

# REGISTRATION OPTIONS FOR RETIRED LAWYERS

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association®

# REGISTRATION OPTIONS [GOV. BAR R. VI]

- Remain active
- Retire or resign from the practice of law
- Inactive
- Emeritus Pro Bono

# **ACTIVE ATTORNEY REGISTRATION [GOV. BAR R. VI(2)]**

- Biennial registration
- 24 hours of CLE per biennial compliance period
- \$350 fee

# RETIRE OR RESIGN FROM THE PRACTICE OF LAW [GOV. BAR R. VI(11)]

- No registration, CLE or fee requirements
- Unconditional, final and irrevocable
- Requires filing an application with the Supreme Court Office of Attorney Services
- Disciplinary Counsel will conduct an inquiry to determine if any disciplinary proceedings are pending

# RETIRE OR RESIGN FROM THE PRACTICE OF LAW [GOV. BAR R. VI(11)] (CON'T)

- Disciplinary Counsel will file a confidential report under seal with the Office of Attorney Services, providing information regarding pending disciplinary proceedings, if any, and recommending whether the application should be accepted, denied or delayed.
- If Disciplinary Counsel recommends acceptance, the report will indicate whether the attorney should be designated as “permanently retired” or “resigned, with disciplinary action pending”.
- If the recommendation is to deny or delay the application, the report will include reasons for the recommendation.

# RETIRE OR RESIGN FROM THE PRACTICE OF LAW [GOV. BAR R. VI(11)] (CON'T)

- If Disciplinary Counsel recommends acceptance and designation of the attorney as “retired”, the Office of Attorney Services will accept the application and designate the attorney as “retired” in the attorney registration records.
- If the recommendation is to designate the attorney as “resigned with disciplinary action pending”, or to deny or delay the application, the Office will file the application and confidential report with the Clerk of the Supreme Court.

# RETIRE OR RESIGN FROM THE PRACTICE OF LAW [GOV. BAR R. VI(11)] (CON'T)

- The Supreme Court will review the application and report before entering an appropriate order.
- If the Court accepts an application as a resignation, it will order that the attorney's registration record be marked as "resigned, with disciplinary action pending."
- The Court also may order the attorney to be designated as "retired," deny the application altogether or defer consideration of the application to a later date.

# RETIRE OR RESIGN FROM THE PRACTICE OF LAW [GOV. BAR R. VI(11)] (CON'T)

- A retired attorney may be designated as “retired” on law firm letterhead if the attorney’s name was included on the letterhead prior to the time that the attorney’s retirement was accepted by the Supreme Court.
- A retired attorney shall not be listed as “of counsel” or otherwise be represented as able to engage in the practice of law in Ohio.



# RETIRE OR RESIGN FROM THE PRACTICE OF LAW

## [GOV. BAR R. VI(11)]

### (CON'T)

**THE SUPREME COURT of OHIO**  
OFFICE OF ATTORNEY SERVICES  
**Application for Retirement or Resignation**

**IN THE MATTER OF THE RETIREMENT  
OR RESIGNATION OF**

Full Name \_\_\_\_\_  
**AS AN ATTORNEY AT LAW**

**AFFIDAVIT AND WAIVER**  
Gov. Bar R. VI, Section 11

I, \_\_\_\_\_, Attorney Registration No. \_\_\_\_\_, a duly admitted attorney at law in the State of Ohio, wish to retire or resign from the practice of law in Ohio. I fully understand that this retirement or resignation completely divests me of the privilege of engaging in the practice of law, and of each, any, and all of the rights, privileges, and prerogatives appurtenant to the office of attorney and counselor at law. I fully understand that a resignation will be denoted as a resignation with discipline pending. I fully understand that my retirement or resignation is unconditional, final, and irrevocable.

I further allow Disciplinary Counsel to review all proceedings and documents relating to review and investigation of grievances made against me under the Rules for the Government of the Bar of Ohio and the Rules for the Government of the Judiciary of Ohio, and to disclose to the Supreme Court in the report filed in accordance with Gov. Bar R. VI, Section 11 any information it deems appropriate, including, but not limited to, information that otherwise would be private pursuant to Gov. Bar R. V.

I further state that (check one):

- I am not admitted to the practice of law in another jurisdiction.
- In addition to Ohio, I am admitted to the practice of law in the following jurisdiction(s) [List all jurisdictions]:

Jurisdiction and Attorney Registration Number \_\_\_\_\_ Jurisdiction and Attorney Registration Number \_\_\_\_\_

Jurisdiction and Attorney Registration Number \_\_\_\_\_ Jurisdiction and Attorney Registration Number \_\_\_\_\_

- I hereby attest that I have disbursed or will disburse all client funds in my IOLTA in accordance with Prof. Cond. R. 1.15. Any remaining client funds whose owner(s) cannot be determined or the client(s) cannot be located will be disbursed in accordance with Bd. of Prof. Cond. Adv. Opn. 2008-3.
- I hereby attest that I have no client files in my possession.
- I hereby attest that I have client files in my possession and that I will return them to my former clients within 60 days. In the event files cannot be returned, I will make arrangements for their appropriate and ethical disposition.
- I hereby understand that the records of the Office of Attorney Services will be updated to reflect my current contact information as listed below.

Current Mailing Address \_\_\_\_\_ City/State/Zip Code \_\_\_\_\_

Current Telephone Number \_\_\_\_\_ Current Email Address \_\_\_\_\_

Date of Birth \_\_\_\_\_

Further affiant sayeth naught.

Signature of Attorney \_\_\_\_\_

Sworn to or affirmed before me and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the State of \_\_\_\_\_, and County of \_\_\_\_\_.

Signature of Notary Public\* \_\_\_\_\_

Name of Notary Public \_\_\_\_\_

\*Notary public's stamp/seal and commission expiration date are required.

# INACTIVE REGISTRATION

## AN ALTERNATIVE TO RETIREMENT STATUS

### [GOV. BAR R. VI(5)]

- An attorney already admitted to the practice of law in Ohio may change his or her status to inactive by registering as such with the Office of Attorney Services.
- While on inactive status, there is no biennial registration requirement, CLE compliance obligation or fee.
- Inactive attorneys must keep the Office of Attorney Services apprised of their current residence address, office address, office telephone number and office or residence e-mail address.

# INACTIVE REGISTRATION

## [GOV. BAR R. VI(5)]

### (CON'T)

- An inactive attorney may be designated as “inactive” on law firm letterhead if the attorney’s name was included on the letterhead prior to the time that the attorney registered for inactive status.
- An inactive attorney shall not be listed as “of counsel” or otherwise be represented as able to engage in the practice of law in Ohio.

# INACTIVE REGISTRATION

## [GOV. BAR R. VI(5)]

### (CON'T)

- Until an attorney registered as inactive requests and is granted reinstatement of active status, he or she shall not do any of the following:
  - Practice law in Ohio
  - Hold him- or herself out as authorized to practice law in Ohio
  - Hold nonfederal judicial office in Ohio
  - Occupy a nonfederal position in Ohio in which the attorney is called upon to give legal advice or counsel; to examine a law; or to pass upon the legal effect of any act, document, or law

# INACTIVE REGISTRATION [GOV. BAR R. VI(5)] (CON'T)

- Be employed in the Ohio judicial system in a position required to be held by an attorney
- Practice before any nonfederal court or agency in Ohio on behalf of any person other than him- or herself
- An inactive attorney may change his or her status to “active” by registering as such with the Office of Attorney Services and paying the registration fee of \$350. If the attorney registers “late” – after September 1 in each odd-numbered year, he or she will have to pay a late fee of \$50.
- An attorney who has been inactive for at least two (2) years, does not have to make up any CLE deficiency at the time the attorney went inactive.

# INACTIVE REGISTRATION [GOV. BAR R. VI(5)] (CON'T)

- Depending when an inactive attorney registers as active during his or her biennial compliance period, his or her CLE hours may be prorated.
- Any questions about registering active after being inactive can be addressed to the Office of Attorney Services, 614-387-9320.

# NOTARY COMMISSIONS FOR RETIRED OR INACTIVE ATTORNEYS

- Per Attorney General Opinion, 94-011, an attorney registered as inactive or retired pursuant to Gov. Bar R. VI, remains “in good standing before the Ohio Supreme Court” for purposes of retaining office as a notary public under R. C. 147.03 if that attorney meets the standards set by the court for issuance of a certificate of good standing.

# NOTARY COMMISSIONS FOR RETIRED OR INACTIVE ATTORNEYS (CON'T)

- The current practice of the court is to issue a certificate of good standing whenever an attorney:
  - ❖ is not subject to any disciplinary action;
  - ❖ is in compliance with Gov. Bar. R. X governing CLE;
  - ❖ and is registered in compliance with Gov. Bar R. VI.



# NOTARY COMMISSIONS FOR RETIRED OR INACTIVE ATTORNEYS (CON'T)

- An inactive or retired attorney should obtain a new stamp or seal that qualifies “attorney at law” to reflect the attorney’s current status; i.e. “Attorney at Law (Inactive)” or “Attorney at Law (Retired)”.

# SELLING A LAW PRACTICE

- Rule 1.17 of the Ohio Rules of Professional Conduct permits a lawyer or law firm to sell or purchase a law practice, including the good will of the practice.
- Rule 1.17 should be followed explicitly when a law practice is sold.

# SELLING A LAW PRACTICE (CON'T)

- The following conditions apply:
  - ❖ The law practice must be sold in its entirety, except where a conflict of interest is present that prevents the transfer of representation of a client or class of clients.
  - ❖ The rule does not permit the sale or purchase of a law practice where the purchasing lawyer is buying the practice for the sole or primary purpose of reselling the practice to another lawyer or law firm.
  - ❖ The purchasing lawyer may be an individual or a law firm and the selling lawyer may be an individual, a law firm, the estate of a deceased lawyer, or the representatives of a disabled or disappeared lawyer.

# SELLING A LAW PRACTICE (CON'T)

- ❖ Before the selling lawyer may provide the prospective purchasing lawyer with information relative to client representation or confidential information, the purchasing lawyer must execute a confidentiality agreement binding the prospective purchasing lawyer to preserve information relating to the representation of the clients consistent with Rule 1.6, as if those clients were clients of the prospective purchasing lawyer.
- ❖ The purchasing lawyer must purchase the law practice with the intention of delivering legal services to clients of the selling lawyer.
- ❖ The sale agreement must provide that the purchasing lawyer will honor any fee agreements relative to ongoing legal representation.

# SELLING A LAW PRACTICE (CON'T)

- ❖ The purchasing lawyer may negotiate fees with clients of the selling lawyer for legal representation that is commenced after the date of sale.
- ❖ The sales agreement may reasonably limit the ability of the selling lawyer to reenter the practice of law unless the selling lawyer is entering academic, government, or public service or to serve as in-house counsel to a business.
- ❖ Written notice must be given to all clients and the clients' consent to the sale will be presumed if the client does not take action or otherwise object within 90 days of the receipt of the notice.

# SELLING A LAW PRACTICE (CON'T)

- ❖ The purchasing lawyer must provide this notice if the seller is the estate of a deceased lawyer or the representative of a disabled or disappeared lawyer.
- ❖ If written notice cannot be given to a particular client publication in a newspaper in the county of sale (or an adjoining county if no newspaper is published in the county of sale) can be given. The clients' consent is presumed upon completion of the publication.

# SELLING A LAW PRACTICE (CON'T)

- ❖ Neither the selling lawyer nor the purchasing lawyer shall attempt to exonerate the lawyer or limit liability to former or prospective clients for any malpractice or other professional negligence.
- ❖ Rule 1.8(h) relating to malpractice liability shall be incorporated into the sales agreement.
- ❖ The selling lawyer or the purchasing lawyer may agree to provide for indemnification or other contribution for claims of malpractice or other professional negligence.