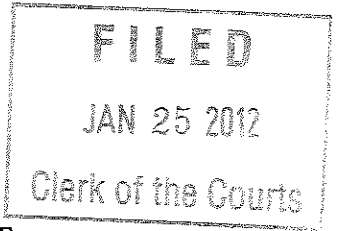


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: RULE 9, SECTION 20,
RULES OF THE TENNESSEE SUPREME COURT**



No. M2011-01526-SC-RL2-RL

ORDER

On July 19, 2011, the Court filed an order soliciting public comments on proposed amendments to Tenn. Sup. Ct. R. 9, §§ 20.1, 20.2, and 20.8, to address several issues concerning exemptions from the requirement in § 20.1 that attorneys admitted to practice in Tennessee pay an annual registration fee to the Board of Professional Responsibility. The proposed amendments would adopt a new exemption for federal judges and other federal officials who are barred by federal law from practicing law, would clarify the current rule's inactive-status provision, and would adopt a new requirement that specified lawyers assuming inactive status pay an annual inactive-status fee to the Board of Professional Responsibility. The public comment period ended on November 16, 2011.

After due consideration, the Court has decided to adopt, as modified herein, the proposed amendments to §§ 20.1, 20.2, and 20.8, and to also adopt related amendments to §§ 20.5 and 20.9. The Court hereby adopts the amendments set out in the attached Appendix to this order, effective on January 1, 2012, nunc pro tunc.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

AMENDMENTS TO TENN. SUP. CT. R. 9, § 20

[Amend Tenn. Sup. Ct. R. 9, §§ 20.1, 20.2, 20.5, and 20.8 as indicated below; new text is indicated by underlining, and deleted text is indicated by ~~overstriking~~.]

Section 20. Periodic Assessment of Attorneys.

20.1. Every attorney admitted to practice before this Court, except those exempt under 20.2, shall pay to the Board of Professional Responsibility on or before ~~March 1~~ of each year the first day of the attorney's birth month an annual fee for each year beginning ~~in 1976 to be set by the Court from time to time~~ January 1, 2012.

All funds collected hereunder shall be deposited by the Board of Professional Responsibility with the State Treasurer; all such funds, including earnings on investments and all interest and proceeds from said funds, if any, are deemed to be, and shall be designated as, funds belonging solely to the Board of Professional Responsibility. Withdrawals from those funds shall ~~only~~ be made by the Board of Professional Responsibility only for the purpose of defraying the costs of disciplinary administration and enforcement of those rules, and for such other related purposes as this Court may from time to time authorize or direct.

The annual registration fee for each attorney shall be \$140, payable on ~~January 2, 2009, but no later than March 1, 2009~~ or before the first day of the attorney's birth month, and a like sum each year thereafter until otherwise ordered by the Court.

20.2. There shall be exempted from the application of this rule:

(a) ~~[Stricken effective July 1, 1985.]~~ Attorneys who serve as a justice, judge, or magistrate judge of a court of the United States of America or who serve in any federal office in which the attorney is prohibited by federal law from engaging in the practice of law.

(b) Retired attorneys.

(c) Attorneys on temporary duty with the armed forces.

(d) Faculty members of Tennessee law schools who do not practice law.

(e) Attorneys not engaged in the practice of law in Tennessee. The term “the practice of law” shall be defined as any service rendered involving legal knowledge or legal advice, whether of representation, counsel, or advocacy, in or out of court, rendered in respect to the rights, duties, regulations, liabilities, or business relations of one requiring the services. It shall encompass all public and private positions in which the attorney may be called upon to examine the law or pass upon the legal effect of any act, document, or law.

* * * *

20.5. To facilitate the collection of the annual fee provided for in 20.1 above, all persons required by this Rule to pay an annual fee shall, on or before ~~March 1 of every year, commencing in 1976~~ the first day of their birth month, file with the Board of Professional Responsibility of the Supreme Court of Tennessee at its central office a registration statement, on a form prescribed by this Court, setting forth at the attorney’s current residence, and office, and email addresses, and such other information as this Court may from time to time direct. In addition to such statement, every attorney shall file with the Board of Professional Responsibility of this Court a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons first becoming subject to these Rules by admission to the practice of law before the courts of this state after January 1, 1976 shall file the statement required by this Rule at the time of admission; but no annual fee shall be payable ~~until March 1 next~~ for three months following their such date of admission to the bar.

* * * *

20.8. An attorney who ~~has retired or is not engaged in practice~~ claims an exemption under section 20.2(a), (b), (d), or (e) shall advise file with the Board of Professional Responsibility in writing that such attorney desires to an application to assume inactive status and discontinue the practice of law in this state. In support of the application, the attorney shall file an affidavit stating that the attorney is not delinquent in paying the privilege tax imposed on attorneys by Tenn. Code Ann. § 67-4-1702, is not delinquent in meeting any of the reporting requirements imposed by Rules 9, 21, and 43, is not delinquent in the payment of any fees imposed by those rules, and is not delinquent in meeting the continuing legal education requirements imposed by Rule 21. The Board shall approve the application if the attorney qualifies to assume inactive status under section 20.2 and is not delinquent in meeting any of the obligations set out in the preceding sentence. If it appears to the Board that the applicant is delinquent in meeting any of those obligations, the Board shall notify the applicant of the delinquency and shall deny the application unless, within ninety (90) days

after the date of the Board's notice, the applicant demonstrates to the Board's satisfaction that the delinquency has been resolved. Upon the filing of such noticedate of the Board's written approval of the application, the attorney shall no longer be eligible to practice law in Tennessee. The Board shall act promptly on applications to assume inactive status and shall notify the applicant in writing of the Board's action. If the Board denies an application to assume inactive status, the applicant may request the Supreme Court's administrative review by submitting a petition to the Chief Justice within thirty (30) days of the Board's denial. The Court's review, if any, shall be conducted on the application, the supporting affidavit, and any other materials relied upon by the Board in reaching its decision.

An attorney who assumes inactive status under an exemption granted by section 20.2(a), (d), or (e) shall pay to the Board of Professional Responsibility, on or before the first day of the attorney's birth month, an annual inactive-status fee set at one-half of the annual registration fee assessed under section 20.1. Such attorney shall file annually with the Board of Professional Responsibility at its central office a registration statement, on a form prescribed by the Board, setting forth the attorney's current residence, office, and email addresses, and such other information as the Board may direct. In addition to such statement, such attorney shall file with the Board a supplemental statement of any change in the information previously submitted within 30 days of such change.

An attorney who assumes inactive status under the exemption granted by section 20.2(e) and who is licensed to practice law in another jurisdiction shall not be eligible to provide any legal services in Tennessee pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(c) or (d).

20.9. Upon the ~~filing of a notice~~Board's written approval of an application to assume inactive status, ~~an the~~ attorney shall be removed from the roll of those classified as active until and unless the attorney requests and is granted reinstatement to the active rolls. Reinstatement shall be granted unless the attorney is subject to an outstanding order of suspension or disbarment or has been in inactive status for five years or more, upon the payment of any assessment in effect for the year the request is made and any arrears accumulated prior to transfer to inactive status. Attorneys who have been suspended or on inactive status for over five years before filing a petition for reinstatement to active status may be required, in the discretion of this Court, to establish proof of competency and learning in law which proof may include certification by the Board of Law Examiners of the successful completion of an examination for admission to practice subsequent to the date of suspension or transfer to inactive status.

(end of Appendix)