

COURT NOTICES

AMENDMENT OF RULE Court of Appeals

At a session of the Court, held at
Court of Appeals Hall in the City of
Albany, on the 10th day of
December, 2015.

Present, HON. JONATHAN LIPPMAN, Chief Judge presiding.

In the Matter
of
The Amendment of the Rules of the
Court of Appeals for the Admission of
Attorneys and Counselors at Law.

Pursuant to section 53 of the Judiciary Law, it is hereby

ORDERED that Part 520 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law (22 NYCRR Part 520) is amended, effective December 30, 2015, or as soon thereafter as section 52 of the Judiciary Law is complied with, by deleting the bracketed material and adding the underlined material to sections 520.3(c)(4) and 520.6(b)(3)(vii)(a), and by adding a new section 520.18.

§ 520.3 Study of Law in Law School

(c)(4) *There shall be no limit on t*[T]he total number of credit hours granted for law school clinical courses, field placement programs, [and] externships *and other experiential learning courses* [, including classroom components, may not exceed 30 of the 83 credit hours required for graduation].

§ 520.6 Study of Law in Foreign Country; Required Legal Education

(b)(3)(vii)(a) [a maximum of four] credit hours in clinical courses, *field placements, externships and other experiential learning courses*, [provided:

(1) the clinical course includes a classroom instructional component in order to ensure contemporaneous discussion, review and evaluation of the clinical experience;

(2) the clinical work is done under the direct supervision of a member of the law school faculty; and

(3) the time and effort required and anticipated educational benefit are commensurate with the credit awarded;] and

§ 520.18 Skills Competency Requirement for Admission

(a) *General. Every applicant for admission to practice, other than applicants for admission without examination pursuant to section 520.10 of this Part, or applicants who qualify for the bar examination under section 520.4 or 520.5 of this Part, shall demonstrate that the applicant possesses the skills and values necessary to provide effective, ethical and responsible legal services in this State. An applicant may satisfy this requirement by submitting proof of compliance with one of the following five subdivisions.*

(1) *Law school certification of competence in skills and professional values.*

(i) *An applicant may submit from an American Bar Association-approved law school a certification confirming that:*

(a) *the law school has developed a plan identifying and incorporating into its curriculum the skills and professional values that, in the school's judgment, are required for its graduates' basic competence and ethical participation in the legal profession, as required by American Bar Association Standards and Rules of Procedure for the Approval of Law Schools Standard 302(b), (c) and (d), and has made this plan publicly available on the law school's website; and*

(b) *the applicant has acquired sufficient competency in those skills and sufficient familiarity with those values.*

(ii) *For purposes of this subdivision, a school may certify that an applicant has attained the required skill level if the graduate received a grade that the school considers sufficient to demonstrate competence in courses the school has designated as teaching the skills and professional values needed for basic competence and ethical participation in the legal profession.*

(iii) *A law school may adopt such other means of assessing its students' achievement of the required skills for purposes of this subdivision, provided the school receives the prior approval of the Court of Appeals.*

(2) *Law school certification of credit acquisition. An applicant may submit a certification from the applicant's approved law school confirming that the applicant enrolled in and successfully completed 15 credit hours, as defined by American Bar Association Standards for the Approval of Law Schools, of practice-based experiential coursework designed to foster the development of professional competencies. The 15 credits may be earned in whole or half credits.*

(i) *For purposes of this subdivision, practice-based experiential coursework is coursework that:*

(a) *develops the concepts underlying the practice competencies being taught;*

(b) *provides opportunities for performance by the student other than traditional classroom discussion;*

(c) *provides for regular individualized student feedback from a faculty member; and*

(d) *provides opportunities for student self-reflection.*

(ii) *Practice-based, experiential coursework includes, but is not limited to, those courses designated by a school as "experiential courses" under American Bar Association Standards for the Approval of Law Schools.*

(iii) *A law school may not count toward this requirement the first four credits earned in an introductory first-year legal research and writing class, first-year moot court class, or any combination thereof.*

(iv) *A student may earn up to six of the fifteen required credits through law school certified non-credit bearing summer employment supervised by an attorney in good standing in any state or territory of the United States or the District of Columbia. The supervising attorney must certify to the law school the beginning and ending dates of the employment, that the student satisfactorily completed the employment, and that the work experience: provided the student with an initial orientation session; implemented a system for assignments that assured that the student was actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing*

practical work of the law office during normal business hours and throughout the required period; provided the student with experience and guidance in the skills and values required for basic competence and ethical participation in the legal profession; gave the student timely oral and written feedback; and engaged the student in reflection on his/her experiences and learning during the employment. At least 50 hours of full-time employment is required for each substituted credit under this subdivision.

(v) *Certification.* The certification of an applicant's compliance with this paragraph shall list the courses or parts of courses in the law school curriculum and, if applicable, the work experiences completed by the applicant that meet the 15-credit requirement as set forth herein.

(vi) *Alternative method of compliance.* If the law school does not submit the certification as required in paragraph (v), the applicant may submit evidence to the Court of Appeals that the requirements of this subdivision have been met by providing a list of the practice-based experiential courses taken by the applicant, the credits awarded, and the course descriptions and/or other information demonstrating that each course meets the requirements of this subdivision. Upon concluding that the applicant has submitted sufficient proof of compliance with this subdivision, the Court shall issue a determination to that effect.

(3) *Pro Bono Scholars Program.* An applicant who has successfully completed the Pro Bono Scholars Program as prescribed in section 520.16 of this Part shall be deemed to have met the skills competency requirement.

(4) *Apprenticeship.* An applicant may complete a six-month full-time paid or unpaid apprenticeship in a law office in the United States, under the supervision of one or more attorneys who have, for at least two years, been admitted to practice and in good standing in the jurisdiction where the apprenticeship occurs. For an applicant who is unable to secure an apprenticeship in the United States, the applicant may complete the apprenticeship in a law office in another country, territory or commonwealth outside the continental United States, under the supervision of one or more attorneys who have, for at least two years, been in good standing and authorized to practice law in that country, territory or commonwealth. In countries, territories or commonwealths that permit the practice of law without formal admission, supervision by a law graduate who has not been formally admitted to the bar may suffice as long as the supervisor is authorized to engage in the relevant practice under the jurisdiction's rules, is in full compliance with the jurisdiction's rules, and has had at least two years of experience in the relevant practice.

(i) *Timing.* The apprenticeship shall be continuous for the six-month period, and shall commence after the conclusion of the applicant's law studies, except that an applicant who is required to complete an LL.M. program at an approved law school pursuant to section 520.6(b) of this Part may complete the apprenticeship before commencing the LL.M. program. The apprenticeship must be completed in its totality within the three-year application filing deadline provided in section 520.12(d) of this Part.

(ii) *Supervisor responsibilities.* Apprenticeship supervisors are responsible for (1) certifying the beginning and ending dates of the apprenticeship; (2) providing the applicant with an initial orientation session; (3) implementing a system for assignment that assures that the applicant is actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing practical work of the law office during normal business hours and throughout the required period; (4) providing the applicant with experience and guidance in the skills and values required for basic competence and ethical participation in the legal profession; (5) giving timely oral and written feedback to the applicant; (6) engaging the applicant in reflection on his/her experiences and learning during the apprenticeship; and (7) certifying that the preceding elements have been complied with, and that the applicant has satisfactorily completed the apprenticeship.

(iii) *Any apprenticeship completed under this paragraph shall be conducted in compliance with all applicable federal, state and local laws and regulations.*

(5) *Practice in another jurisdiction.* An applicant who has been

authorized to practice law in another United States jurisdiction or any other country, territory or commonwealth outside the continental United States may satisfy the skills competency requirement by establishing and submitting proof that the applicant has been in good standing and practiced law in that jurisdiction full-time for at least one year or half-time for two years following the applicant's authorization to practice. Prior legal practice may qualify even if it occurred without formal admission to the bar if the applicant engaged in lawful practice in a country, territory or commonwealth that permits legal practice without formal admission to the bar, and if the prior practice was for at least one year or half-time for two years, in full compliance with the jurisdiction's rules. For an applicant who qualifies for the bar exam after completion of an LL.M. degree pursuant to section 520.6 of this Part, the applicant's practice may occur before or after commencement of the LL.M. program.

(b) *Proof required.* An applicant shall submit to the appropriate Appellate Division department of Supreme Court an Affidavit of Compliance with the Skills Competency Requirement. The Appellate Division may, in its discretion, require the applicant to submit any additional proof it deems necessary to ensure compliance with this section.

(c) *Implementation.* For applicants who qualify for the bar examination under section 520.3 of this Part, and for applicants who qualify for the bar examination under section 520.6 of this Part on the basis of their foreign legal education alone, the requirements of this section shall first apply to those commencing their law study after August 1, 2016. For applicants who qualify for the bar examination under section 520.6 of this Part after the completion of a qualifying LL.M. program, the requirements of this section shall first apply to those commencing their LL.M. program after August 1, 2018.

AMENDMENT OF RULE

Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany, on the 10th day of December, 2015.

Present, HON. JONATHAN LIPPMAN, Chief Judge presiding.

In the Matter
of
The Amendment of the Rules of the
Court of Appeals for the Registration
of In-house Counsel.

Pursuant to section 53 of the Judiciary Law, it is hereby ORDERED that Part 522 of the Rules of the Court of Appeals for the Registration of In-house Counsel (22 NYCRR Part 522) is amended, effective December 30, 2015, or as soon thereafter as section 52 of the Judiciary Law is complied with, by deleting the bracketed material and adding the underlined material to sections 522.1, 522.2, 522.3, 522.7, and 522.8.

§ 522.1 Registration of In-House Counsel

(a) *In-House Counsel defined.* An in-house counsel is an attorney who is employed full time in this State by a non-governmental corporation, partnership, association, or other legal entity, including its subsidiaries and organizational affiliates, that is not itself engaged in the practice of law or the rendering of legal services outside such organization.

(b) In its discretion, the Appellate Division may register as in-house counsel an applicant who:

(1) (i) has been admitted to practice in the highest law court in any other state or territory of the United States or in the District of Columbia; or (ii) is a member in good standing of a recognized legal profession in a foreign non-United States jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the

equivalent and subject to effective regulation by a duly constituted professional body or public authority;

(2) is currently admitted to the bar as an active member in good standing in at least one other jurisdiction, *within or outside the United States*, which would similarly permit an attorney admitted to practice in this State to register as in-house counsel; and

(3) possesses the good moral character and general fitness requisite for a member of the bar of this State.

§ 522.2 Proof required

An applicant under this Part shall file with the Clerk of the Appellate Division of the department in which the applicant resides, is employed or intends to be employed as in-house counsel:

(a) a certificate of good standing from each jurisdiction in which the applicant is licensed to practice law;

(b) a letter from each such jurisdiction’s grievance committee, or other body entertaining complaints against attorneys, certifying whether charges have been filed with or by such committee or body against the applicant, and, if so, the substance of the charges and the disposition thereof;

(c) an affidavit certifying that the applicant:

(1) performs or will perform legal services in this State solely and exclusively as provided in section 522.4; and

(2) agrees to be subject to the disciplinary authority of this State and to comply with the New York Rules of Professional Conduct (22 NYCRR Part 1200) and the rules governing the conduct of attorneys in the judicial department where the attorney’s registration will be issued; and

(d) an affidavit or affirmation signed by an officer, director, or general counsel of the applicant’s employer, on behalf of said employer, attesting that the applicant is or will be employed as an attorney for the employer and that the nature of the employment conforms to the requirements of this Part.

(e) *Documents in languages other than English shall be submitted with a certified English translation.*

§ 522.3 Compliance

An attorney registered as in-house counsel under this Part shall:

(a) remain an active member in good standing in at least one state or territory of the United States or in the District of Columbia *or a foreign jurisdiction as described in section 522.1(b)(1)*;

(b) promptly notify the appropriate Appellate Division department of a disposition made in a disciplinary proceeding in another jurisdiction;

(c) register with the Office of Court Administration and comply with the appropriate biennial registration requirements; and

(d) except as specifically limited herein, abide by all of the laws and rules that govern attorneys admitted to the practice of law in this State.

§ 522.7 Saving Clause and Noncompliance

(a) An attorney employed as in-house counsel, as that term is defined in section 522.1(a), [on the effective date of this Part, shall within 90 days of the date thereof, file an application in accordance with section 522.2. Attorneys employed as in-house counsel after the effective date of this Part] shall file [such] an application *in accordance with section 522.2* within 30 days of the commencement of such employment;

(b) Failure to comply with the provisions of this Part shall be deemed professional misconduct, provided, however, that the Appellate Division may upon application of the attorney grant an extension upon good cause shown.

§ 522.8 Pro bono legal services

Notwithstanding the restrictions set forth in section 522.4 of this Part, an attorney registered as in-house counsel under this Part may provide pro bono legal services in this State in accordance with New York Rules of Professional Conduct (22 NYCRR 1200.0) rule 6.1(b) and other comparable definitions of pro bono legal services in New York *under the following terms and conditions*. An attorney providing pro bono legal services under this section:

(a) shall be admitted to practice and in good standing in another state or territory of the United States or in the District of Columbia and possess the good moral character and general fitness requisite for

a member of the bar of this State, as evidenced by the attorney’s registration pursuant to section 522.1(b) of this Part;

(b) pursuant to section 522.2(c)(2) of this Part, agrees to be subject to the disciplinary authority of this State and to comply with the laws and rules that govern attorneys admitted to the practice of law in this State, including the New York Rules of Professional Conduct (22 NYCRR Part 1200.0) and the rules governing the conduct of attorneys in the judicial department where the attorney’s registration is issued;

(c) may appear, either in person or by signing pleadings, in a matter pending before a tribunal, as that term is defined in New York Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.0(w), at the discretion of the tribunal, without being admitted pro hac vice in the matter. Prior to any appearance before a tribunal, a registered in-house counsel must provide notice to the tribunal that the attorney is not admitted to practice in New York but is registered as in-house counsel pursuant to this Part. Such notice shall be in a form approved by the Appellate Division; and

(d) shall not hold oneself out as an attorney admitted to practice in this State, in compliance with section 522.4(d) of this Part.

AMENDMENT OF RULE

Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany, on the 10th day of December, 2015.

Present, HON. JONATHAN LIPPMAN, Chief Judge presiding.

In the Matter

of

The Amendment of the Rules of the Court of Appeals to add a new Part 523 thereof for the Temporary Practice of Law in New York.

Pursuant to section 53 of the Judiciary Law, it is hereby

ORDERED that the Rules of the Court of Appeals are amended, effective December 30, 2015, or as soon thereafter as section 52 of the Judiciary Law is complied with, by adding a new Part 523 thereof pertaining to the Temporary Practice of Law in New York. Part 523 provides as follows:

RULES OF THE COURT OF APPEALS FOR THE TEMPORARY PRACTICE OF LAW IN NEW YORK

§ 523.1 *General regulation as to lawyers admitted in another jurisdiction*

A lawyer who is not admitted to practice in this State shall not:

(a) *except as authorized by other rules or law, establish an office or other systematic and continuous presence in this State for the practice of law; or*

(b) *hold out to the public or otherwise represent that the lawyer is admitted to practice law in this State.*

§ 523.2 *Scope of temporary practice*

(a) *A lawyer who is not admitted to practice in this State may provide legal services on a temporary basis in this State provided the following requirements are met.*

(1) *The lawyer is admitted or authorized to practice law in a state or territory of the United States or in the District of Columbia, or is a member of a recognized legal profession in a non-United States jurisdiction, the members of which are admitted or authorized to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority; and*

(2) *the lawyer is in good standing in every jurisdiction where admitted or authorized to practice; and*

(3) *the temporary legal services provided by the lawyer could be*

provided in a jurisdiction where the lawyer is admitted or authorized to practice and may generally be provided by a lawyer admitted to practice in this State, and such temporary legal services:

(i) are undertaken in association with a lawyer admitted to practice in this State who actively participates in, and assumes joint responsibility for, the matter; or

(ii) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer or a person the lawyer is assisting is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized; or

(iii) are in or reasonably related to a pending or potential arbitration, mediation or other alternative dispute resolution proceeding held or to be held in this or another jurisdiction, if the services are not services for which the forum requires *pro hac vice* admission; or

(iv) are not within paragraph (3)(ii) or (3)(iii) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted or authorized to practice.

(b) A person licensed as a legal consultant pursuant to 22 NYCRR Part 521, or registered as in-house counsel pursuant to 22 NYCRR Part 522, may not practice pursuant to this Part.

§ 523.3 Disciplinary authority

A lawyer who practices law temporarily in this State pursuant to this Part shall be subject to the New York Rules of Professional Conduct and to the disciplinary authority of this State in connection with such temporary practice to the same extent as if the lawyer were admitted or authorized to practice in the State. A grievance committee may report complaints and evidence of a disciplinary violation against a lawyer practicing temporarily pursuant to this Part to the appropriate disciplinary authority of any jurisdiction in which the attorney is admitted or authorized to practice law.

§ 523.4 Annual report

On or before the first of September of each year, the Office of Court Administration shall file an annual report with the Chief Judge reviewing the implementation of this rule and making such recommendations as it deems appropriate.