

IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 10-0212

IN THE MATTER OF PROPOSED RULES FOR THE
REGULATION OF THE PRACTICE OF LAW IN
MONTANA BY ATTORNEYS AT LAWO R D E R

On April 20, 2010, this Court entered its Order in In Re Dissolving the Commission on the Unauthorized Practice of Law, Cause No. AF 09-0068. In that Order we dissolved the Commission on Unauthorized Practice of Law and stated our intention to adopt rules for the regulation of the practice of law in Montana by attorneys at law. Attached to his Order are proposed Rules for the Regulation of the Practice of Law in Montana by Attorneys at Law.

These proposed rules would be adopted in addition to, and not in replacement of, other rules governing the admission to the bar and practice of law in Montana, including, without limitation, the Rules for Admission to the Bar of Montana, the Rules of Procedure of the Commission on Character and Fitness, the Montana Rules of Professional Conduct and the Rules for Lawyer Disciplinary Enforcement.

IT IS ORDERED that this Court will accept public comment on the attached proposed rules until 5:00 p.m. on the 28th day of July, 2010. Each person or entity submitting comments shall file an original and seven copies of his or her comments with the Clerk of this Court within the time provided.

IT IS FURTHER ORDERED that a copy of this Order with the attached draft copy of the proposed rules shall be electronically published on the State Bar of Montana

website, and on the website for the Judicial Branch, and notice of this Order shall be published in the next available issue of *The Montana Lawyer*.

IT IS FURTHER ORDERED that notice of this Order be provided to the Executive Director of the State Bar of Montana, to the editor of *The Montana Lawyer*, the State Law Librarian, the Clerks of the District Court with the request that they provide copies to all District Judges in their county, and the Clerks of the Federal District Court for the District of Montana.

Dated this 28th day of April, 2010.

/S/ MIKE McGRATH

*Proposed Rules for the Regulation of the Practice of Law
In Montana by Attorneys at Law*

I. For purposes of these rules, “attorney at law” includes attorneys (except attorneys-in-fact acting under a valid power of attorney), lawyers, counselors at law, barristers, solicitors, and to persons acting “of counsel.

II. No person may practice law as an attorney at law in this State:

- a. unless that person has graduated with a Juris Doctor or equivalent degree from a law school accredited by the American Bar Association, and
- b. until that person has complied with the latest Rules for Admission to the Bar of Montana, has successfully passed review by the Commission on Character and Fitness, and has successfully passed the Montana Bar Examination, or has otherwise complied with the rules for *pro hac vice* practice in this State, and
- c. until that person has taken a written oath to support the Constitution of the United States and the Constitution of the State of Montana and to faithfully discharge the duties of an attorney with fidelity to the best of his or her knowledge and ability, and
- d. until that person has filed with the Clerk of this Court his or her written oath described in (b) above, and signed the roll of attorneys kept by the Clerk of this Court; and
- e. unless that person is a member in good standing (regardless of the category of membership) of the State Bar of Montana, has paid all dues, fees and license taxes applicable to his or her status as an attorney at law and member of the State Bar of Montana, and has met the continuing legal education requirements prescribed by this Court, and
- f. provided, however, rules II. a. and b. above shall not apply to those persons licensed to practice law in Montana and who are members of the State Bar of Montana on the date of the adoption of these rules.

III. No person may, in any form of oral or written communication, hold himself or herself out as an attorney at law unless that person has complied with II. above.

IV. No person, except an attorney at law, may appear on behalf of another or file pleadings or documents of any kind, in any court or court proceeding in this State, whether such proceeding be one in law or in equity. This rule shall not apply to persons representing themselves as individuals or to persons acting in compliance with the Water Court Rules adopted by this Court.