or herself to each client and tribunal as a law student practitioner and proceed only if accepted by both;
 - 2. Comply with the supervised practice requirements outlined in Rule 5A;
 - 3. Comply with Minnesota Rules of Professional Conduct;
 - 4. Request recertification through his or her law school before the expiration of certification, if eligible; and
 - 5. Ensure that his or her law school files notice to the Board of his or her graduation and, if eligible, requests recertification as a supervised practitioner.

Rule 7. Obligations of Supervised Practitioner.

- A. Once certified, the supervised practitioner shall take the following actions:
1. Identify himself or herself to each client and tribunal as a supervised practitioner and proceed only if accepted by both;
 2. Comply with the supervised practice requirements outlined in Rule 5A;
 3. Comply with the Minnesota Rules of Professional Conduct; and
 4. Notify his or her law school if he or she:
 - a. Registers and takes the bar examination in any jurisdiction;
 - b. Fails the bar examination in any jurisdiction; or
 - c. Is admitted in any jurisdiction.

Rule 8. Obligations of Student Observer.

A student observer shall sign and abide by a statement certifying that the student will maintain the confidentiality that a lawyer is required to maintain under Rule 1.6 of the Minnesota Rules of Professional Conduct.

Rule 9. Obligations of the Board.

- A. The Board shall:
- a. Review the certification applications filed by the law school to confirm eligibility under these Rules;
 - b. Provide written notice to the law school confirming certification;
 - c. Post to the website a list of law student practitioners and supervised practitioners and the date that certification is scheduled to expire;
 - d. Maintain a list of student observers approved under these Rules; and
 - e. Provide written notice to the law school and remove from the website the names of law student practitioners and supervised practitioners whose licenses have expired or terminated under these Rules.

Rule 10. Period of Certification; Recertification.

If otherwise eligible under these Rules and not precluded by Rule 11:

- A. A law student practitioner may be initially certified for a period of 12 months, and may renew certification for a period of 12 months;
- B. A law student practitioner may be recertified as a supervised practitioner upon graduation from law school; and
- C. A supervised practitioner may be certified for a period of 18 months from the date of degree conferral.

Rule 11. Termination of Certification.

- A. Certification as a law student practitioner terminates when the first of the following occurs:
 - a. Twelve months has elapsed from the most recent certification;
 - b. The law school, placement entity, or supervising lawyer sends written notice to the Board that the supervising lawyer is no longer willing to supervise the law student practitioner;
 - c. The student practitioner resigns or is terminated from the qualifying position; or
 - d. The law school places the law student on academic probation.
- B. Certification as a supervised practitioner terminates when the first of the following occurs:
 - a. The law school, placement entity, or the supervising lawyer sends written notice to the Board that the supervising lawyer is no longer willing to supervise the supervised practitioner;
 - b. The supervised practitioner resigns or is terminated from the qualifying position;
 - c. The supervised practitioner is admitted to the bar in any jurisdiction;
 - d. The supervised practitioner fails the bar examination in any jurisdiction; or
 - e. 18 months has elapsed from the date of degree conferral.
- C. Certification as a student observer terminates when the course ends or the student is placed on academic probation.