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R-05-0034
FILED
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BEFORE THE ARIZONA SUPREME COURT

9
10 PETITION TO AMEND RULES 32(c), Supreme Court No. R-05-00__
11 45 and 64(f), ARIZONA RULES OF
12 THE SUPREME COURT
13

14
15 Pursuant to Rule 28 of the Rules of the Supreme Court, the State Bar of
16 Arizona petitions the Arizona Supreme Court to modify Rules 32(c), 45 and
17 64(f), Arizona Rules of the Supreme Court, as set forth in Appendix A below.

18 In conjunction with the State Bar's request to modify the dues structure
19 relating to members over 70 and retired members (Appendix B), the Board of
20 Governors seeks modifications to the rules governing membership, mandatory
21 continuing legal education (MCLE) and reinstatement.

22 The amendments to Rule 32(c) further define retired membership and
23 distinguish retired status from inactive status. As amended, retired members
24 will not be allowed to actively practice in any jurisdiction. Additionally, retired
25 members would be allowed to remain retired and provide volunteer legal
26 services to approved legal services organizations as defined in Rule 38(e).

1 Further, the proposed amendments outline conditions that will not be
2 considered “personal hardship” for the purpose of waiver of dues.

3 The proposed amendments address the status of members who choose to
4 resign from the Bar. Members who choose to resign will no longer be classified
5 as resigned members of the Bar and immediately following resignation will be
6 required to apply for admission and take the Bar exam in order to return to
7 practice in Arizona.

8 Changes to Rule 45 will close a loophole that allowed members to jump
9 from active to inactive status to avoid annual MCLE requirements. The
10 proposed amendment would require that members wishing to return to active
11 status from inactive status show completion of required MCLE hours for each
12 of the last two years for which the member was on inactive status. Similarly,
13 the proposed amendment would require that members wishing to return to
14 active status from retired status show completion of required MCLE hours for
15 each of the last three years for which the member was on retired status. Each
16 will be required to fulfill MCLE requirements for the year in which they return
17 to active status.

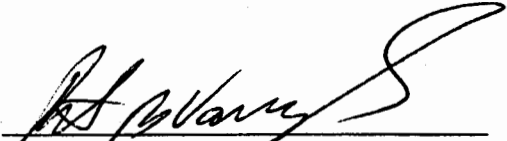
18 Additionally, the proposed amendments to Rule 45 and 64(f) require
19 members summarily suspended for failure to comply with MCLE to complete
20 MCLE for each educational year for which the member was suspended.

21 Finally, the Bar proposes to remove the MCLE exemption for members
22 over 70 years old. MCLE helps to insure that members stay on top of recent
23 changes in the law, to prevent our members from entering the lawyer regulation
24 system, and to further the Bar’s long-term goal of providing the best legal
25 services to our citizens as is possible. MCLE requirements provide public
26 protection and should be in place for all active practitioners, regardless of age.

1 For the reasons set forth above, the State Bar of Arizona respectfully
2 petitions this Court to amend Rules 32(c), 45 and 64(f), Arizona Rules of the
3 Supreme Court, as set forth in Appendix A below.

4
5 **RESPECTFULLY SUBMITTED** this 7th day of December 2005.

6
7 **STATE BAR OF ARIZONA**

8 
9 _____
10 Robert B. Van Wyck
11 Chief Bar Counsel

12
13 Original, seven copies, and an
14 electronic copy filed with the
15 Clerk of the Supreme Court of
16 Arizona this 7th day of
December 2005.

17
18 By: 

Appendix A

Rule 32 (c)

(c) Membership.

1. *Classes of Members.* Members of the state bar shall be divided into five classes: active, inactive, retired, suspended, and judicial. ~~A Disbarred or resigned persons is-are not a members of the bar.~~

2. *Active Members.* UNCHANGED

3. *Admission and Fees.* UNCHANGED

4. *Inactive Members; ~~Retired Members.~~* Inactive members shall be those who have, as provided in these rules, been transferred to inactive status. An active member who ~~has retired from~~ or is not engaged in practice in Arizona may be transferred to inactive status upon written request to the executive director. Inactive members shall not practice law in Arizona, or hold office or vote. On application and payment of the membership fee and any delinquent fees that may be due under Rule 45(d), they may become active members. Inactive members shall have other privileges, not inconsistent with these rules, as the Board may provide. Incapacitated members may be transferred to disability inactive status and returned to active status as provided in these rules.

5. *Retired Members.* Retired members shall be those who have, as provided in these rules, been transferred to retired status. An active, inactive or judicial ~~retired~~ member who is not engaged in active practice in Arizona any state, district, or territory of the United States may be transferred to retired status upon written request to the executive director. Retired members shall not practice law in Arizona, or hold State Bar office or vote in State Bar elections. Retired members shall not practice law in any state, district, or territory of the United States. Notwithstanding that, retired members may provide volunteer legal services to approved legal services organizations as defined in Rule 38(e), except that retired members of the Arizona Bar need not have engaged in the active practice of law within the last five years as required in 38(e)(2)(B)(1) or 38(e)(3)(A). Retired members may return to active, inactive or judicial status upon written request to the executive director. On application and payment of the required membership fee and any requirements delinquent fees that may be due under Rule 45(d), they may become active members.

~~5-6.~~ *Judicial Members.* UNCHANGED

~~6-7.~~ *Membership Fees.* An annual membership fee for active members, inactive members, retired members and judicial members shall be established by the board with the consent of this court and shall be payable on or before February 1 of each year. The annual fee shall be waived for members on disability inactive status pursuant to Rule 59. Upon application, the Board of Governors may waive the dues of any other member for reasons of personal hardship. Personal hardship shall not include failure of the member to calendar the deadline, failure of the member to promptly notify the bar of a change in the member's mailing address, or the member's delegation of the responsibility to another person.

~~7-8.~~ *Computation of fee.* UNCHANGED

~~8-9.~~ *Allocation of fee.* Upon payment of the membership fee each member shall receive a certificate- bar card issued by direction of the board evidencing payment. All fees shall be paid into the treasury of the state bar and, when so paid, shall become part of its funds,

except that portion of the fees representing the amount for the funding of the Client Protection Fund shall be paid into the trust established for the administration of the Client Protection Fund.

~~9.~~ 10. Delinquent Fees. UNCHANGED

~~10.~~ 11. Resignation.

A. Members in good standing who wish to resign from membership in the state bar may do so, and such resignation shall become effective when filed in the office of the state bar, accepted by the board, and approved by this court. After the resignation is approved by this court, such ~~member-person~~ shall be known as a "resigned member in good standing."

~~A.~~ B. Such resignation shall not be a bar to institution of subsequent discipline proceedings for any conduct of the resigned ~~member-person~~ occurring prior to the resignation. In the event such resigned ~~member-person~~ thereafter is disbarred, suspended or censured, the resigned ~~member's-person's~~ status shall be changed from "resigned member in good standing" to that of a person so disciplined. Such resignation shall not be accepted if there is a disciplinary charge or complaint pending against the member.

~~B.~~ C. In order to return to active, inactive or judicial membership status, Resigned members persons in good standing shall be required to apply for admission and pass the bar examination as required in Rule 33. The applicant shall pay the fees required of an applicant for original admission to the bar. may be reinstated to membership in the same manner and on the same terms as members suspended for nonpayment of membership fees.

~~C.~~ D. A member wishing to resign shall apply on a form approved by the board and shall furnish such information as is required upon such form and shall make such allegations, under oath, as are required on such form.

Rule 45

(a) UNCHANGED

(b) Exemptions

1. Inactive and Retired Members. An inactive or retired member of the bar shall be exempt from the requirements of section (a), if the lawyer is inactive or retired during the entire educational year. An active member who transfers to inactive or retired status is exempt during the educational year in which the transfer occurs. ~~An inactive member who transfers to active status shall comply with the educational requirements of section (a) in effect for the educational year in which he or she transfers to active status.~~

2. UNCHANGED

~~3. Active Members at least 70 Years Old. An active member who is at least 70 years old or who will have been a member for at least 45 years prior to June 30 shall be exempt from the requirements of section (a) for the educational year in question.~~

Renumber the remainder of section (b)

(c) and (d) UNCHANGED

(e) Status Changes

1. Return from Inactive Status to Active Status: Prior to a member changing their status from inactive to active, a member must show completion of MCLE hours equivalent to those required in subsection (a) of this rule for each of the last two years for which the member was on inactive status.

2. Return from Retired Status to Active Status: Prior to a member changing their status from retired to active, a member must show completion of MCLE hours equivalent to those required in subsection (a) of this rule for each of the last three years for which the member was on inactive status.

3. Any inactive, retired or judicial member who transfers to active status shall comply with the educational requirements of section (a) in effect for the educational year in which he or she transfers to active status.

(e-f) Records. UNCHANGED

(f-g) Audits of Compliance. UNCHANGED

(h-i) Summary Suspension.

Upon motion of the state bar pursuant to rule 52(d), any member who fails to comply with this rule for any educational year in which he or she was an active member and not otherwise exempted may be summarily suspended by order of the board, provided that a notice by certified mail, return receipt, of such noncompliance shall have been sent to the member, mailed to his or her last address of record in the State Bar office, at least thirty days prior to such suspension, but may be reinstated upon completion of the continuing legal education requirements for ~~the~~ each educational year the member was suspended in question with submission of proof of cure, payment of a reinstatement fee of \$100.00, all delinquency fees pursuant to section (d) of this rule and in accordance with rule 71(b).

(j) Confidentiality of Records. UNCHANGED

(k) Immunity from Civil Suit. UNCHANGED

Rule 64(f)

(f) Reinstatement After Summary Suspension by the Board of Governors. The application of a member summarily suspended shall be filed within two years from the effective date of the suspension and be accompanied by 1) proof of cure of the grounds upon which the suspension order was entered, 2) and by payment equal to the amount of fees, assessments, and administrative costs, if any, the applicant would have been required to pay had the applicant remained an active member to the date of the application, plus the one hundred dollar (\$100.00) reinstatement fee and any applicable delinquency or late fees, and 3) proof of completion of any MCLE hours required had the applicant remained an active member to the date of the application. A timely filed application shall be addressed to and be considered by the board. Upon verification of compliance the board shall enter an order of reinstatement. If an application is not filed within two years from the effective date of suspension, the reinstatement procedure set forth in Rule 65 shall apply.



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December 7, 2005

The Honorable Ruth V. McGregor
Chief Justice
Arizona Supreme Court
1501 West Washington Street 4th Floor
Phoenix, Arizona 85007-3329

RE: State Bar of Arizona Membership Categories - Over 70 and Retired

Dear Chief Justice McGregor:

At the November meeting, the Board of Governors voted to request two modifications to the dues structure beginning in 2007 in conjunction with filing a Rule 28 petition to modify rules governing membership categories, mandatory continuing legal education and reinstatement.

First, the Bar respectfully requests that beginning in 2007, members over 70 years old be required to pay dues based on their membership categories. This change will require members over 70 to choose a category of membership and will give the Bar and the Court a more accurate picture of how many attorneys are actively practicing, retired, or inactive in Arizona. Charging all members dues based on membership category rather than age will also equitably distribute the impact of future dues increases as the traditional age of retirement shifts and as the Bar's membership ages.

The Bar further recommends that, over the next three years, dues for Retired Arizona members be lowered to \$100 by reducing retired dues to \$180 in 2007, to \$140 in 2008, and to \$100 in 2009 and subsequent years.

On behalf of the Board of Governors, I would like to take this opportunity to thank you and your colleagues for the Court's ongoing support of the State Bar of Arizona.

Sincerely,

[Handwritten signature]

Helen Perry Grimwood
President

HPG/kal