

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the Amendment
of the
Rules of the Supreme Court of the State of Hawai'i

AMENDED¹

ORDER AMENDING RULE 17(d) OF THE RULES
OF THE SUPREME COURT OF THE STATE OF HAWAI'I

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rule 17(d) of the Rules of the Supreme Court of the State of Hawai'i, is amended, effective January 1, 2009, as follows (deleted material is bracketed and stricken; new material is underscored):

Rule 17. THE HAWAI'I STATE BAR.

* * *

(d) Member registration, information, assessment, suspension and status.

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(6) EXEMPTIONS.

(i) *Judges' exemption.* Full-time judges of courts of record of the State of Hawai'i and United States courts whose jurisdiction includes Hawai'i shall be exempt from the payment of the Disciplinary Board and Lawyers' Fund for Client Protection fees for such time as they serve in office.

(ii) *Government attorneys' exemption.* Active attorneys who work exclusively for the federal government, the State of Hawai'i, or any political subdivision of the State of Hawai'i and who, except for permissible pro bono service, engage in no private practice of law whatsoever, whether full-time or part-time, compensated or uncompensated, shall be exempt from the payment of

¹ The original order was filed on December 12, 2008. This amended order makes a correction to Rule 17(d)(9) by inserting "submission of" so that the second sentence now reads "Reinstatement shall be automatic upon the payment of all dues and fees for the year the request is made and, for an attorney on voluntary inactive/medical status, submission of a physician's affidavit or declaration...".

Lawyers' Fund for Client Protection fee for such time as they remain in those positions. This exemption shall be preserved for those government attorneys providing pro bono services, as defined in Rules of Professional Conduct 6.1, to non-government clients and who neither receive funds from, nor disburse funds to, clients in the provision of pro bono services. Any attorney who desires to be exempt from payment of such fee shall submit proof of the attorney's eligibility for exemption. An attorney who ceases to be exempt shall promptly pay ~~to the Fund~~ the full amount of the most recent assessment.

(iii) *"Inactive" members' exemption.* Attorneys on inactive status on December 31 of the calendar year preceding the assessment shall be exempt from the payment of Lawyers' Fund for Client Protection fees for such time as they remain inactive. Any attorney who desires to be exempt from payment of such fee shall submit proof of the attorney's eligibility for exemption. ~~[Any attorney who ceases to be exempt shall promptly pay to the Bar the full amount of the most recent assessment.]~~ Attorneys who elect inactive status for medical reasons and attorneys who are transferred to inactive status pursuant to Rule 2.19 of the Rules of the Supreme Court shall be exempt from payment of fees for the Disciplinary Board, Lawyers' Fund for Client Protection, and Attorneys and Judges Assistance Program for such time as the medical condition exists. Any attorney who returns to active status shall promptly pay the full amount of the most recent assessment.

(7) PROOF OF PAYMENT. An attorney's cancelled check duly endorsed and negotiated by the Bar, or other confirmation of payment, shall constitute a receipt for payment of fees under this rule in order to enable the attorney on request to demonstrate compliance with the requirements of this rule.

(8) INACTIVE STATUS. An attorney who is in compliance with this rule, but who has retired or is no longer engaged in practice in this jurisdiction, or who is suffering from a medical condition, may ~~[advise the Bar in writing that the attorney desires to assume inactive status]~~ elect inactive status and discontinue the practice of law in Hawai'i. The Bar shall not honor a voluntary election to inactive status for medical reasons unless the election is supported by a physician's affidavit or declaration that the attorney is experiencing a serious medical condition and the attorney's affidavit or declaration that the election is due to medical reasons and not solely for purposes of the exemption provided by paragraph (6) above. Upon the filing and recognition of ~~[such notice]~~ an election to inactive status, together with a processing fee in such amount as the Board of Directors shall determine from time to time, the attorney shall be placed on inactive status and shall no longer be eligible to practice law. An attorney on inactive status shall be carried on the rolls of the Bar in such inactive classification(s) as may be provided in the bylaws of the Bar and, except as provided by paragraph (6), shall be required to pay such dues or fees, if any, as the Board of Directors of the Bar may prescribe from time to time or as the supreme court may direct in accordance with the Rules of the Supreme Court of the State of Hawai'i. The Bar shall advise the Disciplinary Board and the clerk of this court of the names of all attorneys who assume inactive status. Attorneys on inactive status shall remain subject to the jurisdiction[s] of this court, the Disciplinary Board, the Lawyers' Fund for Client Protection, the Attorneys and Judges Assistance Program and the Bar.

(9) RETURN FROM VOLUNTARY INACTIVE STATUS. An attorney on voluntary inactive status or on voluntary inactive/medical status remains in that

status until and unless the attorney requests and is granted reinstatement to the active roll. Reinstatement shall ~~unless the attorney is subject to an outstanding order of suspension or disbarment~~ be automatic upon the payment [to the Bar] of ~~the~~ all dues and fees for the year the request is made ~~satisfaction of such other requirements as may be imposed from time to time by the Board of Directors of the Bar or this court or both, payment of any processing fee(s) and charges required by the Board and payment of the most recent assessment to the Lawyers' Fund for Client Protection~~ and, for an attorney on voluntary inactive/medical status, submission of a physician's affidavit or declaration that the attorney is capable of returning to work and the attorney's affidavit or declaration that the reasons for the election of inactive/medical status no longer exist, unless the attorney is subject to an outstanding order of suspension or disbarment or transfer to inactive status under Rule 2.19.

DATED: Honolulu, Hawai'i, December 16, 2008.