

LAW GRADUATES Reprinted from 71 MBJ 1061 (Oct 1992)

Q. I have extended an offer of employment to a law school graduate, pending the results of the bar examination and the graduate's admission to practice in the state. What activities may be assigned to the law school graduate during the interim period and how should the graduate be designated in law firm communications?

A. MCL 600.916 prohibits designating the law graduate as "lawyer," "attorney," "counsel," etc., until the graduate "is regularly licensed and authorized to practice law in this state." Supreme Court Rules Concerning the State Bar of Michigan, Rule 3 states:

"A person engaged in the practice of law in Michigan must be an active member of the State Bar. In addition to its traditional meaning, the term 'person engaged in the practice of law' in this rule includes a person licensed to practice law in Michigan or another jurisdiction and employed in Michigan in the administration of justice or in a position which requires that the person be a law school graduate, but does not include (1) a judicial law clerk who is a member or is seeking to become a member of the bar of another jurisdiction and who does not intend to practice in Michigan after the clerkship ends, or (2) an instructor in law..."

Thus, until the law graduate has passed the bar examination, been admitted to practice, paid State Bar dues and received a license ["P"] number, the graduate may not be held out as a lawyer or be asked to engage in activities reserved to licensed lawyers.

A lawyer who designates a law graduate as "lawyer" prematurely, whether in written or verbal communications, may be subject to discipline under MRPC 7.1 [false and misleading communications] and MRPC 5.5 [aiding unauthorized practice of law]. A lawyer who delegates to a law graduate tasks or responsibility which only a licensed lawyer may undertake, may be subject to discipline under MRPC 5.3, 5.5, and 8.4(c).

MCR 8.120 allows law graduates to participate for one year after graduation in legal aid programs funded by the Legal Services Corporation Act, and in legal training programs organized in offices of county prosecuting attorneys or city attorneys. The graduate must be supervised by a licensed Michigan lawyer. The graduate's status under MCR 8.120 must be clear, and the graduate may not be held out as "counsel" without that clarifying information.

The fact that a graduate may be licensed in another state while awaiting the results of a Michigan bar admission application is irrelevant. Although Rule 15 Sec 2, Supreme Court Rules Concerning the State Bar, allows an out-of-state lawyer to be admitted for the trial of a particular matter, the Rule cannot be used to circumvent admission rules or as a substitute for regular Michigan licensure. The graduate in such cases may accurately reveal the out-of-state license, but must also make clear that the graduate is not licensed in Michigan.

Therefore, a law school graduate may not be designated as "lawyer," "counsel," "attorney," etc., until the graduate is licensed to practice law in the state. Unless the graduate is participating in a program under MCR 8.120, the graduate has the same status as a nonlawyer and may not be assigned tasks or responsibilities which only licensed lawyers may perform.

FREQUENTLY ASKED QUESTIONS

Can my references be related to each other? Any individual who is not related to you through blood or marriage may serve as a reference. References may be related to each other.

Do I need to get a driving record if I never held a license in that state? Yes. The requirement to provide a certified driving record is not based on whether you held a license in the state, but whether you stayed in the state for at least two consecutive weeks within the last ten years.

When will I get my admission certificate for the bar examination? The State Board of Law Examiners sends out admission certificates and information about the bar examination around the first week of the month of your scheduled bar examination.

Should the Affidavit of Personal History be completed in blue or black ink? All forms should be completed in type, blue or black ink with signatures in blue ink. The only exception is fingerprint cards which must be completed in type or black ink and signed in black ink.

What is considered an exhibit? We consider exhibits to be documents provided in support of your answer to a question. Examples include court documents, copies of bar applications to other jurisdictions, and certificates of good standing. Driving records, criminal clearances, including F-8 forms, are not considered exhibits.

***** MAIL IT *****

All supplemental information should be requested immediately and sent to the State Bar of Michigan upon receipt. ***It is not necessary to delay the filing of your application*** if you have not received any of the following materials: law school character and fitness certification, bar application copies from other jurisdictions, certificates of good standing, criminal clearances, driving records, and references.

***** MAKE A COPY *****

You should make a copy of your completed application materials for your own future reference. Be sure the materials are postmarked on or before the filing deadlines.