

R.I. eases bar exam rules on out-of-state lawyers

By **Katie Castellani** - 08/16/2024



REDUCING THE HOOPS: Robert Brooks, managing partner at Adler, Pollock & Sheehan PC, is one of numerous attorneys who believe Rhode Island's bar exam rules made it more difficult to attract experienced lawyers to firms here. PBN PHOTO/TRACY JENKINS

David Wollin has read about several cases in which the Rhode Island Bar Association's unique rules for out-of-state attorneys have tripped up experienced lawyers and prominent firms. So, he decided to change the rules.

In response to a petition filed in October 2023 that Wollin started, the R.I. Supreme Court provisionally amended the rules in April so out-of-state attorneys could practice in the state for one year while waiting to be admitted to the Rhode Island Bar.

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Before this amendment, Rhode Island was the only state in New England in which experienced attorneys from other states couldn't practice until they were admitted to the state bar. Instead, those attorneys could work as clerk or legal assistants until they passed the Rhode Island Bar Exam.

"That isn't the reality of the situation; they're practicing attorneys," said Wollin, general counsel and partner at Hinckley Allen & Snyder LLP.

To change the rule, Wollin approached several of the state's largest firms to sign the petition, also giving them the chance to make comments and suggestions. Everyone he approached was supportive.

Robert Brooks, managing partner at Adler, Pollock & Sheehan PC, signed the petition and says the rule has hurt local law firms' ability to fill positions.

He recalls at least three times in recent years when attorneys from other New England states withdrew their applications at his firm after learning they'd have to take the state bar exam before they could start practicing.

"It really, really was an impediment that we experienced in filling some of those positions," Brooks said.

Public comments submitted to the state Supreme Court show that those opposed to the rule change said it would lower the standard for allowing out-of-state attorneys to practice in Rhode Island. They also expressed concerns about regulating and oversight of attorneys practicing in multiple states.

Since the state Supreme Court amended the rule in April, both Wollin and Brooks say they have not noticed much of a change in hiring, but they agree it's still early. Wollin says the court has asked the court clerk to provide updates on how the rule amendment is working at least once a year for the next three years.

Brooks says the rule will be especially helpful in Rhode Island because there are no lawyers specializing in certain concentrations. So, a firm will have a much easier time tracking down an attorney practicing in a specific concentration that may be needed for particular cases.

Under the provisional amendment, lawyers who want to practice in Rhode Island need to file a request for the Supreme Court to review. As of the end of July, one request has been submitted and approved, according to Alexandra Kriss, spokesperson for the court.

Kriss says there is no timeline for how long the court must review requests and she was not sure when the provisional rule will become final.

The change does come with several stipulations.

Because it's a one-time designation, attorneys must be admitted to the state bar association within a year or their temporary admission is revoked and they cannot reapply for it, Kriss says.

An attorney's application to the bar must be pending, meaning they must apply before or shortly after starting at the firm. While they are waiting for admission, attorneys must be supervised by another lawyer who passed the Rhode Island Bar. And those who previously failed the Rhode Island Bar Exam don't qualify for temporary admission.

Also, different from the original petition – which sought to include any out-of-state attorney regardless of how long they have practiced – the provisional rule only applies to attorneys who have worked for at least five years in another state. Though the state Supreme Court didn't fully adopt the petition, Wollin says he's appreciative of the amendment and is hopeful it will be broadened in the future.

The rule change has also gained support from both the R.I. Public Defender Office and the R.I. Office of the Attorney General.

"There is no question that legal employers are struggling immensely with recruitment and retention, and we need every possible tool at our disposal to attract talent," Attorney General Peter F. Neronha said in a statement, noting how prospective attorneys have to take the bar before practicing in Rhode

Island puts the state at a disadvantage. “The court’s provisional amendment is an important first step, and we look forward to taking advantage of the new provisions of this rule.”

R.I. Public Defender Collin Geiselman noted how there has been a similar rule for decades for attorneys representing indigent defendants as part of the state Supreme Court’s program offering services for the needy. Through the program, attorneys who are full-time, permanent or visiting faculty members with a law school accredited by the American Bar Association can practice in Rhode Island to supervise law students serving indigent people.

The Rhode Island Bar Association did not take a stance on the rule amendment.

“We follow the position of the R.I. Supreme Court on the application of the rule. We understand the significance of this change and appreciate the varied perspectives within our membership,” Rhode Island Bar Association President Christopher Gontarz said in a statement.



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