

PROPOSED AMENDMENTS TO THE MICHIGAN SUPREME COURT RULES CONCERNING THE STATE BAR OF MICHIGAN

Issue

Should the State Bar of Michigan adopt amendments to the Michigan Supreme Court Rules Concerning the State Bar of Michigan Rules 3 and 4 to establish a new emeritus – pro bono practice membership class, allowing experienced attorneys to provide pro bono legal services under the auspices of approved sponsoring entities, at one-half the annual dues, to expand access to justice?

Proponent

Ashley E. Lowe
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Chair of Justice Initiatives Committee
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Synopsis

This proposal supports the establishment of a distinct emeritus—pro bono practice membership class within the State Bar of Michigan. The purpose of this membership class is to provide a structured pathway for experienced attorneys—those who have either reached the age of 70 or have been members of the State Bar for at least 30 years—to continue using their legal skills in a volunteer capacity.

Attorneys electing emeritus—pro bono practice status will be authorized to provide pro bono legal services in conjunction with approved sponsoring entities, such as: public and nonprofit defender offices; legal aid clinics affiliated with city or county bar associations or accredited law schools; and legal services programs approved by the State Bar of Michigan or its designee, funded by local, state, federal, or recognized charitable sources that provide civil legal assistance to indigent individuals.

As part of this proposal, attorneys holding emeritus—pro bono practice status will be assessed one-half of the full annual dues for each fiscal year, recognizing their continued service while acknowledging their limited scope of practice.

The proposal to create this new membership class was originally developed by the State Bar of Michigan's Justice Initiatives Committee to promote access to justice across the state. In addition, both the Attorney Grievance Commission and the Attorney Discipline Board have reviewed and expressed their support for this proposal, including the dues structure (see attached letters of support).

This initiative represents a thoughtful, forward-looking approach to expanding pro bono capacity in Michigan while honoring the valuable contributions of experienced members of the bar.

Rule 3. Membership Classes.

(A) Active.

A person engaged in the practice of law in Michigan must be an active ~~or emeritus—pro~~ bono practice member of the State Bar. In addition to its traditional meaning, the term “person engaged in the practice of law” in this rule includes a person licensed to practice law in Michigan or another jurisdiction and employed in Michigan in the administration of justice or in a position which requires that the person be a law school graduate, but does not include (1) a judicial law clerk who is a member or is seeking to become a member of the bar of another jurisdiction and who does not intend to practice in Michigan after the clerkship ends, or (2) an instructor in law. Only an active member may vote in a State Bar election or hold a State Bar office. A person not an active ~~or emeritus—pro~~ bono practice member who engages in the practice of law is subject to discipline or prosecution for unauthorized practice.

(B) – (F) [Unchanged]

(G) Emeritus—Pro Bono Practice Membership

Effective _____, an active member who is 70 years of age or older or has been a member of the State Bar for at least 30 years, and who is not subject to pending disciplinary action in this state or any other jurisdiction, may elect emeritus—pro bono practice status by notifying the Secretary of the State Bar in writing. The Secretary shall notify the member when the request is accepted, whereupon the member will no longer be qualified to practice law in Michigan, except to provide pro bono legal services under the auspices of a sponsoring entity (as defined below) and will be eligible to receive other member benefits as directed by the Board of Commissioners of the State Bar. The Secretary of the State Bar

shall also notify the clerk of the Supreme Court when a member is given emeritus—pro bono practice status.

(1) ***Grievances and Discipline.*** Emeritus—pro bono practice status does not deprive the Attorney Grievance Commission or the Attorney Discipline Board of jurisdiction over the emeritus—pro bono practice member.

(2) ***Purpose.*** Effective legal service for each person in Michigan, regardless of that person's ability to pay, is important to the directly affected person, to our court system, and to the whole citizenry. Emeritus—pro bono practice attorneys may only provide pro bono legal services under the auspices of a sponsoring entity, which must be one of the following:

- a. public and nonprofit defender offices,
- b. legal aid clinics that are organized under a city or county bar association or an accredited law school,
- c. organized legal services programs approved by the State Bar or its designee and funded from local, state, federal, or recognized charitable sources that provide legal assistance to indigent persons in civil matters or for the primary purpose of providing free legal services to indigent persons.

(3) ***Duties of Sponsoring Entities.*** To qualify as a sponsoring entity, an organization must submit to the Secretary of the State Bar an application identifying the nature of the organization as one described in section (G)(2) of this rule. In the application, a responsible attorney shall verify that the program will provide appropriate training, support, and malpractice insurance for volunteers and that the sponsoring entity will notify the Secretary of the State Bar as soon as any attorney authorized to provide services pursuant to this rule has ended participation in the program. The

organization is required to provide malpractice insurance coverage for any attorneys participating in the program and must inform the Secretary of the State Bar if the organization ceases to be a sponsoring entity under this rule.

(4) *Procedure for Attorneys Seeking Authorization to Provide Pro Bono Services.*

An attorney admitted in Michigan who is registered as emeritus—pro bono practice, who seeks to provide pro bono services pursuant to this rule shall submit a statement to the Secretary of the State Bar so indicating, along with verification from a sponsoring entity or entities that the attorney will be participating in a pro bono program under the auspices of that entity. The attorney’s statement shall include the attorney’s agreement that he or she will participate in any training required by the sponsoring entity and that he or she will notify the Secretary of the State Bar within 30 days of ending his or her participation in a pro bono program. Upon receiving the attorney’s statement, entity’s verification, and appropriate payment, the Secretary of the State Bar shall cause the master roll to reflect that the attorney is authorized to provide pro bono services. That authorization shall continue until the end of the bar year in which the statement and verification are submitted, unless the attorney or the sponsoring entity sends notice to the Secretary of the State Bar that the program or the attorney’s participation in the program has ended.

Rule 4. Membership Dues.

(A) – (G) [Unchanged]

(H) Annual dues for emeritus—pro bono practice members shall be assessed one-half the full amount of dues for each fiscal year.

Background

Under this new membership classification, emeritus attorneys will be authorized to provide pro bono legal services exclusively under the auspices of an approved sponsoring entity.

This structured approach ensures that all services are delivered within a professional and accountable framework while enabling highly experienced attorneys to give back to their communities. Establishing this membership class is a forward-thinking solution to meet the rising demand for civil legal aid and reinforces the State Bar's commitment to advancing access to justice for all.

Opposition

None known at this time.

Prior Action by Representative Assembly

None.

Fiscal and Staffing Impact on State Bar of Michigan

The current budget for the State Bar of Michigan is available online at <https://www.michbar.org/generalinfo/home>. Detailed questions about the budget can be directed to the Director of Finance and Administration.

STATE BAR OF MICHIGAN POSITION By vote of the Representative Assembly on April 26, 2025

Should the State Bar of Michigan adopt amendments to the Michigan Supreme Court Rules Concerning the State Bar of Michigan Rules 3 and 4 to establish a new emeritus – pro bono practice membership class, allowing experienced attorneys to provide pro bono legal services under the auspices of approved sponsoring entities, at one-half the annual dues, to expand access to justice?

(a) Yes

or

(b) No

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www.adbmich.org

February 17, 2025

Robert Mathis
Pro Bono & Justice Initiatives Counsel
State Bar of Michigan
(via email only)

Re: Emeritus-Pro Bono Practice Proposal

Dear Mr. Mathis:

The Attorney Discipline Board reviewed the State Bar of Michigan Justice Initiatives Committee's Emeritus-Pro Bono Practice proposal and the proposed license fee structure at their meeting held on February 12, 2025. The Board unanimously voted to support both. Please feel free to advise the Representative Assembly at the April 26, 2025 meeting, that this proposal and license fee structure has the full support of the Board.¹

If you have any questions, or need anything further, please do not hesitate to contact me. Thank you.

Very truly yours,

Wendy A. Neeley
Executive Director

cc: Alan Gershel, Chairperson (via email only)

¹ Board Member, Jason M. Turkish, was excused from our February 12, 2025 meeting and did not participate.

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February 20, 2025

Mr. Robert Mathis
State Bar of Michigan
Pro Bono & Justice Initiatives Counsel
306 Townsend St.
Lansing, MI 48933

RE: Emeritus-Pro Bono Proposal

Dear Mr. Mathis:

At our regularly scheduled monthly commission meeting, the Emeritus-Pro Bono proposal, which you asked the AGC for input, was discussed in our executive session. I am pleased to inform you that the Attorney Grievance Commission has agreed to support this proposal.

Should you require anything further from the Attorney Grievance Commission, please feel free to contact me. Best of luck with this proposal.

MICHIGAN ATTORNEY
GRIEVANCE COMMISSION

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