

North Dakota State Court Rules

Limited Practice of Law by Law Students

I. PURPOSE

The bench and the bar are responsible for providing competent legal services for all persons, including persons unable to pay for those services. As one means of providing assistance to lawyers who represent clients unable to pay for legal services and to encourage law schools to provide clinical instruction in trial work of varying kinds, the following rule is adopted.

II. ACTIVITIES

A. An eligible law student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person represented has consented in writing to the appearance, the supervising lawyer has approved of the appearance in writing and the judge or administrative tribunal before whom the appearance is to be made and other counsel of record have been given notice of the appearance, in the following matters:

1. Any civil matter. In a civil matter, the supervising lawyer is not required to be personally present in court.

2. Any criminal matter in which the defendant does not have the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In those cases, the supervising lawyer is not required to be personally present in court.

3. Any criminal matter in which the defendant has the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In those cases, the supervising lawyer must be personally present throughout the proceedings.

B. An eligible law student may also appear in any criminal matter on behalf of the state with the written approval of the prosecuting attorney who must be personally present throughout the proceeding and is fully responsible for the manner in which they are conducted.

C. In each case, the written consent and approval referred to the above must be filed in the record of the case and be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

III. ELIGIBILITY REQUIREMENTS

In order to make an appearance pursuant to this Rule, a law student must:

A. Be duly enrolled in the University of North Dakota School of Law - or any other law school approved by the American Bar Association.

B. Have completed legal studies amounting to at least four semesters, or the equivalent if the school is on other than a semester basis; or, if the student is currently enrolled in the Clinical

Education Program at the University of North Dakota School of Law, must have completed legal studies amounting to at least three semesters.

C. Be certified by the Dean of the University of North Dakota School of Law, or any other law school approved by the American Bar Association, and a member of the North Dakota Bar Association, as being of good character and competent legal ability, and as being adequately trained to perform as a legal intern.

D. Be introduced to the court in which the student is appearing by an attorney admitted to practice in that court.

E. Neither ask for nor receive any compensation or remuneration of any kind from the person on whose behalf services are rendered; but a lawyer, legal aid bureau, law school, public defender agency, or the state may pay compensation to an eligible law student.

IV. CERTIFICATION

The certification of a student:

A. Must be filed with the Clerk of this Court and, unless it is earlier withdrawn, remains in effect until the expiration of eighteen (18) months after it is filed, or until the date of the student's graduation, whichever is earlier.

B. May be withdrawn at any time by the Dean by mailing a notice to that effect to the Clerk of this Court. The notice need not state the cause for withdrawal.

C. May be terminated by this Court at any time without notice or hearing and without cause.

V. OTHER ACTIVITIES

A. In addition, an eligible law student may engage in other activities, under the general supervision of a member of the bar of this Court, but outside the personal presence of the lawyer, including:

- 1.** Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but those pleadings or documents must be signed by the supervising attorney.
- 2.** Preparation of briefs, abstracts and other documents to be filed in appellate courts of this state, but those documents must be signed by the supervising lawyer.
- 3.** Except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court, assistance to indigent inmates of correctional institutions or other persons who request assistance in preparing applications for and supporting documents for post-conviction relief. If there is an attorney of record in the matter, the assistance must be supervised by the attorney of record, and all documents submitted to the Court on behalf of the client must be signed by the attorney of record.

4. Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If the student participated in drafting only a portion of it, that fact may be mentioned.

B. An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer.

VI. SUPERVISION

A member of the North Dakota Bar under whose supervision an eligible law student does any of the things permitted by this rule:

A. Must be a lawyer who is admitted to practice law in North Dakota and whose services as a supervising lawyer for this program is approved by the Dean of the law school in which the student is enrolled.

B. Shall assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.

C. Assist the student in preparation to the extent the supervising lawyer considers it necessary.

VII. TEMPORARY PRACTICE OF LAW SCHOOL GRADUATES APPLYING FOR ADMISSION

A graduate of any American law school approved by the American Bar Association, who has made application for the first North Dakota bar examination scheduled to be given following his or her graduation, may perform, under the supervision of a member of the State Bar Association of North Dakota, all acts authorized to be performed by senior law students under this Rule, provided a supervising attorney has certified to the State Board of Law Examiners that the graduate is of good character and competent legal ability. The authorization terminates on the day of the first admission to the bar ceremony before the Supreme Court after the North Dakota bar examination for which application is made or 10 months following graduation from law school, whichever occurs first.

VIII. MISCELLANEOUS

This rule does not affect the right of any person who is not admitted to practice law to do anything lawfully permitted before the adoption of this Rule.

IX.

THIS RULE AS AMENDED NOVEMBER 12, 1986, SHALL BECOME EFFECTIVE JANUARY 1, 1987.

(Section III amended September 16, 1987.)(Section VII amended September 11, 1996, subject to comment; adopted on a final basis October 23, 1996. Supreme Court No. 960263)

X. TITLE AND CITATION

These rules are titled, "Rule on Limited Practice of Law by Law Students," and may be cited as "R. Ltd. Practice of Law by Law Students."