

FILED

March 12, 2018

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8002

**ORDER PROMULGATING AMENDMENTS
TO THE RULES OF THE SUPREME COURT
ON LAWYER REGISTRATION**

ORDER

The Minnesota State Board of Continuing Legal Education (CLE Board), which has supervisory responsibility for the rules that govern lawyer registration, *see* Rule 8, Rules on Lawyer Registration, has recommended amendments to the Rules of the Supreme Court on Lawyer Registration and minor amendments to the Minnesota Rules of Professional Conduct and the Rules of the State Board of Continuing Legal Education. We opened a public comment period on the proposed amendments. Representatives of the Minnesota State Bar Association and Minnesota Women Lawyers filed comments, as did two members of the bar. We have carefully considered the recommended amendments, the written comments regarding the proposed amendments, and a request from the CLE Board, filed on November 22, 2017, to modify its petition in two minor respects. Based on that review, we now adopt amendments to the Rules on Lawyer Registration, the Rules of Professional Conduct, and the Rules of the State Board of Continuing Legal Education.

We provide the following observations regarding these amendments.

First, the primary objective of the CLE Board's petition was to comprehensively update the registration rules through a substantial re-write and re-organization of the

current rules. The substantial rearrangement and re-writing of the rules makes it difficult to show amendments to the rules in a traditional strike-through and addition format. Therefore, the rules attached to this order are adopted effective as of July 1, 2018, and the rules as currently promulgated are abrogated effective as of July 1, 2018.

Second, effective July 1, 2018, a lawyer or judge who is not currently on inactive status –retired, *see* Minn. R. Lawyers Registration 2(C)(5), can request retired-inactive status on or after the age of 68 if the person is not engaged in the practice of law anywhere. *See* Rule 7, Rules on Lawyer Registration (eff. July 1, 2018). This new rule makes two changes of significance to current Rule 2(C)(5): the restriction on income earned from “any gainful employment” is eliminated, and the retirement age is increased to 68. *See* Minn. R. Lawyers Registration 7 (eff. July 1, 2018). We adopt the recommended increase in the age at which retired-inactive status can be requested for a simple reason. Fees from registered lawyers are used to support the work of the Board of Law Examiners, the CLE Board, the Lawyers Professional Responsibility Board, the Client Security Board, and the Legal Services Advisory Committee. *See* Minn. R. Lawyers Registration 10 (eff. July 1, 2018). An expansion of those eligible for fee-exempt status, such as is provided by retired-inactive status, must be implemented in a way that does not disrupt the crucial funding support provided by lawyer registration fees. The CLE Board identified age 68 as the level at which the least financial impact would result in current funding levels for the boards that rely on an allocated portion of lawyer registration fees. The CLE Board also relied on survey data from retired and older lawyers to identify the optimal retirement age for purposes of this rule change.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The Rules of the Supreme Court on Lawyer Registration, as attached to this order, are promulgated as effective as of July 1, 2018.

2. The Rules of the Supreme Court on Lawyer Registration that are effective as of January 1, 2017, with all amendments through the date of this order, are abrogated effective as of July 1, 2018.

3. The inactive status-retired of a lawyer or judge who has complied with Rule 2(C)(5) on or before June 30, 2018 will be deemed to convert to retired status-inactive under Rule 7 of the Rules of the Supreme Court on Lawyer Registration as of July 1, 2018. The lawyer or judge will thereafter be subject to the Rule 7(C) if that lawyer or judge requests reinstatement to active status pursuant to Rule 9 or resumes the practice of law in another state, territory, or the District of Columbia.

4. Rule 1.15 of the Minnesota Rules of Professional Conduct and the Rules of the State Board of Continuing Legal Education are amended as shown in the attachment to this order, effective July 1, 2018.

Dated: March 12, 2018

BY THE COURT:



Lorie S. Gildea
Chief Justice

**Rules of the Supreme Court on Lawyer Registration
Effective July 1, 2018**

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Rule 1. Purpose Statement

The purpose of these Rules is to maintain an accurate record of all lawyers and judges licensed in the state of Minnesota, to collect information from registered lawyers and judges annually, and to collect fees to help defray the cost of bar examinations, pre-admission investigations, lawyer discipline, a lawyer-client security fund, legal services programs, and lawyers' assistance programs.

Rule 2. Definitions

A. "Active status" means a license status for a lawyer or judge who:

- (1) has paid the applicable required lawyer registration fee for the current year;
- (2) is in compliance with the requirements of the Minnesota State Board of Continuing Legal Education or with Minnesota Judicial Branch policies regarding continuing judicial education;
- (3) is not disbarred, suspended, or on disability status pursuant to Rule 28 of the Rules on Lawyers Professional Responsibility;
- (4) is in compliance with Rule 1.15 and Appendix 1 of the Minnesota Rules of Professional Conduct regarding trust accounts and has so certified on the Lawyer Registration Statement; and
- (5) is in compliance with Rule 22 of these Rules.

A lawyer or judge on active status is in good standing and is authorized to practice law in this state.

B. "Inactive status" means a license status for a lawyer or judge who has elected to be on inactive status pursuant to Rule 6, 7, or 8 of these Rules and who:

- (1) has paid the applicable required lawyer registration fee for the current year;
- (2) is in compliance with the requirements of the Minnesota State Board of Continuing Legal Education or with Minnesota Judicial Branch policies regarding continuing judicial education;
- (3) is not disbarred or suspended; and
- (4) is in compliance with Rule 1.15 and Appendix 1 of the Minnesota Rules of Professional Conduct regarding trust accounts and has so certified on the Lawyer Registration Statement.

A lawyer or judge on inactive status is in good standing but is not authorized to practice law in this state.

C. "Judge" means any judicial officer, referee, or other hearing officer employed in the judicial branch of the State of Minnesota.

- D. **“Lawyer”** means a person admitted to practice law in this state pursuant to the Rules for Admission to the Bar.
- E. **“Lawyer Registration Statement”** means an electronic or paper document prepared by the Lawyer Registration Office that informs a lawyer or judge of the lawyer registration fee due and on which the lawyer or judge must certify the lawyer or judge’s status, compliance with Rule 1.15 and Appendix 1 of the Minnesota Rules of Professional Conduct regarding trust accounts, compliance with Rule 22 of these Rules, and provide any other information required by the Court.
- F. **“Noncompliant status”** means a license status for a lawyer or judge who has not met all of the criteria to be on active status or inactive status. A lawyer or judge who is on noncompliant status is not in good standing and is not authorized to practice law in this state.
- G. **“Online Registration System”** means the web-based lawyer registration system maintained by the Lawyer Registration Office on which lawyers and judges may elect to electronically manage license information, complete the Lawyer Registration Statement, and pay lawyer registration fees, including annual fees.
- H. **“Private client”** means a client of a lawyer, but for the purpose of reporting professional liability insurance coverage does not include the clients of government lawyers and house counsel.

Rule 3. Supervisory Authority

Subject to the general direction of the Court in all matters, the State Board of Continuing Legal Education has supervisory authority over the administration of these Rules and may adopt policies, procedures, and forms not inconsistent with these Rules.

Rule 4. New Lawyer Fee

New lawyers must pay a one-time fee of \$40 upon the administration of the Oath of Admission and will be placed on active status. Thereafter, the lawyer must pay an annual registration fee in accordance with these Rules.

Rule 5. Active Status Fees

A. Admitted to Practice Law Three Years or More. A lawyer or judge on active status who has been admitted to practice law for three years or more in any state, the District of Columbia, or any territory must pay an annual registration fee of \$248.

B. Income Less Than \$25,000. A lawyer or judge on active status who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$220.

C. Admitted to Practice Law Less Than Three Years. A lawyer or judge who has been admitted to practice law less than three years in each and every state, the District of Columbia, or territory in which the lawyer or judge has been admitted, including Minnesota, must pay an annual registration fee of \$114.

Rule 6. Inactive Status Fees

A. General. A lawyer or judge who files with the Lawyer Registration Office on or before the due date for payment of the lawyer's registration fee an affidavit stating that the lawyer or judge (1) is currently in good standing with the Lawyer Registration Office, (2) does not hold judicial office in this state and does not sit by special appointment, and (3) is not engaged in the practice of law in this state, must pay an annual registration fee of \$205 to remain in good standing as an inactive Minnesota lawyer.

B. Income Less Than \$25,000. A lawyer or judge who files an affidavit in compliance with Rule 6A and who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$177 to remain in good standing as an inactive Minnesota lawyer.

Rule 7. Retired Status: Inactive

A. Retirement Affidavit. A lawyer or judge may file a Retirement Affidavit with the Lawyer Registration Office stating that the lawyer or judge (1) is at least 68 years of age, (2) is in good standing with the Lawyer Registration Office, (3) does not hold judicial office in this state and does not sit by special appointment, and (4) is not engaged in the practice of law in any state, territory, or the District of Columbia.

B. Effect. The filing of a Retirement Affidavit with the Lawyer Registration Office places the lawyer or judge on inactive status and exempts the lawyer or judge from payment of fees while it is effective.

C. Renewal; Expiration. A Retirement Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to Rule 9 or resumes the practice of law in another state, territory, or the District of Columbia. A lawyer or judge who no longer meets the requirements of this status must promptly comply with the requirements of active or inactive status, file a completed Lawyer Registration Statement with the Lawyer Registration Office, and pay the annual registration fee.

D. Emeritus Status: Authorization to Provide Pro Bono Services. Notwithstanding the provisions of Rules 2B and 7B regarding authorization to practice law in this state, a lawyer or judge whose Retirement Affidavit is effective may engage in the pro bono legal representation of pro bono clients if the lawyer or judge complies with Rule 14 of the Rules of the Minnesota State Board of Continuing Legal Education.

Rule 8. Permanent Disability Status: Inactive

A. Disability Affidavit. A lawyer or judge who is totally disabled may file a Disability Affidavit with the Lawyer Registration Office stating that the lawyer or judge (1) is currently in good standing with the Lawyer Registration Office, (2) does not hold judicial office in this state and does not sit by special appointment, (3) is not engaged in the practice of law in this state, and (4) is totally disabled.

B. Effect. The filing of a Disability Affidavit with the Lawyer Registration Office places the lawyer or judge on inactive status and exempts the lawyer or judge from payment of fees while it is effective.

C. Renewal; Expiration. A Disability Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to Rule 9.

Rule 9. Transfer from Inactive Status to Active Status

A. Requirements. To transfer from inactive status to active status, a lawyer or judge must, before practicing law or assuming judicial responsibilities, take each of the following actions:

- (1) promptly notify the Lawyer Registration Office of the intention to transfer to active status;
- (2) file a completed Lawyer Registration Statement with the Lawyer Registration Office;
- (3) pay the applicable active status fee and all accumulated late fees, less any inactive status fee payments previously made for the same registration year;
- (4) complete all continuing legal education (CLE) requirements and be transferred to CLE active status;

- (5) comply with Rule 1.15 and Appendix 1 of the Minnesota Rules of Professional Conduct regarding trust accounts; and
- (6) comply with Rule 22 of these Rules.

B. Transfer. Upon verification that the requirements of this rule have been met, the Lawyer Registration Office will transfer the lawyer or judge to active status.

Rule 10. Allocation of Lawyer Registration Fees

A. Registration Fees. Lawyer registration fees paid pursuant to these Rules will be allocated as follows:

	\$248 payments	\$220 payments	\$205 payments	\$177 payments	\$114 payments	\$40 payments
State Board of Law Examiners	\$29	\$29	\$29	\$29	\$29	\$25
State Board of Continuing Legal Education	\$1	\$1	\$1	\$1	\$1	\$0
Lawyers Professional Responsibility Board	\$122	\$122	\$83	\$83	\$26	\$15
Client Security Fund	\$6	\$6	\$6	\$6	\$6	\$0
Legal Services Advisory Committee (for civil legal services and grant program purposes)	\$75	\$47	\$71	\$43	\$37	\$0
Legal Services Advisory Committee (for a lawyers' assistance program)	\$13	\$13	\$13	\$13	\$13	\$0
Lawyer Registration Office	\$2	\$2	\$2	\$2	\$2	\$0
TOTAL	\$248	\$220	\$205	\$177	\$114	\$40

B. Miscellaneous Fees. Payments for duplicate license cards, certificates of good standing, late penalties, reinstatement fees, paper filing fees, and lists provided pursuant to Rule 23D will be allocated to the Lawyer Registration Office to defray registration costs.

Rule 11. Registration Deadline

A. Due Date. Each lawyer and judge, except retired, disabled, and military lawyers qualifying under Rules 7, 8, and 24, must pay the annual registration fee and file a completed Lawyer Registration Statement with the Lawyer Registration Office on or before the first day of January, April, July, or October of each year, as assigned by the Lawyer Registration Office.

B. Late Penalty. A lawyer's or judge's failure to meet this deadline will result in the Lawyer Registration Office assessing a late penalty of \$75.

C. Paper Filing Fee. The Lawyer Registration Office will add a fee of \$10 to the annual registration fee of each lawyer or judge who elects not to use the Online Registration System, which must be paid at the time of registration.

Rule 12. Notification of Fee Due

A. Notice. Approximately 30 days before the annual due date, the Lawyer Registration Office will issue a Lawyer Registration Statement to each lawyer then in good standing.

B. Method. The Lawyer Registration Office will use email as the preferred means of notice. Notices will be issued:

- (1) to the email address on file with the Lawyer Registration Office; or
- (2) if the lawyer or judge has no email address on file with the Lawyer Registration Office or has elected not to use the Online Registration System, to the lawyer's or judge's postal address on file with the Lawyer Registration Office.

C. Exception. The Lawyer Registration Office will not send an annual notice to any lawyer or judge who has filed a Retirement Affidavit or Disability Affidavit that remains effective.

D. Lawyer's Obligation. A lawyer's or judge's failure to receive a Lawyer Registration Statement or a notice of registration will not excuse a lawyer or judge from the obligation to pay all fees due and file a completed Lawyer Registration Statement on or before the due date.

Rule 13. Obligation to Notify of Change in Postal or Email Address

A. Email Address. Each lawyer or judge who uses the Online Registration System must immediately update the online registration profile to reflect any change of email address.

B. Postal Address. Each lawyer or judge must immediately update the online registration profile or notify the Lawyer Registration Office in writing of any change of postal address.

Rule 14. Failure to Comply; Noncompliant Status; Administrative Suspension

A. Noncompliant Status: Suspension. The Lawyer Registration Office will place on noncompliant status any lawyer or judge who fails to meet all of the criteria to be on active or inactive status by the first day of the month following the due date established by Rule 11A. Once placed on noncompliant status, a lawyer's or judge's right to practice law in this state is automatically suspended.

B. Prohibited Conduct. A lawyer or judge on noncompliant status must not practice law in this state and must not hold out himself or herself as authorized to practice law, nor in any manner state or imply that he or she is qualified or authorized to practice law while on noncompliant status. A lawyer or judge who violates this rule is subject to all the penalties and remedies provided by law for the unauthorized practice of law in the State of Minnesota.

Rule 15. Duty to Prohibit Unauthorized Practice

A judge must prohibit persons who are not authorized to practice law from appearing and practicing law in the judge's court.

Rule 16. Reinstatement

A. Requirements. To be reinstated to active status or inactive status, a lawyer or judge who is on noncompliant status must take each of the following actions:

- (1) notify the Lawyer Registration Office that the lawyer or judge intends to seek reinstatement;
- (2) file a completed Lawyer Registration Statement with the Lawyer Registration Office;
- (3) pay all delinquent registration fees for each of the six years prior to the year in which the lawyer or judge seeks reinstatement;

- (4) pay the applicable registration fee for the current year;
- (5) pay the late penalty required by Rule 11B;
- (6) pay a reinstatement fee of \$100;
- (7) be in compliance with all CLE requirements;
- (8) comply with Rule 1.15 and Appendix 1 of the Minnesota Rules of Professional Conduct regarding trust accounts; and
- (9) comply with Rule 22 of these Rules.

B. Transfer. Upon verification that the requirements of this rule have been met, the Lawyer Registration Office will transfer the lawyer or judge to active or inactive status.

Rule 17. Waivers

The Lawyer Registration Office may, in hardship cases, reduce or waive payment of delinquent lawyer registration fees, late penalties, and reinstatement fees.

Rule 18. License Card; Certificate of Minnesota Lawyer Registration

A. Active Status. Upon receipt of all fees due under these Rules and a completed Lawyer Registration Statement, the Lawyer Registration Office will issue to each active status lawyer or judge a license card in a form provided by the Court, displaying the name, license number, and status of the lawyer or judge.

B. Inactive Status. Upon receipt of all fees due under these Rules and a completed Lawyer Registration Statement, the Lawyer Registration Office will issue to each inactive status lawyer or judge, in the year the lawyer or judge elects or is placed on such status, a Certificate of Minnesota Lawyer Registration for Inactive Status.

Rule 19. Certificate of Good Standing

Upon payment of a fee of \$50, the Lawyer Registration Office will provide a certificate of good standing to any lawyer or judge who is on active or inactive status.

Rule 20. Special Fund

The Lawyer Registration Office shall deposit all funds collected pursuant to these Rules or from applicants for admission to the bar into a special fund, as desired by the Court, and funds shall be disbursed therefrom only upon vouchers signed by a member of the Court or a representative of State Court Administration to whom the Court has delegated its authority to sign for purpose of this rule.

Rule 21. Nonresident Counsel

Nothing herein will prevent any court in this state from granting special permission to nonresident counsel to appear and participate in a particular action or proceeding in association with an active status lawyer.

Rule 22. Annual Reporting of Professional Liability Insurance Coverage

A. Annual Certification. Each lawyer on active status must certify the following on the Lawyer Registration Statement:

- (1) whether the lawyer represents private clients;
- (2) if the lawyer represents private clients, whether the lawyer is currently covered by professional liability insurance; and
- (3) if the lawyer is covered by professional liability insurance, the name of the primary carrier.

B. Coverage Change. Each lawyer on active status must notify the Lawyer Registration Office by letter or through the Online Registration System within 30 days if the professional liability insurance coverage: (1) lapses, (2) terminates, or (3) is no longer in effect for any reason, unless the coverage is renewed or replaced without substantial interruption.

Rule 23. Access to Lawyer Registration Records

A. Exclusivity. Lawyer registration records are accessible only as provided in this rule or as ordered by the Court.

B. Public Inquiry Concerning Specific Lawyer. Upon inquiry, the Lawyer Registration Office will disclose to any member of the public the name, postal address, admission date, continuing legal education category, current status, professional liability insurance coverage information submitted under Rule 22, and license number of the registered lawyer or judge, provided that each inquiry is limited to a single lawyer or judge.

C. Publicly Available List. The Lawyer Registration Office will, upon request, disclose to any member of the public a list containing the names, cities, and zip codes of all lawyers and judges.

D. Lists Available to Continuing Legal Education Providers and the Courts. Upon written request and payment of \$200, the Lawyer Registration Office will issue to any bona fide continuing legal education provider a complete list of the names, postal addresses,

admission dates, continuing legal education categories, current statuses, and license numbers of all lawyers and judges. The Lawyer Registration Office may also disclose the same information to courts and judicial districts to provide postal addresses of lawyers and judges for a judicial evaluation program.

E. Client Trust Account Information. The Lawyer Registration Office must not disclose to the public any client trust account information submitted by lawyers and judges as part of the lawyer registration process.

F. Use in Case Management Systems. Lawyer registration records may be imported into case management systems for the purpose of linking lawyers to cases and storing accurate identification information. When imported into a case management system, lawyer registration records may thereafter be disclosed in connection with corresponding case information, provided that bulk distribution of such records complies with Rule 23C of these Rules.

G. Demographic Information. Demographic data collected from lawyers and judges on the Lawyer Registration Statement is not accessible to the public. The Lawyer Registration Office may publish information based on demographic data reported on Lawyer Registration Statements as directed or ordered by the Court.

Rule 24. Exemption for Certain Military Personnel

A. Exemption. The Lawyer Registration Office will not require the payment of the annual registration fee or the filing of a Lawyer Registration Statement by any lawyer or judge who has been ordered into active military service or is outside of the United States and engaged in employment essential to the prosecution of a war or to the national defense as defined by Minnesota Statutes § 326.56.

B. Expiration. A lawyer or judge who no longer qualifies for exemption under this rule must promptly comply with the requirements of active or inactive status, file a completed Lawyer Registration Statement with the Lawyer Registration Office, and pay the annual registration fee.

Minnesota Rules of Professional Conduct
Effective July 1, 2018

RULE 1.15: SAFEKEEPING PROPERTY

(i) Every lawyer subject to paragraph (h) shall certify, in connection with the annual renewal of the lawyer's registration and in such form as the ~~Clerk of the Appellate Courts~~ Lawyer Registration Office may prescribe, that the lawyer or the lawyer's law firm maintains books and records as required by paragraph (h). The Lawyers Professional Responsibility Board shall publish annually the books and records required by paragraph (h).

**Rules of the Minnesota State Board of
Continuing Legal Education
Effective July 1, 2018**

Rule 2. Definitions

In these Rules,

* * *

- J. “Emeritus status” is the status of a lawyer who ~~has filed a Retirement Affidavit~~ is on retired status pursuant to Rule ~~2(C)(5)~~ 7 of the Rules of the Supreme Court on Lawyer Registration, is not on involuntary restricted status, has submitted an Affidavit of Emeritus Status Appendix IV showing compliance with the requirements of CLE Rule 14, and is authorized by Rule 14 to provide pro bono legal representation to a pro bono client when referred by an approved legal services provider. Emeritus status lawyers remain on restricted status.

Rule 14. Emeritus Status

- A. **Qualification.** A lawyer who ~~has filed a Retirement Affidavit~~ is on retired status pursuant to Rule ~~2(C)(5)~~ 7 of the Rules of the Supreme Court on Lawyer Registration and who has elected restricted status under the CLE Rules may elect emeritus status by complying with the requirements for emeritus status listed below.