

(As approved by the Multijurisdictional Task Force—September 13, 2007)

Rule 1A:7. Certification of Foreign Legal Consultants

(a) General Requirements. A person admitted to practice law by the duly constituted and authorized professional body or governmental authority of any foreign nation may apply to the Virginia Board of Bar Examiners (“Board”) for a certificate as a foreign legal consultant, provided the applicant:

(1) is a member in good standing of a recognized legal profession in a foreign ~~country~~ nation, the members of which are admitted 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 governmental authority;

(2) for at least five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession and has actually been engaged in the authorized practice of law ~~in the said foreign country, or elsewhere~~, substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the said foreign ~~country~~ nation;

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

(4) is at least twenty-six years of age; and

(5) intends to practice as a foreign legal consultant in this Commonwealth and maintain an office in this Commonwealth for that purpose.

(b) Proof Required. An applicant under this rule shall file with the secretary of the Board:

(1) an application for a foreign legal consultant certificate, on a form furnished by the Board,

(2) a certificate, for each foreign ~~country~~ nation in which the applicant is admitted to practice, from the professional body or governmental authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant’s admission to practice and the date thereof, and as to his or her good standing as an attorney or counselor at law or the equivalent;

(3) a letter of recommendation, for each foreign ~~country~~ nation in which the applicant is admitted to practice, from one of the members of the executive body of such professional body or governmental authority or from one of the judges of the highest law court or court of original jurisdiction of such foreign country;

(4) a duly authenticated English translation of each certificate and letter if, in either case, it is not in English;

(5) a copy or summary of the law, regulations, and customs of the foreign country that describes the opportunity afforded to a member of the Virginia State Bar (“the Bar”) to establish an office to provide legal services to clients in such foreign country, together with an authenticated English translation if it is not in English;

(6) the requisite documentation establishing the applicant’s compliance with the immigration laws of the United States; and

(7) such other evidence as to the applicant’s educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of paragraph (a) of this rule as the Board may require.

(c) Reciprocal Treatment of Members of the Bar of this Commonwealth. In considering whether to certify an applicant to practice as a foreign legal consultant, the Board may in its discretion take into account whether a member of the Bar would have a reasonable and practical opportunity to establish an office and give legal advice to clients in the applicant’s country of admission. Any member of the Bar who is seeking or has sought to establish an office or give advice in that country may request the Board to consider the matter, or the Board may do so *sua sponte*.

(d) — Scope of Practice. ~~A person certified to practice as a foreign legal consultant under this Rule may render legal services in the Commonwealth of Virginia subject, however, to the limitations that he or she shall not:~~

~~(1) — appear or prepare pleadings for a person, other than himself or herself, as an attorney in any court, or before any magistrate or other judicial officer, in the Commonwealth of Virginia;~~

~~(2) — prepare:~~

~~(i) — any instrument effecting the transfer or registration of title to real estate located in the United States of America; or~~

~~(ii) — any contract or other legal instrument effecting the transfer of ownership of, or other legal interest in, any business located in the United States of America, except as otherwise authorized by law;~~

~~(3) — prepare:~~

~~(i) — any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or~~

~~(ii) — any instrument relating to the administration of a decedent's estate in the United States of America;~~

~~(4) — prepare any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident;~~

~~(5) — render legal advice (whether rendered incident to the preparation of legal instruments or otherwise) on the law of the Commonwealth of Virginia, the District of Columbia, or of any other state or territory of the United States of America except on the basis of lawful association with a person duly qualified and entitled (otherwise than by virtue of having been licensed under this rule) to render such professional legal advice in the Commonwealth of Virginia;~~

~~(6) — be, or in any way hold himself or herself out as, a member of the Bar; or~~

~~(7) — carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:~~

~~(i) — his or her own name;~~

~~(ii) — the name of the law firm with which he or she is affiliated;~~

~~(iii) — his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country; and~~

~~(iv) — the title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."~~

(d) Scope of Practice. A person certified to practice as foreign legal consultant under this Rule may render legal services in the Commonwealth only with regard to matters involving the law of foreign nation(s) in which the person is admitted to practice or international law. For purposes of this paragraph, the term "international law" means a body of laws, rules or legal principles that are based on custom, treaties or legislation and that control or affect (1) the rights and duties of nations in relation to other nations or their citizens, or (2) the rights and obligations pertaining to international transactions.

The practice permitted under this rule does not authorize the foreign legal consultant to appear in court.

(e) Rights and Obligations. Subject to the scope of practice limitations set forth in paragraph (d) of this rule, a person certified as a foreign legal consultant under this rule shall be entitled and subject to:

(1) the rights and obligations contained in the Virginia Rules of Professional Conduct as set forth in Part 6, Section II of the Rules of the Supreme Court of Virginia; and the procedure for disciplining attorneys as set forth in Part 6, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia

(2) the rights and obligations of a member of the Bar with respect to:

(i) affiliation in the same law firm with one or more members of the bar of this Commonwealth, including by:

(A) employing one or more members of the Bar;

(B) being employed by one or more members of the Bar or by any partnership or other limited liability entity authorized to practice law pursuant to Part 6, Section IV, Paragraph 14 of the Rules of the Supreme Court of Virginia, which such entity includes an active member of the Bar or which maintains an office in this Commonwealth; and

(C) being a director, partner, member, manager or shareholder in any partnership or other professional limited liability entity authorized by Part 6, Section IV, Paragraph 14 to practice law in this Commonwealth which includes an active member of the Bar or which maintains an office in this Commonwealth; and

(ii) employment as in-house counsel under Part II of Rule 1A:5; and

(iii) attorney-client privilege, work-product privilege and similar professional privileges.

(3) No time spent practicing as a foreign legal consultant shall be considered in determining eligibility for admission to the Virginia bar without examination.

(f) Disciplinary Provisions. A person certified to practice as a foreign legal consultant under this Rule shall be subject to professional discipline in the same manner and to the same extent as any member of the Bar and to this end:

(1) Every person certified to practice as a foreign legal consultant under these Rules:

(i) shall be subject to regulation by the Bar and to admonition, reprimand, suspension, removal or revocation of his or her certificate to practice in accordance with the rules of procedure for disciplinary

proceedings set forth in Part 6, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia; and

(ii) shall execute and file with the Bar, in such form and manner as the Bar may prescribe:

(A) his or her commitment to observe the Virginia Rules of Professional Conduct and any other rules of court governing members of the bar to the extent they may be applicable to the legal services authorized under paragraph (d) of this Rule;

(B) a written undertaking to notify the Bar of any change in such person's good standing as a member of any foreign legal profession referred to in paragraph (a)(1) of this rule and of any final action of any professional body or governmental authority referred to in paragraph (b)(2) of this rule imposing any disciplinary censure, suspension, or other sanction upon such person; and

(C) a duly acknowledged instrument, in writing, setting forth his or her address in this Commonwealth which shall be both his or her address of record with the Bar and such person's actual place of business for rendering services authorized by this rule. Such address shall be one where process can be served and the foreign legal consultant shall have a duty to promptly notify the Membership Department of the Bar in writing of any changes in his or her address of record.

(g) Application and Renewal Fees. An applicant for a certificate as a foreign legal consultant under this rule shall pay to the Virginia Board of Bar Examiners the application fee and costs as may be fixed from time to time by the Board Supreme Court of Virginia. A person certified as a foreign legal consultant shall pay an annual fee to the Virginia State Bar which shall also be fixed by the Supreme Court of Virginia. A person certified as a foreign legal consultant who fails to complete and file the renewal form supplied by the Bar or pay the annual fee shall have his or her certificate as a foreign legal consultant administratively suspended in accordance with the procedures set out in Part 6, Section IV, Paragraph 19 of the Rules of the Supreme Court of Virginia.

(h) Revocation of Certificate for Non-Compliance. In the event that the Board determines that a person certified as a foreign legal consultant under this rule no longer meets the requirements under this rule, it shall revoke the certificate granted to such person hereunder.

(i) Reinstatement. Any foreign legal consultant whose authority to practice is suspended shall be reinstated upon evidence satisfactory to the Bar that such person is in full compliance with this rule; however, a reinstatement of a foreign legal consultant's certificate following a suspension for non-compliance with paragraph (g) of this rule shall

be governed by Part 6, Section IV, Paragraph 19 of the Rules of the Supreme Court of Virginia; and reinstatement of a foreign legal consultant's certificate following a disciplinary suspension or revocation shall be governed by Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia.

(j) Admission to Bar. In the event that a person certified as a foreign legal consultant under this rule is subsequently admitted as a member of the Bar under the provisions of the rules governing such admission, the certificate granted to such person hereunder shall be deemed superseded by the admission of such person to the Bar.

(k) Regulations. The Bar ~~or~~ and the Board may adopt regulations as needed to implement their respective responsibilities under this rule.

(m) Effective Date. This rule shall become effective on July 1, 2008.