

STATE OF MINNESOTA
In Supreme Court

FILE NO. ADM09-8008

FILED

September 29, 2023

OFFICE OF
APPELLATE COURTS

Petition of the Minnesota State Board
of Continuing Legal Education for Amendment
of the Rules of the Minnesota State Board
Continuing Legal Education and the Rules
of the Supreme Court on Lawyer Registration

**PETITION FOR
RULE AMENDMENT**

TO: THE HONORABLE JUSTICES OF THE MINNESOTA SUPREME COURT:

Petitioner, the Minnesota State Board of Continuing Legal Education (“Board”), respectfully petitions this Court to amend the Rules of the Minnesota State Board of Continuing Legal Education (“CLE Rules”) and the Rules of the Supreme Court on Lawyer Registration (“LRO Rules”) to adopt a series of proposed changes set forth below. The proposed amended Rules (“Proposed Rules”) are attached as **Exhibit A** and **Exhibit B**.

In support of its Petition, Petitioner offers the following:

1. The Minnesota Supreme Court has the exclusive and inherent power to regulate the practice of law in Minnesota. Minn. Stat. § 481.01; *Sharood v. Hatfield*, 210 N.W.2d 275, 279 (Minn. 1973).
2. Under the supervision of the Court, the Board is responsible for ensuring that lawyers who are admitted to the Bar of Minnesota continue their legal education and professional development throughout their active practice of law. The Board is also responsible for overseeing the work of the Lawyer Registration Office.

3. The LRO Rules provide guidance to lawyers regarding how to file retirement and disability affidavits and how to transfer to and from disability and retirement status. (See LRO Rules 7 and 8.)
4. LRO Rule 8 outlines the permanent disability status requirements. Rule 8 states that a lawyer who is totally disabled may file an affidavit with the Lawyer Registration Office stating: (1) they are currently in good standing with the Lawyer Registration Office, (2) they do not hold judicial office or sit by special appointment, (3) they are not engaged in the practice of law in Minnesota, and (4) they are totally disabled. Filing the affidavit places the lawyer on inactive status and exempts the lawyer from payment of fees.
5. Similarly, LRO Rule 7 of the Lawyer Registration Rules outlines the process for electing retired status, including age and practice requirements. Rule 7 states that when a lawyer files the retirement affidavit, the lawyer is on inactive status and is exempt from payment of fees while effective.
6. In 2009, the CLE Rules were amended to automatically transfer lawyers who elected a Retirement status through the Lawyer Registration Office to voluntary restricted status under the CLE Rules. The purpose of this change was to clarify that the lawyer did not have an obligation to complete CLE requirements while on retired status, but also ensured that the records were clear as to the process if a lawyer decided to return to active status in the future.
7. The CLE Rules do not currently provide a mechanism for the Board office to place disability status lawyers on voluntary restricted status, in the way that the Rules provide the same for retired status lawyers.

8. Under the current rules, if a lawyer on disability status does not complete their CLE reporting obligation or elect voluntary restricted status, they would be included in the list of names submitted to the Court each year following the reporting deadline and would be placed on involuntary restricted status. There is not a provision in the CLE Rules that allows for an administrative transfer. Lawyers on involuntary restricted status are not considered to be in good standing. Placing disability status lawyers on involuntary restricted status is inconsistent with the purpose of the Lawyer Registration Rules permitting lawyers to elect disability status and is inconsistent with how both the CLE Rules and LRO Rules handle retired lawyers.
9. The Board proposes revising the CLE Rules to place disability status lawyer on CLE voluntary restricted status at the time the lawyer elects disability status through the Lawyer Registration Office, so that it is clear to lawyers electing disability status that they will not have an obligation to complete CLE requirements while on disability status.
10. If a lawyer later returns to active status from disability status, CLE Rule 12 clearly outlines the mechanism to return to CLE active status.
11. The Board also proposes adding language to both LRO Rule 7 and 8 to cross-reference the CLE provision.

For the foregoing reasons, Petitioner respectfully requests that the Court amend the current Rules of the Board of Continuing Legal Education Rules of the Supreme Court on Lawyer Registration as reflected in **Exhibit A** and adopt the proposed amended Rules of the Supreme Court on Lawyer Registration, attached to this Petition as **Exhibit B**.

Dated: 09/25/2023



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Proposed Amendments to the Rules of the Board of Continuing Legal Education:

Rule 13. Retired Status and Disability Status

A. Transfer from Active Status to Retired Status. A lawyer who files a Retirement Affidavit with the Lawyer Registration Office and who is placed on inactive status by the Lawyer Registration Office shall be transferred to voluntary restricted status by the CLE Board.

B. Transfer from Retired Status to Active Status. In addition to notifying the Lawyer Registration Office of the lawyer's intention to transfer to active status, a lawyer must satisfy the provision of Rule 12C before the Board returns the lawyer to active CLE status.

C. Transfer from Active Status to Disability Status. A lawyer who files a Disability Affidavit with the Lawyer Registration Office and who is placed on inactive status by the Lawyer Registration Office shall be transferred to voluntary restricted status by the CLE Board.

D. Transfer from Disability Status to Active Status. In addition to notifying the Lawyer Registration Office of the lawyer's intention to transfer to active status, a lawyer must satisfy the provision of Rule 12C before the Board returns the lawyer to active CLE status.

Proposed Amendments to the Rules of the Supreme Court on Lawyer Registration:

Rule 7. Retired Status: Inactive

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. A lawyer who files a Retirement Affidavit with the Lawyer Registration Office and who is placed on inactive status by the Lawyer Registration Office shall be transferred to voluntary restricted status by the CLE Board.

Rule 8. Permanent Disability Status: Inactive

A. Disability Affidavit. A lawyer or judge who is totally disabled may file with the Lawyer Registration Office a Disability 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, (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. A lawyer who files a Disability Affidavit with the Lawyer Registration Office and who is placed on inactive status by the Lawyer Registration Office shall be transferred to voluntary restricted status by the CLE Board.

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.