

Electronically Filed
Supreme Court
SCRU-11-0000068
21-JUN-2012
01:33 PM

SCRU-11-0000068

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the
THE RULES OF THE SUPREME COURT OF THE STATE OF HAWAI'I

ORDER AMENDING RULE 17(d) OF THE
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI'I
(By: Recktenwald, C.J., Nakayama, Acoba, and McKenna, JJ., and
Intermediate Court of Appeals Chief Judge Nakamura,
assigned by reason of vacancy)

IT IS HEREBY ORDERED that Rule 17(d) of the Rules of
the Supreme Court of the State of Hawai'i, is amended, effective
July 1, 2012, 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.**

...
(3) DUES, FEES AND CHARGES. Each member shall pay to the Bar the
following dues, fees or charges:
([r]A) *Hawai'i State Bar dues*. Annual dues as determined by the Board
of Directors of the Bar.

([iv]B) *Disciplinary Board fee.* The annual fee, determined in accordance with Rule 2.4(e)(8), shall be paid over by the Bar at least quarterly to the Disciplinary Board.

([iv]C) *Lawyers' Fund for Client Protection fee.* The fee, determined in accordance with Rule 10.4(1), shall be paid over by the Bar at least quarterly to the Fund.

([iv]D) *Attorneys and Judges Assistance Program fee.* The annual fee, determined in accordance with Rule 16.2(d)(4) shall be paid over by the Bar at least quarterly.

(4) ADMINISTRATIVE SUSPENSION.

([i]A) *Failure to file or pay.* Failure to file a properly completed attorney registration statement or nonpayment of any dues, fees, or charges required by these rules, after 15 days written notice, shall result in automatic suspension by the Hawai'i State Bar, of membership and the right to practice law until reinstatement. The Board of Directors of the Bar (1) may establish late processing fees and reinstatement charges and (2) may exempt from the registration requirements inactive attorneys who do not maintain active licenses and do not practice law in any other jurisdiction.

([i]B) *Failure to meet MCPE requirements; notice of noncompliance; subsequent acquisition of hours; contest; suspension.* Within 60 days after the deadline for filing the disclosure required by Rule 17(d)(iv), the Executive Director of the Bar shall send a certified notice of noncompliance to each member whose disclosure shows the MCPE requirement has not been met. A member who receives a certified notice of noncompliance may, within 15 days after the notice was mailed, submit to the Executive Director of the Bar evidence the member has acquired the mandated credit hours (which hours may not be counted for the current year); that the notice of noncompliance was issued erroneously, or that the member has resigned his or her license to practice law. A member who fails to prove the member acquired the mandated credit hours or that the notice of noncompliance was issued erroneously shall be automatically and immediately suspended by the Bar.

(5) REINSTATEMENT.

([i]A) *After failure to file or pay.* Any attorney suspended for failure to file a complete registration statement or pay dues and fees shall be reinstated by the Hawai'i State Bar without further order upon:

([a]i) payment to the Bar of all arrears and a late processing and reinstatement fee in such amount as shall be determined by the Board of Directors of the Bar from time to time, and

([b]ii) satisfaction of such other requirements as may be imposed by the Board of Directors of the Bar and/or the supreme court.

([i]B) *After failure to comply with MCPE requirements.* An attorney suspended for failure to comply with MCPE requirements shall be reinstated upon sufficient proof the member has:

([a]i) completed 3 hours of MCPE, which hours shall not be counted for the current year;

([b]ii) paid the reinstatement fee set by the Bar; and

([c]iii) paid all required fees and dues.

(iii)C) *Review by supreme court.* A member may petition the supreme court for review of the Executive Director's determination the member failed to prove completion of the mandated credit hours or that a notice of noncompliance was issued erroneously. Such petition shall not stay the effective date of the suspension.

(6) EXEMPTIONS.

(i)A) *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)B) *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 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 the full amount of the most recent assessment.

(iii)C) *"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. 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.

* * *

DATED: Honolulu, Hawai'i, June 21, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Craig H. Nakamura

