

## **VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday, the 6th day of January, 2023.*

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect are hereby amended, effective March 7, 2023.

Amend Rule 1A:9 of Part One of the Rules of the Supreme Court of Virginia as follows:

### **Rule 1A:9. Virginia Legal Aid Counsel**

#### Introduction

Notwithstanding any rule of this Court to the contrary, any person employed in Virginia as a lawyer exclusively for a Virginia Licensed Legal Aid Society, for the purpose of providing free and reduced fee legal services, must either (i) be an active member of the Virginia State Bar; or (ii) be issued a Legal Aid Counsel Certificate as provided in this rule and thereby become an active member of the Virginia State Bar with a practice limited as provided herein; provided, however, no person who is or has been a member of the Virginia State Bar, will be issued a Legal Aid Counsel Certificate. For purposes of this rule, “Legal Aid Employer” is a Virginia Licensed Legal Aid Society.

a. A lawyer admitted to the practice of law in a state or territory of the United States or the District of Columbia (for purposes of this rule, a “State”), may apply to the Virginia Board of Bar Examiners (“Board”) for a certificate as a Virginia Legal Aid Counsel (“Legal Aid Counsel Certificate”) to practice in Virginia when the lawyer is employed by a Legal Aid Employer in Virginia.

b. Required Evidence. Each applicant for a Legal Aid Counsel Certificate must file with the Secretary of the Board an application under oath on a form furnished by the Board and must submit evidence satisfactory to the Board that the applicant:

(1) has been admitted by examination to practice law before the court of last resort of any State;

(2) holds a Juris Doctor degree from a law school that was accredited by the American Bar Association at the time of the lawyer’s graduation;

(3) is currently an active member of the bar and in good standing in at least one State, and is

in good standing in all jurisdictions where the applicant has been admitted;

(4) has practiced law continuously in another jurisdiction for at least two years preceding the lawyer's application for a Legal Aid Counsel Certificate under this Rule;

(5) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

(6) possesses the good moral character and general fitness to practice law in Virginia, and has submitted all requested information, in a manner and to the extent established by the Board, including all required supporting documents;

(7) has read and is familiar with the Virginia Rules of Professional Conduct;

(8) has paid such fees as may be set by the Board to cover the costs of the character and fitness investigation and the processing of the application; and

(9) has filed an affidavit, upon a form furnished by the Board, from an officer of the applicant's Legal Aid Employer attesting that the applicant will be employed as legal counsel to provide free and reduced fee legal services exclusively on behalf of the Legal Aid Employer; that the applicant will be supervised for a minimum of two years by a licensed attorney employed by the Legal Aid Employer; that the nature of the applicant's employment will conform to the requirements of this rule; and that the Legal Aid Employer will notify the Virginia State Bar in writing immediately upon the termination of the applicant's employment.

c. Provisional Status. From the date on which the Board receives an application for a Virginia Legal Aid Counsel Certificate until the applicant is notified that either (i) the lawyer's application is rejected; or (ii) the lawyer is eligible to be issued a Legal Aid Counsel Certificate, the applicant may be employed in Virginia as Virginia Legal Aid Counsel on a provisional basis by a Legal Aid Employer. After receiving provisional approval from the Board, the applicant may practice on a provisional basis, including appearing in court without supervision; provided, however, that the Board may suspend an applicant's provisional status pending completion of the character and fitness review. To appear in court while on provisional status, the applicant must first take the oath required of attorneys which can be administered by a judge pursuant to Virginia Code § 54.1-3903.

d. Admission. Upon a finding by the Board that the applicant has complied with the

requirements of Part (b) of this rule, the Board will notify the applicant that the applicant is eligible to be issued a Legal Aid Counsel Certificate. After the applicant has taken and subscribed to the oath required of attorneys and administered pursuant to Virginia Code § 54.1-3903, the applicant will be issued a Legal Aid Counsel Certificate, which will permit the applicant to practice law in Virginia solely as provided in Part (e) of this rule. The applicant may take the required oath by appearing before the Justices of the Supreme Court of Virginia at an appointed date and time.

e. Scope. The practice of a lawyer certified pursuant to this rule will be limited to employment by the Legal Aid Employer furnishing the affidavit required by Part (b)(9) of this rule, including appearing before a Virginia court or tribunal as counsel for clients of the Legal Aid Employer. No lawyer certified pursuant to this rule may (i) undertake to represent any person other than a client of the applicant's Legal Aid Employer before a Virginia court or tribunal; (ii) offer or provide legal services in Virginia to any person other than a client of the applicant's Legal Aid Employer; or (iii) hold themselves out to be authorized to provide legal services or advice in Virginia to any person other than a client of the applicant's Legal Aid Employer. For purposes of this rule, a Virginia Legal Aid Counsel may appear in court without the presence of a supervisor.

f. Rights and Obligations. Upon registration with the Virginia State Bar, a Virginia Legal Aid Counsel will immediately become an active member of the Virginia State Bar, with the applicant's practice limited as provided in Part (e) of this rule, and must pay to the Virginia State Bar the annual dues required of active members of the Virginia State Bar.

(1) All legal services provided in Virginia by a lawyer practicing pursuant to this rule will be deemed the practice of law in Virginia and will subject the lawyer to all rules and regulations governing the practice of law in Virginia and the jurisdictional authority of the Virginia State Bar.

(2) A Virginia Legal Aid Counsel will be subject to the same membership obligations as other active members of the Virginia State Bar, including Mandatory Continuing Legal Education requirements. A Virginia Legal Aid Counsel must use as the address of record with the Virginia State Bar a business address in Virginia of the Legal Aid that employs the lawyer.

(3) A Virginia Legal Aid Counsel must promptly report to the Virginia State Bar any change in employment, change in bar membership status in any State, or the imposition of any disciplinary sanction in any State or by any federal court or agency before which the lawyer has been admitted to practice.

(4) The period of practice as a Virginia Legal Aid Counsel will be considered in determining whether the lawyer has fulfilled the active practice of law requirement for admission to practice law in Virginia without examination pursuant to Rule 1A:1 and any guidelines approved by the Supreme Court of Virginia for review of applications for admission without examination.

g. Termination. A lawyer's authority to practice law pursuant to this rule will be automatically suspended when (i) employment by the Legal Aid Employer is terminated, (ii) the lawyer fails to comply with any provision of this rule, or (iii) when the lawyer is suspended or disbarred in any State or by any federal court or agency before which the lawyer has been admitted to practice. Any Virginia Legal Aid Counsel whose authority to practice is suspended pursuant to (i) above will be reinstated upon evidence satisfactory to the Virginia State Bar that the lawyer is in full compliance with the requirements of this rule. Any Virginia Legal Aid Counsel whose authority to practice is suspended pursuant to (ii) above may be reinstated by compliance with applicable provisions of Part 6, Section IV, Paragraph 19 of the Rules of the Supreme Court of Virginia. Any Virginia Legal Aid Counsel whose authority to practice is suspended or terminated under (iii) above must petition for reinstatement pursuant to Part 6, Section IV, Paragraph 13-25 of the Rules of the Supreme Court of Virginia.

h. The Board and the Virginia State Bar may adopt regulations as needed to implement the requirements of this rule.

A Copy,

Teste:

  
Clerk