

In the matter of Amendments to SCR 49.9 regarding limited practice of certain public defenders in rural counties

FILED

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
CHIEF DEPUTY CLERK

The Board of Governors of the State Bar of Nevada (State Bar) hereby petitions this court to amend SCR 49.9 regarding the limited practice for certain state public defenders in rural counties. The State Bar petitions this Court to expand the limited practice granted to attorneys admitted to the practice of law in another jurisdiction to those attorneys who become employed by rural county public defender offices.

The rule currently provides authority for attorneys not admitted in Nevada to practice law under limited authority for the State Public Defender in counties whose populations are fewer than 100,000 persons. Some rural Nevada counties such as Elko no longer use the State Public Defender and have created their own county public defender offices. However, these county offices do not possess the same authority under this rule as the State Public Defender to seek qualified, out-of-state attorneys to provide services. This has created a gap in available services to the rural areas. Therefore, this amendment seeks to include county public defender offices as eligible employers for attorneys licensed in another jurisdiction under SCR 49.9.

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1 The proposed amendment is as follows:

2 **Rule 49.9. Limited practice for certain deputy state public defenders in**
3 **rural counties.**

4 1. **Requirements.** Notwithstanding the provisions of Rule 49, an attorney
5 who is admitted to practice law in any other jurisdiction, and who becomes
6 employed by the State Public Defender or the county equivalent of such an office
7 to practice in a county whose population is [~~less~~] fewer than 100,000 persons, may
8 be certified to practice before all courts of this state subject to the conditions of
9 this rule and to such further conditions as the court may hereafter direct.

10 2. **Application.** Application for certification to practice law in this state
11 under the provisions of this rule shall be filed with the admissions director of the
12 state bar and shall be accompanied by:

13 (a) A certificate of good standing indicating that the attorney has been
14 admitted to practice law in another jurisdiction and is a member in good standing
15 in such jurisdiction.

16 (b) A statement signed by the State Public Defender or the county equivalent
17 public defender that such attorney is currently employed by [~~the Office of the~~
18 ~~State Public Defender~~] that office and will be practicing in a county whose
19 population is [~~less~~] fewer than 100,000 persons.

20 (c) A non-refundable application fee of \$150.

21 3. **Termination; renewal of certification.** Certification to practice under
22 this rule shall terminate whenever such attorney ceases to be employed by the
23 Office of the State Public Defender or the county equivalent of such an office or
24 ceases to practice in a county whose population is [~~less~~] fewer than 100,000.
25 When an attorney certified under this rule ceases to be so employed, the State

1 Public Defender or the county equivalent public defender shall immediately file
2 with the admissions director of the state bar a statement to that effect [~~shall be~~
3 ~~filed immediately with the admissions director of the state bar by the State Public~~
4 ~~Defender~~]. In no event shall certification to practice under this rule remain in
5 effect longer than 2 years. An attorney certified by the state bar to practice under
6 this rule who otherwise remains eligible to practice must annually renew the
7 certification in accordance with Rule 49.12.

8 **4. Limited practice.** An attorney certified to practice under this rule shall
9 perform no legal services within the State of Nevada except for the Office of the
10 State Public Defender or the county equivalent of such an office in counties whose
11 population is [~~less~~] fewer than 100,000 persons and shall only practice under the
12 supervision of an attorney in the Office of the State Public Defender or the county
13 equivalent of such an office who is an active, resident member of the State Bar of
14 Nevada. All pleadings signed by an attorney certified to practice under this rule
15 shall bear the name and office address, and be signed on behalf of, the attorney in
16 the Office of the State Public Defender or the county equivalent of such an office
17 responsible for supervising such attorney, who shall be deemed the attorney of
18 record in the cases wherein such pleadings are filed.

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1 The proposed rule, as amended, is attached hereto in its entirety as Exhibit A.

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3 Respectfully submitted this 23 day of May 2014.

4 STATE BAR OF NEVADA
5 BOARD OF GOVERNORS

6
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EXHIBIT A

Rule 49.9. Limited practice for certain deputy state public defenders in rural counties.

1. **Requirements.** Notwithstanding the provisions of Rule 49, an attorney who is admitted to practice law in any other jurisdiction, and who becomes employed by the State Public Defender or the county equivalent of such an office to practice in a county whose population is [less] fewer than 100,000 persons, may be certified to practice before all courts of this state subject to the conditions of this rule and to such further conditions as the court may hereafter direct.

2. **Application.** Application for certification to practice law in this state under the provisions of this rule shall be filed with the admissions director of the state bar and shall be accompanied by:

(a) A certificate of good standing indicating that the attorney has been admitted to practice law in another jurisdiction and is a member in good standing in such jurisdiction.

(b) A statement signed by the State Public Defender or the county equivalent public defender that such attorney is currently employed by [~~the Office of the State Public Defender~~] that office and will be practicing in a county whose population is [less] fewer than 100,000 persons.

(c) A non-refundable application fee of \$150.

3. **Termination; renewal of certification.** Certification to practice under this rule shall terminate whenever such attorney ceases to be employed by the Office of the State Public Defender or the county equivalent of such an office or ceases to practice in a county whose population is [less] fewer than 100,000. When an attorney certified under this rule ceases to be so employed, the State Public Defender or the county equivalent public defender shall immediately file with the admissions director of the state bar a statement to that effect [~~shall be filed immediately with the admissions director of the state bar by the State Public Defender~~]. In no event shall certification to practice under this rule remain in effect longer than 2 years. An attorney certified by the state bar to practice under this rule who otherwise remains eligible to practice must annually renew the certification in accordance with Rule 49.12.

4. **Limited practice.** An attorney certified to practice under this rule shall perform no legal services within the State of Nevada except for the Office of the State Public Defender or the county equivalent of such an office in counties whose population is [less] fewer than 100,000 persons and shall only practice under the supervision of an attorney in the Office of the State Public Defender or the county equivalent of such an office who is an active, resident member of the State Bar of Nevada. All pleadings signed by an attorney certified to practice under this rule

1 shall bear the name and office address, and be signed on behalf of, the attorney in
2 the Office of the State Public Defender or the county equivalent of such an office
3 responsible for supervising such attorney, who shall be deemed the attorney of
4 record in the cases wherein such pleadings are filed.

5 **5. Discipline; bar membership; continuing legal education.** Attorneys
6 certified to practice under this rule do not qualify for active membership in the
7 State Bar of Nevada, but may be disciplined or suspended from practice in the
8 manner now or hereafter provided by rule for discipline or suspension of attorneys
9 generally. Pending final disposition of any such matter the court or the state bar
10 may suspend any right to practice that is granted hereunder, without notice or
11 hearing. During the time an attorney is certified under this rule, the attorney shall
12 comply with the same requirements for continuing legal education as may be
13 prescribed for active members of the State Bar of Nevada.

14 **6. Applicability.** This rule is applicable notwithstanding any rule of the
15 court governing admission to the bar which:

- 16 (a) Is in effect on the effective date of this rule; or
17 (b) Becomes effective thereafter, except any such rule specifically referring to
18 this rule.
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