

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8008

ADM10-8002

FILED

March 15, 2013

**OFFICE OF
APPELLATE COURTS**

ORDER PROMULGATING AMENDMENTS
TO THE RULES OF THE MINNESOTA STATE
BOARD OF CONTINUING LEGAL EDUCATION
AND THE RULES OF THE SUPREME COURT
ON LAWYER REGISTRATION

On May 24, 2012, the Minnesota State Board of Continuing Legal Education (CLE Board) and the Minnesota State Bar Association (MSBA) petitioned the court to amend the Rules of the Minnesota State Board of Continuing Legal Education and the Rules of the Supreme Court on Lawyer Registration to create an Emeritus lawyer program. As proposed by the CLE Board and MSBA, the Emeritus lawyer program would authorize Minnesota lawyers who have filed a Retirement Affidavit with the Lawyer Registration Office, pursuant to Rule 2(C)(5) of the Lawyer Registration rules, to provide pro bono legal representation to pro bono clients in certain circumstances.

The court received comments on the petition and the proposed amendments from the following persons and organizations: retired Minnesota attorney Robert W. Herr; the Minnesota Assistance Council for Veterans; the Tubman Center; Minnesota attorney Patrick R. Burns; the Minnesota Coalition of County Law Libraries; the Scott County Law Library; and the Ramsey County Law Library. The court has reviewed the

recommendations, the comments, and the proposed amendments, and is fully advised in the premises.

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules of the Minnesota State Board of Continuing Legal Education and to the Rules of the Supreme Court on Lawyer Registration be, and the same are, prescribed and promulgated to be effective July 1, 2013.

2. The Rules of the Minnesota State Board of Continuing Legal Education and the Rules of the Supreme Court on Lawyer Registration, as amended effective July 1, 2013, shall be posted on the website of the Minnesota State Board of Continuing Legal Education and on the website for the Lawyer Registration Office, respectively.

Dated: March 15, 2013

BY THE COURT:

/s/

Lorie S. Gildea
Chief Justice

**AMENDMENTS TO THE RULES OF THE MINNESOTA STATE BOARD
OF CONTINUING LEGAL EDUCATION**

In the following amendments, deletions are indicated by a line drawn through the words and additions by a line drawn under the words.

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- C. Contents of Emeritus Affidavit Appendix IV
- D. Transfer to Emeritus Status
- E. Expiration of Emeritus Status
- F. Renewal of Emeritus Status

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Rule 2. Definitions

In these Rules,

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B. "Approved legal services provider" means a legal services organization that meets at least one of the following criteria:

(1) Funded by the Legal Services Corporation or the Minnesota Legal Services Advisory Committee; or

(2) Designated by the Minnesota Legal Services Advisory Committee as an approved legal service provider. Eligibility for designation is limited to:

(a) Programs providing pro bono legal representation within 501(c)(3) nonprofit organizations that have as their primary purpose the furnishing of legal services to ~~persons~~ individuals with limited means.

(b) Law firms, law libraries, or bar associations that conduct programs that have as their primary purpose the furnishing of legal services to ~~persons~~ individuals with limited means and are under the supervision of a pro bono coordinator or designated lawyer.

(c) Law firms that provide pro bono legal services on behalf of a Minnesota Judicial Branch program, including but not limited to, the Guardian ad Litem Program.

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J. "Emeritus status" is the status of a lawyer who has filed a Retirement Affidavit pursuant to Rule 2(C)(5) 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.

J.K. “Established continuing legal education course sponsor,” for the purposes of Rule 5B, is a person or entity regularly retained by firms or organizations for the purpose of presenting continuing legal education programs, which is completely independent of the firm or organization for whose members the continuing legal education course is presented.

K.L. “Fee” means funds made payable to the Minnesota State Board of Continuing Legal Education.

L.M. “In-house course” means a course sponsored by a single private law firm, a single corporation or financial institution, or by a single federal, state or local governmental agency for lawyers who are members or employees of any of the above organizations.

M.N. “Involuntary restricted status” means the status of a lawyer licensed in Minnesota who is not in compliance with the educational and reporting requirements of these Rules and who has been involuntarily placed in that status by order of the Court. See Rule 12 for additional provisions.

N.O. “Laboratory setting” means a mock courtroom, law office, negotiation table, or other simulated setting in which demonstrations are given, role-playing is carried out or lawyers’ activities are taught by example or participation.

O.P. “Law and literature course” means a course otherwise meeting the requirements of Rules 4D and 5A, based upon a literary text and designed to generate discussion, insight, and learning about topics such as the practice of law, the history and philosophy of law, rhetoric, lawyers’ professional or ethical responsibilities, professional development, and the elimination of bias in the legal profession and in the practice of law.

P.Q. “Moderator” means an individual, knowledgeable in the topic or topics addressed by the course, who guides the discussion and answers questions related to the material presented.

Q.R. “Participant” means a lawyer licensed in Minnesota attending an approved course and actively engaged in the subject matter being presented.

R.S. “Pro bono client” means an individual, who is not a corporation or other organizational entity, and who has been referred to the lawyer by an approved legal services provider or by a ~~Minnesota Judicial Branch~~ state or federal court program.

S.T. “Pro bono legal representation” means providing legal representation to a pro bono client without compensation, expectation of compensation, or other direct or indirect pecuniary gain.

T.U. “Professional development course” means a course or session within a course designed to enhance the development and performance of lawyers by addressing issues such as career satisfaction and renewal, stress management, mental or emotional health, substance abuse, and gambling addiction. Professional development courses do not include individual or group therapy sessions.

U.V. “Restricted status” means the status of a lawyer licensed in Minnesota who has voluntarily chosen not to comply with the educational and reporting requirements of these Rules. See Rule 12 for additional provisions.

V.W. “Submit” means to communicate information to the Board office in writing or electronic submission:

- (1) through the Board’s Online Attorney and Sponsor Integrated System (OASIS);
- (2) by regular U.S. Mail; or
- (3) by delivery.

(Amended effective July 1, 2013).

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Rule 5. Standards for Course Approval.

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B. Standards for Course Approval for In-House Courses.

(1) An in-house course as defined in Rule 2LM will be approved if:

(a) The requirements of Rule 5A and other applicable Rules are met;

(b) 25% of the hours of approved instruction are taught by instructors having no continuing relationship or employment with the sponsoring firm, department, financial institution or agency; and

(c) Notice of the course is given to enough outside lawyers so that the audience can potentially be composed of at least 25% participants who are not lawyers working in or for the sponsoring firm, department, institution or agency.

(2) An in-house course as defined in Rule 2LM that is presented and controlled by an established continuing legal education course sponsor as defined in Rule 2JK, may be approved for credit, notwithstanding the fact that the course does not comply with requirements of Rule 5B(1) (b) and (c) above.

(3) An in-house course as defined in Rule 2LM shall not be approved for credit if it is presented primarily for clients or clients' counsel.

(Amended effective July 1, 2013).

Rule 6. Special Categories of Credit

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D. Pro bono Legal Representation. A lawyer may claim 1 hour of standard CLE credit for every 6 hours of pro bono legal representation as defined by Rule 2T that the lawyer provides to a pro bono client as defined by Rule 2S in a legal matter that has been referred to the lawyer by an approved legal services provider as defined by Rule 2B or by a ~~Minnesota Judicial Branch~~ state court or federal court program. No more than 6 hours of credit may be claimed per reporting period by a lawyer for pro bono legal representation. In order to receive CLE credit the lawyer must submit an Affidavit of Pro Bono Representation to the Board (see Appendix II).

(Amended effective July 1, 2013).

Rule 12. Restricted and Involuntary Restricted Status

A. Election of Restricted Status. A lawyer duly admitted to practice in this state may elect restricted status as defined in Rule 2~~U~~V by sending written notice of such election to the Director, except that a referee or judicial officer of any court of record of the State of Minnesota or lawyer employed and serving as attorney or legal counsel for any employer, including any governmental unit of the State of Minnesota, is not eligible to apply for restricted status. A lawyer on restricted status shall not be required to satisfy the educational and reporting requirements of these Rules.

B. Restrictions imposed. A lawyer on restricted or involuntary restricted status shall be subject to the following provisions and restrictions:

(1) The lawyer may not engage in the practice of law or represent any person or entity in any legal matter or proceedings within the State of Minnesota other than himself or herself, except as provided in Rule 14.

(2) The name of the lawyer may not appear on law firm letterhead without a qualification that the lawyer's Minnesota license is restricted. A law firm name may continue to include the lawyer's name if the name was included prior to the lawyer's placement on restricted or involuntary restricted status. The lawyer may not be listed "of counsel" or otherwise be represented to clients or others as being able to undertake legal business.

(3) The lawyer may not have a financial interest in a law firm that is a professional corporation.

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(Amended effective July 1, 2013).

Rule 14. Emeritus Status

A. **Qualification.** A lawyer who has filed a Retirement Affidavit pursuant to Rule 2(C)(5) 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.

B. **Limitation of Practice.** A lawyer on emeritus status is authorized solely to provide pro bono legal representation to a pro bono client in a matter referred to the lawyer by an approved legal services provider.

C. **Contents of Emeritus Affidavit Appendix IV.** Prior to representation as described by Rule 14B, the lawyer shall complete and submit to the Board an affidavit of emeritus status (Appendix IV) which shall include the following:

(1) The list of approved CLE courses that the lawyer has attended or participated in during the 90-day period immediately preceding the submission of the emeritus affidavit, totaling no fewer than 5 credit hours of approved continuing legal education courses, and including:

- a. 3 credit hours in approved courses in the substantive area of law in which the lawyer intends to be performing pro bono services;
- b. 1 credit hour approved as ethics or professional responsibility; and
- c. 1 credit hour approved as elimination of bias in the legal profession and in the practice of law;

(2) A certification signed by the emeritus lawyer, affirming that if the lawyer provides pro bono representation in multiple areas such as in a brief advice clinic, the lawyer shall obtain the necessary training and resources to provide those services in a competent and ethical manner.

D. **Transfer to Emeritus Status.** When a lawyer submits an affidavit of emeritus status, the Board office shall verify the information and shall, for a period of three years, maintain a public posting on the Board's website listing the lawyer's name as being on emeritus status.

E. **Expiration of Emeritus Status.** Emeritus status shall expire three years from the date that the lawyer's name is posted. A lawyer shall not represent clients after expiration of the lawyer's emeritus status.

F. **Renewal of Emeritus Status.** Prior to the expiration of a lawyer's emeritus status, the lawyer may renew emeritus status by submitting to the Board an affidavit of emeritus status (Appendix IV) which shall include the following:

(1) The list of approved CLE courses attended or participated in by the lawyer during the three-year period immediately preceding the submission of the emeritus affidavit, totaling no fewer than 5 credit hours of approved continuing legal education courses, and including:

- a. 3 credit hours in approved courses in the substantive area of law in which the lawyer intends to perform pro bono services;
- b. 1 credit hour approved as ethics or professional responsibility; and

c. 1 credit hour approved as elimination of bias in the legal profession and in the practice of law.

(2) A certification signed by the emeritus lawyer, affirming that when the lawyer provides pro bono representation in multiple areas such as in a brief advice clinic, the lawyer shall obtain the necessary training and resources to provide those services in a competent and ethical manner.

(Added effective July 1, 2013).

[Publishers Note: Because Appendix IV is a new form in the Rules of the Minnesota State Board of Continuing Legal Education, underling to show new language has been omitted.]

Appendix IV: AFFIDAVIT OF EMERITUS STATUS

MINNESOTA STATE BOARD OF CONTINUING LEGAL EDUCATION
180 E. 5th Street, Suite 950, St. Paul, Minnesota 55101
651-297-7100 www.mbcle.state.mn.us

For details regarding Emeritus Status, see Rule 2J and Rule 14 of the Rules of the Minnesota State Board of Continuing Legal Education at www.mbcle.state.mn.us/MBCLE/pages/rules.asp.

Name: _____ License Number: _____

Email:¹ _____ Phone: _____

Address:² _____

City: _____ State: _____ Zip: _____

- First Affidavit for Emeritus Status Renewal Affidavit for Emeritus Status

ATTENDANCE INFORMATION

SPONSORING AGENCY	COURSE TITLE & EVENT CODE (if known)	COURSE DATE(S)	STANRD CLE	ETHICS	ELIMN OF BIAS
1.					
2.					
3.					
4.					
5.					
Hours Total:					

Name & address of referring approved legal services provider:

¹ An email confirmation will be sent after the lawyer is placed on Emeritus Status.

² Address changes must be made in writing by sending notice to the Lawyer Registration Office, 25 Rev. Dr. Martin Luther King Jr. Blvd., Room 305, St. Paul, Minnesota 55155.

Name & phone # of contact at legal services provider:

Area of law in which pro bono service will be provided:

Please initial the following statements and sign this affidavit swearing (affirming) to the following:

_____ I have filed a Retirement Affidavit with the Lawyer Registration Office pursuant to Rule 2(C)(5) of the Rules on Lawyer Registration and am on Inactive-Retired Status with Lawyer Registration. Record can be verified at: www.mncourts.gov/mars/default.aspx

_____ I am on voluntary (not involuntary) restricted status. See CLE Rules 2N and 2V.

_____ At least 3 of the substantive law CLE credit hours listed above are in the substantive area of law in which I intend to provide pro bono legal representation, and I affirm that prior to providing legal advice or representation in another substantive law area I will obtain 3 substantive credit hours in that area of law.

_____ If providing pro bono service in a brief advice clinic, I will have received or will obtain the necessary training to provide that service.

_____ I give permission to the Minnesota Board of Continuing Legal Education to verify this information by contacting the approved legal services provider.

_____ I understand that the Emeritus Status will expire 3 years from the day the CLE Board posts my Emeritus status on the CLE website, unless prior to the expiration I file an Emeritus Status renewal Affidavit in compliance with Rule 14.

_____ I shall limit my practice to providing pro bono legal representation to one or more pro bono clients in matters referred to me by an approved legal services provider.

Lawyer Signature: _____

Date: _____

A lawyer on Emeritus Status who seeks to transfer to Active Status must follow the requirements of Rule 12 (and return to an active fee status with the Lawyer Registration Office) See Rule 12 of the CLE Rules.

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

In the following amendments, deletions are indicated by a line drawn through the words and additions by a line drawn under the words.

Rule 2. REGISTRATION FEE

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C. Inactive Statuses.

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(5) Inactive Status – Retired. A lawyer or judge who files with the Lawyer Registration Office a Retirement Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state, (iv) is at least 62 years of age, and (v) is retired from any gainful employment is exempt from payment of any registration fee during the period of the lawyer’s or judge’s retirement. A Retirement Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C7 of this rule. Notwithstanding the above, a lawyer or judge who has filed an affidavit in accordance with this rule may engage in the pro bono legal representation of pro bono clients pursuant to Rule 14 of the Rules of the Minnesota State Board of Continuing Legal Education.

(Amended effective July 1, 2013).