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Joint Committee on Attorney Standards

North Dakota Supreme Court
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STATE OF NORTH DAKOTA

Hon. Dann E. Greenwood, Chair
51 Third St. E, Suite 202
Dickinson, ND 58601
Phone: (701) 227-3150

May 25, 2016

Honorable Gerald W. VandeWalle
Chief Justice
North Dakota Supreme Court
600 E. Boulevard
Bismarck, ND 58505-0530

Re: Military Spouse Lawyer Certification - Proposed Rule

Dear Chief Justice VandeWalle:

Following a referral from the Supreme Court, the Joint Committee reviewed information related to a rule process to provide certification or registration for a lawyer spouse of a military member assigned to a military installation in the state.

The Joint Committee reviewed a model rule for admission of military spouse lawyers developed by the Military Spouse JD Network, resolutions adopted by the American Bar Association and the Conference of Chief Justices encouraging the adoption of a certification or registration process, and rules adopted in other jurisdictions. The general purpose served by such rules is, as stated in the ABA resolution, to "accommodate the unique needs of military spouse attorneys who move frequently in support of the nation's defense... ."

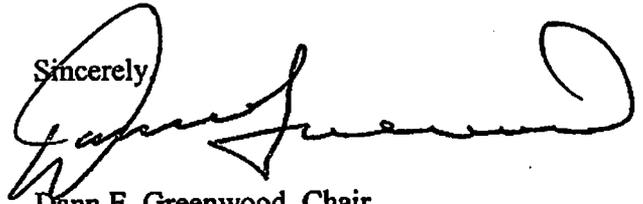
At its April 29 meeting, the Joint Committee reviewed a draft admission to practice rule that would provide a certification process for a military spouse lawyer and permit the practice of law in the state. The rule would establish general requirements for an application for certification by a military spouse lawyer and would address continuing legal education requirements, the scope of allowable practice, disciplinary jurisdiction, and termination of the certification. Penny Miller, Secretary-Treasurer of the State Board of Law Examiners, provided suggested changes to the draft rule which were incorporated in the final version.

The Joint Committee approved the revised amendments for submission to the Supreme Court, pending review and comment by the SBAND Board of Governors as required by Administrative Rule 38, Section 3B. The Board of Governors has reviewed the Committee's proposed amendments and, by a letter dated May 24, 2016, from Joe Wetch, SBAND President, has indicated its approval of the proposed amendments. A copy of the letter is

included.

I am pleased to submit the Joint Committee's proposed amendments to the Supreme Court for its consideration.

Sincerely

A handwritten signature in black ink, appearing to read "Dann E. Greenwood". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Dann E. Greenwood, Chair
Joint Committee on Attorney Standards

DEG/

cc: Penny Miller, Clerk of the Supreme Court
Jim Ganje



State Bar Association of North Dakota

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Tony J. Weiler • *Executive Director*

May 24, 2016

Hon. Dann E. Greenwood
Judge of the District Court
51 Third St. E., Ste. 202
Dickinson, ND 58601

Sent via email: dgreenwood@ndcourts.gov

RE: 1) Practice by Foreign Lawyers – Proposed Amendments to Rule 5.5 ND Rules of Professional Conduct and Rule 3, N.D. Admission to Practice Rules
 2) Rule 3.2 (Service), Rules for Lawyer Discipline – Proposed Amendments
 3) Military Spouse Lawyer Certification – Proposed Rule

Dear Judge Greenwood,

The Board met today to discuss the request from the Joint Committee on Attorney Standards on the above listed Proposed Amendments and Proposed Rule.

The Board of Governors recognizes the good work done by the Joint Committee on Attorney Standards and approves of the Proposed Amendments and the Proposed Rule. The Board had no other comments.

Sincerely,

A handwritten signature in cursive script that reads "Joseph H. Wetch, Jr.".

Joseph Wetch
SBAND President

cc: Jim Ganje

PROPOSED RULE - ND ADMISSION TO PRACTICE RULES

Rule _____ Military Spouse Certification.

1 A. General Statement and Eligibility. Due to the unique mobility requirements of military families
2 who support the defense of our nation, a lawyer who is a spouse of a member of the United States
3 Uniformed Services ("service member"), stationed within North Dakota, may apply for certification
4 to practice law under this rule.

5 B. An applicant under this rule shall file, with the State Board of Law Examiners, an application for
6 a military spouse certification, which must include:

7 1. An affidavit stating:

8 a. whether the lawyer has received a juris doctor or equivalent degree from a law
9 school approved or provisionally approved for accreditation by the American Bar
10 Association;

11 b. whether the lawyer has been admitted to practice law and is on active status in
12 another jurisdiction in the United States;

13 c. whether the lawyer is currently a member in good standing of the bar of all courts
14 and jurisdictions in which the lawyer is admitted to practice;

15 d. whether the lawyer is currently subject to an order of attorney discipline or the
16 subject of a pending formal disciplinary or disability matter in any jurisdiction; and

17 e. whether the lawyer has read and is familiar with the North Dakota Rules of
18 Professional Conduct.

19 2. A copy of the certification of legal relationship between the lawyer and service member
20 and a copy of the service member's military orders reflecting a permanent change of station

1 to a military installation in North Dakota.

2 3. A lawyer who receives certification under this rule shall pay an annual fee required for a
3 lawyer who has been licensed in this state for five years or more.

4 C. A lawyer who receives certification under this rule shall complete at least 45 hours of approved
5 coursework in Continuing Legal Education during each three-year period the lawyer is certified and
6 must file a report as provided in the North Dakota Rules for Continuing Legal Education.

7 D. Scope of Practice. Except as provided in this rule, a lawyer admitted under this rule is entitled to
8 all rights and privileges and is subject to all duties, obligations, and responsibilities otherwise
9 applicable to licensed North Dakota lawyers for the period of authorized practice under this rule. The
10 attorney may not act as counsel for a client until certified under this rule.

11 E. Discipline and Disability Jurisdiction. A lawyer certified to practice law under this rule is, as
12 provided in N.D.R. Prof. Conduct 8.5, subject to professional discipline in the same manner and to
13 the same extent as members of the bar of this state.

14 F. Termination of Certification. Certification under this rule terminates when:

15 1. The service member is no longer a member of the United States Uniformed Services;

16 2. The military spouse lawyer is no longer a spouse of the service member;

17 3. The military spouse lawyer is no longer on active status in another jurisdiction in the
18 United States;

19 4. The service member receives a permanent transfer outside North Dakota, except that if the
20 service member has been assigned to an unaccompanied or remote assignment with no
21 dependents authorized, the military spouse lawyer may continue to practice law under this
22 rule until the service member is assigned to a location with dependents authorized; or

1 5. The military spouse lawyer is suspended or disbarred or placed on disability inactive status
2 in any jurisdiction in which the lawyer is admitted.

3 If any of the events identified in this section occur, the lawyer certified under this rule shall
4 notify the State Board of Law Examiners of the event in writing within fourteen days of the date
5 upon which the event occurs. Certification under this rule is terminated thirty days after notice is
6 received.

7 G. Required Action After Termination of Certification. Upon the termination of certification under
8 section F of this rule, the lawyer, within thirty days, shall:

9 1. Cease to occupy an office or other place for the regular practice of law in North Dakota,
10 unless authorized to do so under another rule;

11 2. Notify in writing all clients in pending matters, and co-counsel and opposing counsel in
12 pending litigation, of the termination of the lawyer's authority to practice law under this rule;

13 3. Decline any new representation that would require the lawyer to be admitted to practice
14 law in North Dakota; and

15 4. Take all other necessary steps to protect the interests of the lawyer's clients.

16 H. Subsequent Attorney Admission. If an attorney certified under this rule is subsequently admitted
17 to the practice of law in North Dakota, the lawyer's military spouse certification is superseded by the
18 license to practice law.