

Supreme Court of Kentucky

2021-13

ORDER

IN RE: Amendments to the Rules of the Supreme Court, Rules of Civil Procedure and Rules of Criminal Procedure

The following Supreme Court Rules shall be effective May 1, 2021:

II. Admissions of Persons to Practice Law

SCR 2.116 – Supervised Practice

New Rule 2.116 shall read:

1. The purpose of this Rule is to allow law school graduates not licensed in any other jurisdiction to practice under supervision while studying for the Kentucky Bar Examination and awaiting results.
2. Applications for supervised practice shall be electronically submitted on forms approved by the Board of Bar Examiners and the Character and Fitness Committee. Application forms are available on the Kentucky Office of Bar Admissions website at www.kyoba.org.
3. An individual may be eligible for supervised practice if he or she:
 - a. Has never been licensed to practice law in another state in the United States, the District of Columbia, or U.S. Territories;
 - b. Meets the moral character and fitness requirements of SCR 2.011;
 - c. Meets the educational requirements of SCR 2.014;
 - d. Works in Kentucky under the supervision of a licensed lawyer who is admitted and in good standing in Kentucky; and
 - e. Has:
 - i. submitted an application for the Kentucky Bar Examination pursuant to SCR 2.022 or 2.023;
 - ii. taken the Bar Examination as provided under SCR 2.080 but not yet received notification of the results of the examination; or
 - iii. submitted a Uniform Bar Examination score transfer application under SCR 2.090 but has not yet been admitted as a member of the Kentucky bar.
4. An applicant who has been approved under this Rule but is unsuccessful on the Kentucky Bar Examination may continue to

practice under supervision if he or she submits a re-application for admission by examination under SCR 2.204 within ten days of being notified of the failing score. An applicant who fails to file a re-application for admission within ten days will no longer be eligible to engage in supervised practice.

5. Supervision

- a. An applicant under this Rule must be under the direct supervision of an attorney who meets the requirements of paragraph (c), below. The applicant shall disclose the name, address, and membership status of the supervising attorney, which disclosure shall be filed with the Office of Bar Admissions and the Kentucky Bar Association.
- b. A supervising attorney is responsible for ensuring an applicant is properly supervised and in compliance with the Kentucky Rules of Professional Conduct (SCR 3.130).
- c. The supervising attorney must:
 - i. be a lawyer licensed and in good standing with the Kentucky Bar Association;
 - ii. have practiced for a minimum of four years;
 - iii. assume professional responsibility for the direct and immediate supervision for the professional work of the applicant;
 - iv. file a signed verification form certifying the applicant's association with and supervision by that attorney with the Office of Bar Admissions and the Kentucky Bar Association; and
 - v. be identified in all papers submitted to a court, government agency or authority, or alternative dispute resolution tribunal, on which the applicant's name appears.

6. The applicant shall be subject to the disciplinary authority of the Kentucky Bar Association and Kentucky Supreme Court and shall comply with the Kentucky Rules of Professional Conduct (SCR 3.130) and all other ethics and related rules of this jurisdiction, including specifically but not limited to rules requiring truthful and non-misleading advertising or other public statements concerning his or her limited authority to practice. The applicant is not permitted to advertise independently of the supervising attorney.

7. The applicant shall affirmatively state in all written (including electronic) communications with the public and clients the following language: "Practice temporarily authorized pending admission to the Kentucky Bar Association." In the initial consultation, the applicant shall affirmatively inform prospective clients with whom the applicant meets (whether in person, by phone or any other means) of the

applicant's temporary authorization to practice pending admission to the Kentucky Bar Association.

8. Verification. Upon an applicant's satisfactory completion of the application process and provided that the applicant is certified to have the requisite good moral character and fitness to practice law and the applicant has met all of the requirements of this rule, the Board and the Committee shall certify their recommendations to the Supreme Court that the applicant is eligible for temporary admission pursuant to this rule.
9. Oath. Any applicant authorized to perform legal services under this Rule must subscribe to the following oath and submit a signed and notarized copy with the Clerk of the Supreme Court:

OATH OF BAR APPLICANT
UNDER SUPERVISED PRACTICE RULE

I, _____, do solemnly swear that I will, as an applicant who has been temporarily admitted under Supreme Court Rule 2.116, Supervised Practice of Law Pending Admission, support and defend the Constitution of the United States and the Constitution of the Commonwealth of Kentucky; that cognizant of the trust placed in me and the responsibility it carries, I will conduct myself in all matters to the extent given me as an officer of the court with the utmost fidelity towards the court and all persons whose affairs are in any way entrusted to me; that I will neither take part in deception of the court, nor allow deception to take place, and should any be practiced will inform the court; that I subscribe to and will abide by the Rules of Professional Conduct as adopted by the Supreme Court of Kentucky; and that I will so exercise these privileges given me that it may be alike useful in the service of justice and in my preparation to assume full responsibility later as a member of the bar.

Bar Applicant

The above and foregoing Oath was sworn to and subscribed to by the above-named Bar Applicant and administered to him/her by me, on this ____ day of _____, 20__.

My Commission expires: _____.

10. Automatic Termination. The authority in this rule shall terminate immediately if the applicant:
 - a. Successfully passes the Kentucky Bar Examination and takes the oath of office required by Section 228 of the Kentucky Constitution;
 - b. Withdraws the application for admission by examination or Admission by UBE transferred score;
 - c. Successfully transfers a Uniform Bar Examination score and takes the oath of office required by Section 228 of the Kentucky Constitution;
 - d. Fails to obtain a passing score on the first bar examination the applicant takes and fails to reapply within ten days, as required by section 4 of this Rule;
 - e. Fails to obtain a passing score on the second Kentucky bar examination the applicant takes;
 - f. Is subject to a formal charge in a disciplinary proceeding; or
 - g. Is subject to an investigation by the Character and Fitness Committee subsequent to its initial certification.

11. The authority in this rule shall also terminate immediately if the supervising attorney ceases to be an active member in good standing of the Kentucky Bar Association or withdraws the verification required by this rule.

12. In no event shall an applicant be permitted to practice under this Rule for more than sixteen months from the date he or she graduated from law school.

13. Required Action After Termination of Authority. Upon termination of authority to practice law pursuant to this rule, the applicant must notify, in writing, the Clerk of the Supreme Court, the Kentucky Bar Association, and all clients in pending matters, and opposing counsel, co-counsel and court clerks in pending litigation, of the termination of authority, and immediately cease practicing law in Kentucky. Termination of authority is not the equivalent of disbarment or other disciplinary action.

SCR 2.117 – Practice Pending Admission

New Rule 2.117 shall read:

1. The purpose of this Rule is to permit an attorney who is licensed and in good standing in another jurisdiction and who has applied for admission under SCR 2.090 or SCR 2.110 to practice while his or her application is pending.

2. Applications for practice pending admission shall be electronically submitted on forms approved by the Board of Bar Examiners and the

Character and Fitness Committee. Application forms are available on the Kentucky Office of Bar Admissions website, www.kyoba.org.

3. A lawyer who is eligible to practice under paragraph (1) may provide legal services in this jurisdiction for no more than one year, provided that the lawyer:
 - a. Maintains a continuous presence in Kentucky with the intent to practice law;
 - b. Is not disbarred or suspended from practice in any jurisdiction;
 - c. Reasonably expects his or her application for admission to be granted;
 - d. Notifies the Kentucky Bar Association in writing within thirty days of first establishing an office or other continuous presence for purposes of practicing of law in this jurisdiction;
 - e. Associates with a lawyer who is admitted to practice and in good standing in Kentucky;
 - f. Affirmatively states in all written (including electronic) communications with the public and clients the following language: "Practice temporarily authorized pending admission to the Kentucky Bar Association;"
 - g. Affirmatively informs prospective clients with whom the applicant meets (whether in person, by phone or any other means) of the applicant's temporary authorization to practice pending admission to the Kentucky Bar Association;
 - h. Submits the application required under section (2) of this rule;
 - i. Pays the fee associated with the application for Practice Pending Admission; and
 - j. Notifies the Kentucky Bar Association and the Office of Bar Admission if the lawyer becomes the subject of a pending disciplinary investigation in any other jurisdiction at any time during the period of practice authorized under this provision.

4. Termination of Right of Practice Pending Admission. The right to practice pending admission under this section terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law; or if a formal complaint is filed with the Kentucky Bar Association. Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within ten days, shall:
 - a. Cease to occupy an office or other continuous presence for the purpose of practicing law in Kentucky unless authorized to do so pursuant to another Rule;
 - b. Notify all clients being represented in pending matters, and opposing counsel or co-counsel, of the termination of the

lawyer's authority to practice pursuant to the authority in this section; and

- c. Take all other necessary steps to protect the interests of the lawyer's clients.

5. Change in Associated Attorney

- a. If the lawyer with whom the applicant has associated terminates the association or no longer qualifies under paragraph 3(f) of this Rule, or if the applicant terminates the association, the lawyer with whom the applicant has associated and the applicant shall file notice with the Kentucky Bar Association and the Office of Bar Admissions severing the association.
- b. The applicant may continue to practice pending admission if, within ten days of providing the notice required in paragraph (a), the applicant:
 - i. Associates with another lawyer;
 - ii. Provides notice of the association to the Kentucky Bar Association and the Office of Bar Admissions;
 - iii. Submits the application required under section (2) of this rule;
 - iv. Pays the fee associated with the application for Practice Pending Admission;

6. If the applicant does not associate with another lawyer within ten days of providing notice as required under paragraph (1), the applicant's permission to practice pending admission terminates, and the applicant must comply with the requirements of section (4) of this Rule.

X. AMENDMENTS

SCR 10.000 Amendment of rules

New Section X and new rule SCR 10.000 shall read:

1. Suggestions for amendment of these rules may be submitted directly to the Supreme Court for its consideration.
2. Unless otherwise ordered by the Supreme Court, all substantial amendments will be published in an official publication of the Kentucky Bar Association or mailed to the members of the Kentucky Bar Association at least 60 days before they become effective. Publication or mail may be accomplished electronically.

The following amendments to the Rules of Civil Procedure shall be effective May 1, 2021:

CR 87 Amendment of rules

CR 87 shall read:

1. Suggestions for amendment of these rules may be submitted directly to the Supreme Court for its consideration.
2. Unless otherwise ordered by the Supreme Court, all substantial amendments will be published in an official publication of the Kentucky Bar Association or mailed to the members of the Kentucky Bar Association at least 60 days before they become effective. Publication or mail may be accomplished electronically.

The following amendments to the Rules of Criminal Procedure shall be effective May 1, 2021:

RCr 13.08 Amendment of Rules

RCr 13.08 shall read:

1. Suggestions for amendment of these rules may be submitted directly to the Supreme Court for its consideration.
2. Unless otherwise directed ordered by the Supreme Court, all substantial amendments will be published in an official publication of the Kentucky Bar Association or mailed to the members of the Kentucky Bar Association at least 60 days before they become effective. Publication or mail may be accomplished electronically.

This Order shall be effective May 1, 2021.

Entered this 27th day of April 2021.


CHIEF JUSTICE

All sitting; all concur.