

# Article 12: Registration of In-House Counsel.

*(Chapter 3, Article 12 adopted October 26, 2011, effective January 1, 2012.)*

## § 3-1201. General provisions.

(A) All lawyers admitted to the practice of law in another U.S. jurisdiction or the District of Columbia, not admitted in Nebraska, who are in active status in that jurisdiction, who are employed in Nebraska as counsel in any capacity exclusively for a single corporation, partnership, association, or other legal entity, as well as any affiliate thereof, whose lawful business consists of activities other than the practice of law or provision of legal services, and who have a continuous presence in the State of Nebraska shall register as in-house counsel, or seek admission to the active practice of law in Nebraska, within 90 days of the commencement of employment as a lawyer under this rule or if currently so employed then within 90 days of the effective date of this rule as amended effective January 1, 2020. Initial registration terminates on December 31 of the year of original application and annual renewal pursuant to § 3-1203 is required thereafter. There are no exceptions to the requirement of registration as in-house counsel, except admission to the active practice of law in Nebraska, which admission includes payment of mandatory assessments pursuant to Neb. Ct. R. § 3-803(D).

(B) Registration under Neb. Ct. R. §§ 3-1201 to 3-1204 is not a matter of right. In-house counsel registration is required of all lawyers working exclusively for a single corporation, partnership, association, or other legal entity, as well as any affiliate thereof, regardless of the job title assigned to the attorney. At the discretion of the Nebraska Supreme Court, any applicant for such in-house counsel registration may be required to provide proof of good moral character and fitness to practice law by the jurisdiction in which he or she was admitted to practice law or the Supreme Court may procure the character investigation services of the National Conference of Bar Examiners, at the lawyer's expense, in any matter in which substantial questions regarding the lawyer's character or fitness to practice law are implicated.

(C) Any lawyer not licensed in Nebraska who is employed in any capacity exclusively for a single corporation, partnership, association, or other legal entity, as well as any affiliate thereof in Nebraska on January 1, 2020, shall not be subject to discipline for the failure to register under the Nebraska Rules of Professional Conduct, Neb. Ct. R. Prof. Cond. §§ 3-501.0 to 3-508.5, if application for registration is made within 90 days of January 1, 2020, or the lawyer has submitted an application for admission to the active practice of law in Nebraska pursuant to Neb. Ct. R. § 3-100 et seq. within 90 days of January 1, 2020.

(D) Pro bono practice. A lawyer registered under this section is authorized to provide pro bono legal services through an established not-for-profit association, pro bono program or legal services program or through such organizations specifically authorized in Nebraska.

§ 3-1004(A)-(C) amended December 18, 2019, effective January 1, 2020.

## **§ 3-1202. Application requirements.**

To qualify, the lawyer must submit to the Attorney Services Division of the Nebraska Supreme Court the following:

(A) A completed application by responding to the questions posed through the Attorney Services Division on-line portal.

(B) A certificate of good standing from the highest court of each jurisdiction of admission which shall be uploaded through the on-line portal account.

(C) A certificate from the disciplinary authority of each jurisdiction of admission which shall be uploaded through the on-line portal account and:

(1) States that the lawyer has not been suspended, disbarred, or disciplined and that no charges of professional misconduct are pending; or

(2) Identifies any suspensions, disbarments, or disciplinary sanctions and any pending charges.

(D) A duly authorized and executed certification from the lawyer's employer utilizing the form provided by the Attorney Services Division shall be uploaded through the on-line portal account and provides that:

(1) It is not engaged in the practice of law or the rendering of legal services in violation of Neb. Ct. R. §§ 3-1001 to 3-1021, Unauthorized Practice of Law, whether for a fee or otherwise;

(2) It is duly qualified to do business under the laws of its organization and the laws of the State of Nebraska;

(3) The lawyer works exclusively as an employee of said employer as of the date of the application; and

(4) It will promptly notify the Attorney Services Division in writing of the termination of the lawyer's employment.

(E) Such other affidavits, proofs, and documentation as may be required by the Nebraska Supreme Court.

(F) The registration fee of \$700 shall be paid through the on-line portal for credit to the Nebraska Supreme Court's Counsel for Discipline Cash Fund and the Attorney Services Cash Fund. If the application for registration as in-house counsel is denied by the Nebraska Supreme Court, the registration fee shall be refunded.

§ 3-1202(A) amended April 10, 2013; § 3-1202 amended December 18, 2019, effective January 1, 2020.

## **§ 3-1203. Termination or change of employment and renewal.**

(A) Termination of employment. When a lawyer ceases to be employed as in-house counsel with the entity submitting the certification under § 3-1202(D), the lawyer's authorization to perform legal services under this rule terminates. The lawyer shall provide notice to the Attorney Services Division of the termination through the on-line portal account and the employer shall immediately notify the Supreme Court Attorney Services Division in writing that the employment has ended.

(B) Change of employers. If within 90 days of ceasing to be employed by the employer submitting the certification under § 3-1202(D), the lawyer becomes employed as in-house counsel by another employer who meets the requirements of this rule, the lawyer's registration shall be reinstated for the remainder of the calendar year after the new employer provides the certification required under § 3-1202(D).

(C) Failure to maintain active status. If a lawyer who is registered under this rule fails to maintain active status in at least one jurisdiction, the rights and privileges under this rule automatically terminate.

(D) Any lawyer registered under this rule shall renew registration through the on-line portal account on or before January 20 setting forth the requirements of § 3-1202(B) through (D) and pay the annual renewal fee of \$345 to the Nebraska Supreme Court through the on-line portal for credit to the Nebraska Supreme Court's Counsel for Discipline Cash Fund and the Attorney Services Cash Fund.

(E) Any lawyer who fails to file the annual renewal on or before January 20 shall pay an additional late fee of \$25.

*§ 3-1203(D) amended April 10, 2013; § 3-1203 amended December 18, 2019, effective January 1, 2020.*

## **§ 3-1204. Discipline and other applicable requirements.**

(A) A lawyer registered under Neb. Ct. R. §§ 3-1201 to 3-1204 shall be subject to the disciplinary authority of this state to the same extent as lawyers licensed to practice law in the State of Nebraska.

(B) A lawyer registered under Neb. Ct. R. §§ 3-1201 to 3-1204 shall immediately inform the Counsel for Discipline of the Nebraska Supreme Court in writing of any disciplinary action commenced or any discipline or sanction imposed against the lawyer in any other jurisdiction.

(C) A lawyer who fails to register with the Nebraska Supreme Court as in-house counsel or fails to seek admission to the Nebraska State Bar Association within 90 days of beginning employment with an employer who meets the requirements of Neb. Ct. R. §§ 3-1201 to 3-1204 or within 90 days of January 1, 2020, or a lawyer who fail to renew current in-house counsel registration by March 1 shall be:

(1) Subject to professional discipline in this jurisdiction, including referral to Counsel on the Unauthorized Practice of Law pursuant to Neb. Ct. R. § 3-1012;

(2) Referred by the Counsel for Discipline of the Nebraska Supreme Court to the disciplinary authority of the jurisdictions of licensure; and

(3) Ineligible for admission on motion in the State of Nebraska.

*§ 3-1204(C) amended April 10, 2013; § 3-1204(C) and (C)(1) amended December 18, 2019, effective January 1, 2020.*

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