

NOTICE OF COMMENT PERIOD

The Nebraska State Bar Association submitted to the Nebraska Supreme Court a proposed rule amendment to create a pro bono publicus attorney rule. The proposed rule would, in accordance with the proposed amendments, allow Nebraska attorneys with inactive status in the Nebraska State Bar to engage in pro bono activities through approved civil legal service providers. The Nebraska Supreme Court invites interested persons to comment on the proposed rule amendment.

Anyone desiring to comment on the proposed rule amendment should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via e-mail to jill.machacek@nebraska.gov, no later than June 15, 2016.

A hard copy may be reviewed in the office of the Clerk of the Supreme Court and Court of Appeals upon request.

Article 8: State Bar Association; Creation; Control; and Regulation.

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§ 3-803. Membership.

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(B) Classes. Members of this Association shall be divided into ~~four~~ five classes, namely: Active members, Inactive members, Law Student members, ~~and Emeritus members,~~ and Pro Bono Publicus members.

(1) All members who are licensed to engage in the active practice of law in the State of Nebraska, who do not qualify for and apply for Inactive membership status, and who are not Law Student members, shall be Active members.

(2) Any member who is not actively engaged in the practice of law in the State of Nebraska, or who is a nonresident of the State of Nebraska and not actively engaged in the practice of law in Nebraska, and who is not an Emeritus member, may, if he or she so elects, be placed in Inactive membership status.

A member desiring to be placed in Inactive membership status shall file written application therefor with the Administrator of Attorney Services Division and, if otherwise qualified, shall be placed in such inactive status classification. No Inactive members shall practice law in Nebraska (except as otherwise provided for herein), or vote or hold office in this Association. Any Inactive member may, on filing application with the Administrator of Attorney Services Division and upon payment of the required dues, and compliance with such requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State, become an Active member.

(3) Any member who attained the age of 75 years of age during the dues year being billed or has been actively engaged in the practice of law in the State of Nebraska for 50 years or more during the dues year being billed may, if he or she so elects, be placed in an Emeritus membership status. A member desiring to be placed in an Emeritus membership status shall file written application therefor with the Administrator of Attorney Services Division and, if otherwise qualified, shall be placed in the Emeritus status classification. A member electing Emeritus classification shall not be required to pay membership dues to this Association. No Emeritus member shall practice law in Nebraska, or vote or hold office in this Association. Any Emeritus member may, on filing application with the Administrator of Attorney

Services Division and upon payment of the required dues and compliance with the requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State, become an Active member.

(4) A pro bono publicus attorney is an inactive member of the Nebraska State Bar who is not otherwise engaged in the practice of law, who provides free civil legal services under the supervision of a qualified legal services provider as defined in this rule; who is a member in good standing of the Nebraska State Bar and has no record of discipline for professional misconduct imposed at any time within the last 15 years, and who did not resign or retire from the practice of law with disciplinary charges pending or in lieu of discipline;

A qualified legal services provider for the purposes of this rule is a not-for-profit legal services organization that receives or is eligible to receive funds from the Legal Aid and Services Fund and has an actively licensed Nebraska attorney who supervises pro bono publicus attorneys. The pro bono publicus attorney shall not be paid by the qualified legal services provider, but the qualified legal services provider may reimburse the pro bono publicus attorney for actual expenses incurred while rendering services. The qualified legal services provider shall be entitled to receive any court-awarded attorney fees for representation rendered by the pro bono publicus attorney. Collection of any money from the client, including but not limited to reimbursements for expenses incurred, shall be handled exclusively by and through the qualified legal services provider.

Except for the acts and services performed in association with a qualified legal services provider, a pro bono publicus attorney shall not otherwise engage in the practice of law. A qualified legal services provider who engages the services of a pro bono publicus attorney shall file a sworn statement with the Attorney Services Division of the Nebraska Supreme Court that:

(a) Provides the name of the pro bono publicus attorney; and

(b) States that the pro bono publicus attorney will not be paid compensation, states that the pro bono publicus attorney will be covered by the provider's malpractice insurance, states that the pro bono publicus attorney agrees to notify the Attorney Services Division of the Nebraska Supreme Court within 10 days when association with the pro bono publicus attorney has ceased, states that the pro bono publicus attorney has read and is familiar with the Nebraska Rules of Professional Conduct, and states that the qualified legal services provider has verified that the pro bono publicus attorney has not been disciplined within the last 15 years in any jurisdiction.

(45) Except for the right reserved by law to litigants to prosecute or defend a cause in person, or as provided elsewhere in these rules, no person other than an Active member of this Association shall engage in the practice of law in this State, or in any manner hold himself or herself out as authorized or qualified to practice law in this State. Any court in this State may, on motion and upon such person taking the oath required by Neb. Rev. Stat. § 7-104, allow a member of the Bar of any other state or jurisdiction, in good standing therein, to appear and participate in any particular action or proceeding then pending before such court (for purpose of such business only), upon it further being made to appear to the court, by written showing filed therein, that such person has associated with and is appearing in such action with an Active member of this Association upon whom service may be made in all matters connected with said action, with same effect as if personally made on such foreign attorney in this State; provided, regularly licensed practicing attorneys of other states, the laws of which permit practice in their courts of attorneys from this State, without a local attorney being associated with such attorneys, shall not be required to have an Active member of this Association associated with them in such action. (See Neb. Rev. Stat. § 7-103.)

(~~56~~) Nothing in these rules shall be construed to bar any Active member from the practice of law pursuant to the provisions of any rules of the Supreme Court authorizing the practice of law by a professional service corporation or a limited liability organization, subject to the limitations provided by such rules.

(~~67~~) In order to make information available to the public about the financial responsibility of each active member of this Association for professional liability claims, each such member shall, upon admission to the Bar, and as part of each application for renewal thereof, submit the certification required by this rule. For purposes of this rule, professional liability insurance means:

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