

Are You Really Certain You Want To Resign?

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Perhaps you have left the state, have taken time off to raise a family or are working full time in a position that doesn't require a law license and you wonder whether it is worth paying that annual registration fee to keep your license to practice law in Minnesota.

Rule 2 of the Rules for Registration of Attorneys (RRA) provides that any attorney whose permanent residence is outside the state of Minnesota and who does not practice law within the state or who is on active duty with the armed forces shall pay an annual registration fee of \$94. The annual fee is \$200 for practicing attorneys who have been admitted for three years or more. For attorneys admitted three years or less the annual fee is \$89. For attorneys who make less than \$25,000 from all sources, excluding the income of a spouse, the annual fee is reduced. For such attorneys in active practice the fee is \$175. For those admitted three years or less the fee is \$76.50 and for those who live and practice outside of Minnesota it is \$69.

Many attorneys simply do not pay the attorney registration fee and allow their licenses to be suspended for nonpayment of the attorney registration fee. See RRA Rule 3. When the attorney wishes to reinstate his or her license to active status all that is required is payment of the delinquent fees plus a \$50 penalty. See RRA Rule 5.

For some attorneys, however, it is uncomfortable or disconcerting to have their license suspended for any reason, especially if they are required to disclose that status in a job application or for admission in another state.

In the last five years, 80 Minnesota attorneys have resigned their law licenses. Rule 11 of the Rules on Lawyers Professional Responsibility (RLPR) provides: "This Court may at any time, with or without a hearing and with any conditions it may deem appropriate, grant or deny a lawyer's petition to resign from the bar. A lawyer's petition to resign from the bar shall be served upon the Director. The original petition with proof of service and one copy shall be filed with this court. If the Director does not object to the

petition, the Director shall promptly advise the Court. If the Director objects, the Director shall also advise the Court, but then submit the matter to a Panel, which shall conduct a hearing and make a recommendation to the Court. The recommendation shall be served upon the petitioner and filed with the Court.”

Ordinarily, the director does not object to petitions for resignation unless there are discipline complaints or charges pending against the attorney. Some states allow resignation in lieu of discipline. In those states there may be some stigma attached to resignation.

Minnesota does not allow resignation in lieu of discipline. See *In re Jones*, 383 N.W.2d 303 (Minn. 1986), which states that a lawyer’s offer to resign without admission of wrongdoing has long been denied by the court when serious charges are pending, which, if true, would merit onerous public discipline. Thus, the *Jones* court pointed out that: “This court has repeatedly held that resignation is not an effective deterrent to other future legal misconduct. Where discipline (disbarment or suspension) is justified, it must follow.”

How an attorney goes about becoming relicensed in Minnesota after resignation is an open question. Rule 18 of the RLPR, which sets out the procedure for reinstatement of licenses after suspension, disbarment or placement on disability status, does not mention resignation. Thus, it is unclear whether the Office of Lawyers Professional Responsibility (OLPR) has the authority to process a petition for reinstatement from a resigned attorney. Ironically, the Rules for Admission to the Bar (RAB) do not mention resigned attorneys either.

If a resigned attorney petitioned the OLPR for reinstatement of his or her license it is unclear whether the OLPR would have jurisdiction to proceed under Rule 18 of the RLPR. The attorney might be required instead to apply to the Board of Law Examiners for admission as if he or she had never been licensed in Minnesota. If the resigned attorney has not been actively practicing or teaching full time in an approved law school for at least five of the seven years immediately preceding seeking readmission, he or she would not be eligible for admission without retaking the full bar examination. See RAB Rule 7. If the attorney is eligible for admission without examination, the application fee is currently \$625. See RAB Rule 11 (E).

A Minnesota law license is a valuable resource. Resignation a very serious decision which should not be taken lightly.