

## MILITARY SPOUSE ATTORNEY ADMISSION RULE

### Rule 14-805. ~~Provisional~~ Admission for spouse of active military stationed in Utah.

(a) Requirements for ~~provisional~~ admission of spouses of active military with permanent change of station orders to ~~reside~~ ~~serve~~ in Utah. Absent admission under Rules 14-701 et seq., the spouse of an active member of the military ("Military Spouse Attorney") with permanent change of station orders to reside in Utah may be ~~provisionally~~ admitted to practice law in Utah without taking the Bar Examination. The defined terms set forth in Rule 14-701 are incorporated ~~into~~ this rule. The burden of proof is on the applicant for ~~provisional~~ military spouse admission to establish by clear and convincing evidence that ~~she or he~~ the applicant:

(a)(1) has paid half the prescribed application fees and filed the required Complete Military Spouse Application which shall be credited towards Bar dues upon licensure.

~~The Bar is not able to process incomplete applications. The applicant bears the burden to assure that an application is complete in accordance with the Bar's instructions;~~

(a)(2) has graduated with a First Professional Degree in law from an Approved Law School;

(a)(3) has been admitted to the practice of law before the highest court of a U.S. state, territory, or the District of Columbia;

(a)(4) does not qualify for admission by motion under Rule 14-705 or admission by the transfer of a UBE score under Rule 14-712;

(a)(5) ~~has presented any score from the Multistate Bar Examination (MBE) or Uniform Bar Examination (UBE) as defined by Rule 14-701 that applicant may have used to obtain admission to the practice of law in a jurisdiction other than Utah; has achieved a score equivalent to Utah's passing score as defined in Rule 14-711(d) if the applicant has taken the Uniform Bar Examination (UBE) or, if the applicant has never sat for the UBE, a score of 135 or more on the Multistate Bar Examination (MBE);~~

(a)(6) is of good moral character, satisfies the requirements of Rule 14-708, and has not previously been denied admission by the Utah State Bar, or engaged in the ~~unauthorized~~ practice of law in Utah ~~without a license while residing in Utah;~~

(a)(7) has successfully passed the MPRE in accordance with Rule 14-713;

(a)(8) is an active member in good standing in at least one state or territory of the U.S. or the District of Columbia and is a member in good standing in all jurisdictions where currently admitted;

(a)(9) has a proven record of ethical, civil and professional behavior and has never been disbarred or resigned with discipline pending, or their equivalent, in any jurisdiction and

**Comment [ 1 ]:** Deletion necessary for consistency throughout rule. The reference to "provisional" membership is unnecessary since all Bar membership are inherently temporary and subject to annual renewal requirements.

**Comment [ 2 ]:** Deletion necessary for consistency throughout rule.

**Comment [ 3 ]:** The substitution of "serve" for "reside" is necessary because military families are entitled to retain their original state residencies during their military service in other states. Requirements addressing residency would be inconsistent with this practice and could cause military families to suffer adverse tax, legal, and financial consequences.

**Comment [ 4 ]:** Deletion necessary for consistency throughout rule.

**Comment [ 5 ]:** Deletion necessary for consistency throughout rule.

**Comment [ 6 ]:** This is unnecessary advisory language.

**Comment [ 7 ]:** This sentence is redundant since the final sentence of the Section (a) establishes the burden of proof borne by the applicant for the entire application.

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**Comment [ 8 ]:** This change establishes that the Utah Military Spouse rule will operate based on reciprocal admission. The submission of test score is then used in Section (f) below to determine whether a Military Spouse Attorney requires mentorship or supervision.

**Comment [ 9 ]:** Unauthorized Practice of Law is a term of art defined by Rule 5.5 of the Utah Rules of Professional Conduct.

is not currently subject to lawyer discipline or the subject of a pending disciplinary matter;

(a)(10) is the spouse of an active duty service member of the United States Uniformed Services as defined by the Department of Defense and the service member ~~is on~~ has received military orders for a permanent change of station to reside in Utah;

~~(a)(11) will be physically residing in Utah at the time of, and as a prerequisite to, admission under this rule;~~

(a)(~~11~~) if intending to practice pending admission, has identified an active member of the Bar in good standing who has agreed to actively supervise the Military Spouse Attorney in accordance with the supervisory requirements specified in subsection (b) of this rule, as evidenced by a verification signed by both the Military Spouse Attorney and the supervising attorney; and

(a)(~~12~~) complies with the provisions of Rule 14-716 concerning licensing and enrollment fees.

(b) Practice Pending Admission Certificate. ~~Supervision by local counsel pending admission.~~ While ~~the an complete~~ application under this rule is pending, ~~the a~~ Military Spouse Attorney may practice pending admission upon issuance of a Practice Pending Admission Certificate in accordance with subsection (c) of this rule. While practicing pending admission, the Military Spouse Attorney must be fully supervised by an active member of the Bar in good standing as set forth herein. Required supervision ceases upon the Military Spouse Attorney's admission to the Bar under this rule. For the duration of the supervision, the supervising attorney shall:

(b)(1) assume full responsibility for all matters to be handled by the Military Spouse Attorney; and

(b)(2) be included by name on all pleadings and papers.

(c) Timing and processing of ~~complete~~ application. An application under this rule may be filed at any time, ~~but the applicant must be able to demonstrate that she or he satisfies the requirements of this rule as of the date the application is filed and through the date of admission.~~ The Bar will promptly conduct a preliminary character and fitness review of ~~the a Military Spouse Application~~ completed application submitted by a Military Spouse Attorney. Upon satisfactory completion of the preliminary review and upon confirming that the Military Spouse Attorney is ~~residing~~ present in Utah, the Bar will issue a Practice Pending Admission Certificate to the applicant. The Practice Pending Admission Certificate authorizes the Military Spouse Attorney to begin practice in accordance with this rule while the application is pending. The Certificate expires 120 days after issuance, but a new certificate may be issued if the applicant has not been dilatory in supplying required information during the processing of the application.

**Comment [ 10]:** This change clarifies that Military Spouse Attorneys may begin the application process upon receipt of a military order, rather than upon physical arrival in Utah.

**Comment [ 11]:** As explained above, the concept of residency is problematic because of potential collateral consequences for military families. Requiring a Military Spouse Attorney to certify Utah residency would be inconsistent with this practice and could cause military families to suffer adverse tax, legal, and financial consequences.

**Comment [ 12]:** Subsequent section (f) addresses mentoring and supervision requirements. This deletion avoids conflation of Practice Pending requirements versus post-admission mentoring and supervision requirements.

**Comment [ 13]:** The burden of proof for the applicant is defined in Section (a), making a secondary standard potentially problematic. To the extent that this requirement may be justified, it should be integrated with the burden of proof standard set in Section (a).

**Comment [ 14]:** As explained above, the concept of residency is problematic because of potential collateral consequences for military families.

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(d) Jurisdiction and Authority. The practice of a lawyer admitted under this rule shall be subject to the Utah Rules of Professional Conduct and Article 5, Lawyer Discipline and Disability, and to all other applicable laws and rules governing lawyers admitted to the Bar. Jurisdiction shall continue whether or not the Military Spouse Attorney retains the privilege to practice in Utah and irrespective of the residence or domicile of the Military Spouse Attorney.

(e) Continuing legal education. Applicants admitted under this rule that have two or more years of legal practice shall complete, document and certify no later than six months following admission ~~that she or he has~~ having attended at least 15 hours of continuing legal education on Utah practice and procedure, ~~and~~ on ethics and civility requirements.

(e)(1) The Bar may by regulation specify the number of the required 15 hours that must be in particular areas of practice, procedure, ~~and~~ ethics, and civility. Included in this mandatory 15 hours is attendance at the Bar's OPC ethics school.

~~(e)(2) Those with less than two years of practice when admitted must complete the New Lawyer Training Program (NLTP) as outlined in Rules 14-404 and 14-808.~~

(e)(~~3~~2) On an ongoing basis, attorneys admitted ~~pursuant to~~ under this rule must comply with the continuing legal education requirements imposed on lawyers under Article 4.

(f) Mentoring and Supervision. A Military Spouse Attorney with less than two years of Active Practice when admitted must obtain a mentor and complete the New Lawyer Training Program (NLTP) as outlined in Rules 14-404 and 14-808. A Military Spouse Attorney with less than two years of Active Practice who has not presented an MBE score above 134 or UBE score above 269 must be affiliated at all times with an active member of the Bar in good standing who has agreed to supervise the Military Spouse Attorney and assume full responsibility for all matters handled by the Military Spouse Attorney. A Military Spouse Attorney subject to this supervision requirement must also enroll in the Bar's approved professional liability insurance program or obtain equivalent insurance coverage. Term of provisional license to practice in Utah. An attorney admitted pursuant to this rule has a provisional license for a maximum of 48 months from the date of admission.

(g) Annual licensing. An attorney admitted ~~pursuant to~~ under this rule is subject to annual licensing and enrollment fees, and during the annual licensing period must provide to the Bar proof of continuing compliance with (a)(8) through (a)(~~10~~10).

(h) Mandatory status reporting. An attorney admitted ~~pursuant to~~ under this rule and ~~the~~ any required supervising attorney are each responsible for notifying the Bar in writing within ~~20~~ 21 days of any change that may affect the Military Spouse Attorney's ~~privilege~~ license to practice law under this rule.

**Comment [ 15]:** Fewer words and avoids the unnecessary use of pronouns.

**Comment [ 16]:** This change facilitates parallel construction and avoids a run-on sentence with redundant conjunctions.

**Comment [ 17]:** Corrected version mirrors Rule 14-712(d)(1) by including civility training.

**Comment [ 18]:** Corrected to mirror Rule 14-712(d)(2).

**Comment [ 19]:** Moved to Section (f) below.

**Comment [ 20]:** Change for consistency.

**Comment [ 21]:** The timing for the termination of Military Spouse Attorney licenses is defined by Section (i) below. This expiration term would be arbitrary and potentially inconsistent with the realities of military service.

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**Comment [ 22]:** Change for consistency.

**Comment [ 23]:** Change for consistency.

**Comment [ 24]:** This change is consistent with other rules promulgated by the Utah Supreme Court to use seven day increments (7/14/21) for time periods.

**Comment [ 25]:** Correction for accuracy. Successful applicants will have licenses to practice law in Utah.

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(i) Termination of ~~provisional~~ license to practice in Utah. ~~The a Military Spouse Attorney's provisional~~ license terminates and ~~the attorney a Military Spouse Attorney~~ must cease all activities under this rule:

**Comment [ 26 ]:** Deletion necessary for consistency throughout rule.

**Comment [ 27 ]:** Deletion necessary for consistency throughout rule.

(i)(1) ~~six months after the military service member is permanently transferred outside Utah on military orders with dependents authorized, receives orders to reside in a place other than Utah, unless the assignment transfer is unaccompanied or a remote follow-on assignment and the attorney Military Spouse Attorney continues to physically reside remains in Utah during the service member's remote assignment until the unaccompanied or remote assignment ends;~~

**Comment [ 28 ]:** Changes made to be consistent with military terminology and practices.

**Comment [ 29 ]:** Substitute term "remain" used instead of "reside" to avoid the problematic concept of residency for military families.

(i)(2) ninety days after:

(i)(2)(i) ~~the military service member dies, separates, or retires from the United States Uniformed Services; the military service member leaves active duty in the military, including both voluntary and involuntary separation and retirement;~~

**Comment [ 30 ]:** Changes made to be consistent with military terminology and practices.

(i)(2)(ii) ~~the Military Spouse Attorney ceases to be a dependent as defined by the United States Department of Defense; the military service member and the Military Spouse Attorney legally separate or divorce;~~

**Comment [ 31 ]:** Changes made to be consistent with military terminology and practices.

(i)(3) thirty days after the Military Spouse Attorney ~~permanently relocates outside Utah for reason other than the military service member's permanent change of station; moves her or his residence out of the state of Utah;~~

**Comment [ 32 ]:** Changes made to be consistent with military terminology and practices.

(i)(4) immediately upon:

(i)(4)(i) failure to ~~provide annual proof of continuing compliance as required by~~ comply with subsection (g);

**Comment [ 33 ]:** Avoids redundancy and omits unnecessary words.

(i)(4)(ii) failure to maintain an active license in at least one ~~other~~ U.S. state, territory, or the District of Columbia;

**Comment [ 34 ]:** Addition avoids ambiguity about whether Utah license satisfies this requirement.

(i)(4)(iii) any termination of sponsorship by ~~the a~~ supervising attorney ~~as if~~ required by subsection (b), or the failure of ~~the a~~ supervising attorney to be an active member of the Bar in good standing;

**Comment [ 35 ]:** Change made to be consistent with Section (f).

(i)(4)(iv) ~~admission to the Bar under any other rule; or receiving a failing score on the Utah Bar Examination;~~

**Comment [ 36 ]:** Military Spouse Attorney licensure is obviated by admission to the Bar under another provision.

**Comment [ 37 ]:** Bar failure contingency already addressed in Section (f). Deletion also avoids harsh results that could harm clients.

(i)(4)(v) ~~receipt of notice by the Utah Supreme Court terminating the provisional license, with or without cause; or~~

**Comment [ 38 ]:** Deletion necessary to avoid due process violation. All licensed attorneys, including Military Spouse Attorneys, are entitled to due process prior to loss of licensure.

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(i)(4)(v) an order of termination by any disciplinary proceeding in Utah or upon disbarment or suspension of any other license of the Military Spouse Attorney from another jurisdiction.

(j) Required action after termination. Upon termination of ~~authority a license~~ to practice ~~in Utah under this rule~~, the Military Spouse Attorney must comply with Rule 1.16 of the Utah Rules of Professional Conduct, including the transfer of pending matters, written notice to clients and notification of courts, as required or necessary under the ~~circumstances.~~

**Comment [ 39]:** Correction for accuracy. Military Spouse Attorneys will have licenses to practice law in Utah. *See, e.g.*, Section (k) below.

**Comment [ 40]:** Deletion of duplicate punctuation.

(k) Failure to satisfy the notice and termination of practice requirements set forth in subsections (e), (h) and (i) may subject ~~the a~~ Military Spouse Attorney to discipline, including the termination of ~~the a~~ license granted under this rule.

(l) Reinstatement after ~~temporary~~ termination of ~~provisional~~ license. A Military Spouse Attorney whose ~~provisional~~ license was terminated pursuant to subsection (i) shall have the license reinstated if within six months ~~from the termination~~, the Military Spouse Attorney ~~is able to demonstrate~~ ~~actual~~ compliance with all the requirements of this rule upon termination of the license and that the terminating event has been cured.

**Comment [ 41]:** Deletion necessary for lack of any other references to a "temporary termination."

**Comment [ 42]:** Deletion necessary for consistency throughout rule.

**Comment [ 43]:** Deletion necessary for consistency throughout rule.

**Comment [ 44]:** Deletion due to internal redundancy within sentence.

**Comment [ 45]:** Deletion of redundancy. Compliance is actual by definition.

**Comment [ 46]:** There is no category of "permanent Active member of the Bar" under Article 7. Provision deleted because it serves no apparent purpose.

**Comment [ 47]:** Capitalization of reference to Rule 14-705.

**Comment [ 48]:** Global recognition of Utah service time establishes consistency in application of other rules addressing service time such as licensure categories, CLE requirements, etc.

**Comment [ 49]:** Deletion of unnecessary recitation of requirements for admission by motion under Rule 705.

~~(m) Full admission to the Utah State Bar. To become a permanent Active member of the Bar, a Military Spouse Attorney must comply with the provisions of Article 7.~~

~~(m)(1) Service Time and Exception to admission Admission by motion Motion Rule. Any period of time a Military Spouse Attorney practices under this rule counts under all rules measuring a lawyer's time practicing law or as a member of the Bar, including Rules 14-203 and 14-705, provided that the The time spent practicing from an office in Utah as an admitted Military Spouse attorney may be counted toward the time in practice requirement for admission by motion if the Military Spouse Attorney has never committed engaged in the unauthorized practice of law in Utah, the state of Utah and meets all other requirements under Rule 14-705, including full time, active practice as defined in Rule 14-701(b), (t), and (ff) for 60 of the last 84 months, and the maintenance of an active license in a reciprocal jurisdiction.~~