

***IN THE SUPREME COURT, STATE OF WYOMING***

***October Term, A.D. 2008***

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***In the Matter of the Amendments to*** )  
***Article I of the*** )  
***Bylaws of the Wyoming State Bar*** )

**ORDER AMENDING ARTICLE I OF THE BYLAWS  
OF THE WYOMING STATE BAR**

**The Officers and Commissioners of the Wyoming State Bar** have recommended that the Wyoming Supreme Court amend Article I, Sections 3 and 4, of the Bylaws of the Wyoming State Bar. The Court, having carefully reviewed the proposed amendments, finds that the proposed amendments should be adopted. It is, therefore,

**ORDERED** that the amendments to Article I, Sections 3 and 4, of the Bylaws of the Wyoming State Bar, attached hereto, be, and hereby are, adopted by the Court to be effective January 1, 2009; and it is further

**ORDERED** that the amendments to Article I, Sections 3 and 4, of the Bylaws of the Wyoming State Bar, attached hereto, shall be published in the advance sheets of the Pacific Reporter, the Wyoming Reporter, and in the Wyoming Court Rules volume; and that the amendments to the Bylaws of the Wyoming State Bar shall thereupon be spread at length upon the journal of the Court.

**DATED** this 25<sup>th</sup> day of November, 2008.

**BY THE COURT:**

**BARTON R. VOIGT**  
**Chief Justice**

# BYLAWS OF THE WYOMING STATE BAR

## ARTICLE I. MEMBERSHIP

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### ~~Section 3. Classes of membership.~~

~~(a) The members of the State Bar shall be divided into four (4) classes known respectively as active, inactive, honorary and retired. An inactive member is one not practicing law in Wyoming and electing to pay the reduced license fee pursuant to Article I, Section 4 of these bylaws, and who has filed with the Executive Director of the State Bar written notice requesting enrollment in the class of inactive members. An honorary member is a Wyoming Supreme Court justice, district court judge, circuit court judge, magistrate, judge of the United States District Court for the District of Wyoming and any other federal judge resident of this state, and a justice or judge retired from such courts who has not resumed the practice of law. A retired member is one not engaged in the practice of law who has made a written request to the Executive Director of the State Bar to be enrolled as a retired member and has been engaged in the active practice of law as an active member of the Wyoming State Bar for a minimum of ten out of the fifteen years immediately preceding the date of the written request to be enrolled as a retired member. All other members are active members.~~

~~An honorable retired member is one who has retired from office as a judge of the state supreme court, a county, circuit or district court or federal court located in Wyoming and who has not resumed the active practice of law. Such a member may resume the active practice of law and be re-classified as honorable retired following retirement from the active practice of law.~~

~~Notwithstanding the above, any retired individual who serves as a magistrate or accepts an assignment for judicial duty from a circuit or district court, the state supreme court or a federal court will not be required to maintain his or her license under active status if he or she does not otherwise engage in the practice of law.~~

~~(b) Only active resident members in good standing may hold office; only active members in good standing may vote in any election conducted by the State Bar.~~

~~(c) Only active members may practice law. No individual other than an enrolled active member of the State Bar shall practice in this state or in any manner hold themselves out as authorized or qualified to practice law.~~

~~(d) Any inactive member in good standing and any honorary member who is no longer serving in a judicial office may change their classification to that of an active member by filing with the State Bar office a written request for transfer to the class of active members and by paying the annual license fee required of active members and completing the requirements for continuing legal education. No inactive member who has not actively practiced law in this state or in another state for five (5) of the immediately preceding seven (7) years shall be transferred to active membership until the transfer shall be approved by the State Board of Law Examiners, except an honorary member who is no longer serving in a judicial office shall be reclassified as an active member upon written request. A transfer of an inactive member to active status shall not be approved by the State Board of Law Examiners unless the inactive member demonstrates competence in the practice of law by proving: (1) the active practice of law in another jurisdiction for five of the seven years preceding the date of the requested transfer, and~~

~~compliance with Rules for Continuing Legal Education of Members of the Wyoming State Bar; or (2) successful completion of the requirements for admission with examination as prescribed in Rule 5 of the Rules of the Supreme Court of Wyoming and Regulations of the State Board of Law Examiners. A retired member may be transferred to active status within five years of that member's retirement, provided that the retired member demonstrates a compliance with the Rules for Continuing Legal Education of Members of the Wyoming State Bar, and pays the inactive annual license fee to the Wyoming State Bar for the years during which the member was retired.~~

### **Section 3. Status of membership.**

(a) The members of the State Bar shall be identified from only one of the following six (6) statuses:

(1) Active:

(i) Any person licensed to practice law in the State of Wyoming and not suspended or disbarred or in any of the other five statuses described below.

(ii) Pays the annual license fee pursuant to Section 4, Bylaws of the Wyoming State Bar.

(iii) Completes CLE as required by Rule 4 of the Rules for Continuing Legal Education of Members of the Wyoming State Bar.

(2) Inactive:

(i) Does not actively practice, as defined by Rule 303 of the Rules and Procedures Governing the Admission to the Practice of Law.

(ii) Pays a reduced license fee pursuant to Section 4 of the Bylaws of the Wyoming State Bar.

(iii) Is not required to complete any CLE.

(iv) Files with the Executive Director of the State Bar a written request to be placed on inactive status.

(v) Except as provided in subsection 2(vi) below, in order to return to active status, must: (1) within 36 months of being placed on inactive status, file a written request with the Executive Director to be placed on active status, and (2) satisfy the requirements of an active member for the calendar year in which the request is made. If an inactive member fails to return to active status as previously provided, that member may only return to active status through admission by examination to the Wyoming State Bar in accordance with Sections II and IV of the Rules and Procedures Governing Admission to the Practice of Law.

(vi) May continue on inactive status indefinitely as long as the member continues to actively practice law as defined by Rule 303, Rules and Procedures Governing Admission to the Practice of Law, in some other jurisdiction. If such member wants to transfer to active status in Wyoming, the member must file a written request with the Executive Director and certify that the member has continued to practice in some other jurisdiction since taking inactive status and provide the affidavit prescribed by the Wyoming State Bar to support such request. In the event that a member on inactive status under this subsection is no longer engaged in the active practice of law in any jurisdiction, the member shall only return to active status by meeting the requirements of Section 3(a)(2)(v).

(3) Honorary:

(i) Is a current Wyoming Supreme Court justice, district court judge, circuit court judge, full-time federal magistrate, judge of the United States District Court for the District of Wyoming, or any other federal judge residing in Wyoming.

(ii) Is not required to pay a license fee.

(iii) Is not required to complete any CLE required by the Rules for Continuing Legal Education of Members of the Wyoming State Bar.

(iv) To return to active status must: (1) within 36 months of being removed from honorary status, file a written request with the Executive Director to be placed on active status, and (2) satisfy the requirements of an active member for the calendar year in which the request is made. If an honorary member fails to return to active status as previously provided, that member may only return to active status through admission by examination to the Wyoming State Bar in accordance with Sections II and IV of the Rules and Procedures Governing Admission to the Practice of Law.

(4) Honorary Retired:

(i) Is a retired Wyoming Supreme Court justice, district court judge, circuit court judge, full-time federal magistrate, judge of the United States District Court for the District of Wyoming, or any other federal judge residing in Wyoming.

(ii) Has not resumed the active practice of law within 36 consecutive months of retiring from the judiciary.

(iii) Is not required to pay a license fee.

(iv) Is not required to complete any CLE.

(v) To return to active status must (1) within 36 months of being placed on honorary retired status, file a written request with the Executive Director to be placed on active status, and (2) satisfy the requirements of an active member for the calendar year in which the request is made. If an honorary retired member fails to return to active status as previously provided, that member may only return to active status through admission by examination to the Wyoming State Bar in accordance with Sections II and IV of the Rules and Procedures Governing Admission to the Practice of Law.

(5) Retired:

(i) Is not engaged in the active practice of law.

(ii) Is not required to pay a license fee.

(iii) Is not required to complete any CLE.

(iv) Files with the Executive Director a written request to be placed on retired status.

(v) Had been an active member of the Wyoming State Bar for a minimum of ten (10) of the fifteen (15) years immediately prior to requesting retired status.

(vi) To return to active status must (1) within 36 months of being placed on retired status, file a written request with the Executive Director to be placed on active status, and (2) satisfy the requirements of an active member for the calendar year in which the request is made. If a retired member fails to return to active status as previously provided, that member may only return to active status through admission by examination to the Wyoming State Bar in accordance with Sections II and IV of the Rules and Procedures Governing Admission to the Practice of Law.

(6) Incapacitated:

(i) Has been determined to be incapacitated from the practice of law pursuant to Section 3(b) or 3(c) below.

(ii) Pays the same amount of annual dues as inactive members.

(iii) Is not required to complete any CLE.

(iv) Must seek admission to active status in the Wyoming State Bar pursuant to Section 3(h) below within 36 consecutive months of being placed on incapacitated status, or said attorney's membership will be terminated.

(b) Any State Bar member claiming that he or she should be transferred to incapacitated status shall file a petition so requesting with the Board of Professional Responsibility with a copy served on Bar Counsel. The petition should include all pertinent information, documentation and evidence which supports the member's request and a certification by the member that there are no disciplinary investigations or matters pending against him or her. Within fifteen (15) days of service of the petition, Bar Counsel shall file a response with the Board of Professional Responsibility, certifying that there are no disciplinary investigations or matters pending against the member and may file any other response to the petition. A copy of the response shall be served on the member. Thereafter, all proceedings and any hearing will be conducted in the same manner as disciplinary proceedings under the procedural rules of the Disciplinary Code.

(c) Upon receipt of information from any source presenting prima facie evidence that an active member of the State Bar is incapable of continuing the practice of law by reason of mental, physical or emotional infirmity or illness, including substance abuse and dementia, Bar Counsel may initiate an investigation of the matter. Such investigation may include requiring the member to furnish written authorizations for medical, psychological, or psychiatric records as may be relevant to the investigation and to submit to an examination by qualified medical experts. If the member refuses to furnish such authorizations, such refusal shall be grounds for Bar Counsel to file and the Court to grant a petition for interim suspension pursuant to Section 17 of the Disciplinary Code.

(1) If, after such investigation, Bar Counsel determines that there is clear and convincing evidence that the attorney is incapacitated as provided by this rule, then Bar Counsel shall prepare a petition seeking incapacitated status. Thereafter, all proceedings and any hearing will be conducted in the same manner as disciplinary proceedings under the procedural rules of the Disciplinary Code.

(2) Proceedings under this Section are not disciplinary proceedings.

(d) All attorneys and courts have an affirmative duty to notify Bar Counsel of his/her knowledge that an active member has been (1) judicially or medically declared to be incapable of managing his or her affairs, (2) committed involuntarily to a medical facility for drug dependency, mental illness, or substance abuse, (3) found not guilty by reason of mental infirmity, illness or deficiency in a criminal proceeding, (4) found incapable of assisting in his or her own defense in a criminal action, (5) has had a guardian (but not a limited guardian) appointed for his or her person or estate on a finding of incompetence, or (6) found to be mentally incapable of conducting the practice of law in another jurisdiction.

(e) No pending disciplinary proceeding against an attorney shall be stayed when the attorney is placed on incapacitated status unless the BPR or the Court, upon motion, additionally finds that attorney is incapable of assisting counsel in his or her own defense in such proceeding.

(f) If, during the course of a disciplinary proceeding, the respondent contends that he or she is incapacitated by reason of mental, physical or emotional infirmity or illness, including substance abuse or dementia, which makes it impossible for the respondent to adequately defend himself or herself, the Court, upon petition from the BPR, shall enter an order immediately suspending respondent's license to practice law until a determination is made on the respondent's incapacitation.

(g) An attorney placed on incapacitated status shall not engage in the practice of law until reinstated to active status in accordance with the provisions of Section 3(h) below. Such attorney must comply with the duties of disbarred or suspended attorneys as set forth in Section 22 of the Disciplinary Code.

(h) An attorney placed on incapacitated status under the provisions of this rule shall be entitled to apply for reinstatement no more often than once in any twelve month period, or at such shorter intervals as the Court may direct in the order placing the attorney on incapacitated status. A five-hundred dollar (\$500.00) fee payable to the Wyoming State Bar shall accompany any reinstatement application. Thereafter, all proceedings and any hearing will be conducted pursuant to Section 24 of the Disciplinary Code.

(1) The filing of an application for reinstatement by an attorney placed on incapacitated status shall be deemed to constitute a waiver of any privilege with respect to any health care treatment of the attorney during the period of incapacity. The attorney shall be required to disclose the name and address of every psychiatrist, psychologist, physician, or other health care professional, and any hospital or other health care facility or provider by whom or in which the attorney has been examined or treated since the transfer to incapacitated status. The attorney shall execute and deliver to Bar Counsel a written authorization waiving all applicable physical and mental health care privileges, and giving Bar Counsel unrestricted access to all psychiatric, psychological, medical, hospital, and other health care information concerning the attorney.

(2) The burden of proof in any reinstatement proceeding shall be on the attorney to prove by clear and convincing evidence that the attorney's incapacitation has been removed and that the attorney is fit to resume the practice of law.

(3) In its discretion, the Court may direct that the attorney shall pay the expense of any examination, investigation or hearing, together with costs.

#### **Section 4. Annual license fee.**

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(e) If an attorney who is suspended from the practice of law for non-payment of the annual license fee(s) has not petitioned for removal of the order of suspension from the practice of law prior to the expiration of three years from the date of the order of suspension from the practice of

law, the Executive Director of the Wyoming State Bar Board of Professional Responsibility may recommend to the supreme court that an order to show cause be entered why the attorney's membership in the Wyoming State Bar should not be terminated. Such order shall be mailed consistent with procedures described in section (c) above, returnable within 20 days from the date of receipt. If good cause is not shown, the attorney's membership may be terminated by the court.

(f) Any person having been admitted to the Wyoming State Bar who desires to withdraw therefrom shall file a written application to the bar requesting termination of that person's status as a member; ~~such application shall be referred to the Board of Professional Responsibility, which shall promptly return the petition and its recommendation to the supreme court;~~ The application shall be reviewed by the Executive Director of the Bar, in consultation with Bar staff, who shall then make a recommendation for action on the petition by the Court. ~~†~~The court may then enter such order as it deems appropriate. According to the terms of the order allowing withdrawal by the supreme court, the person shall cease to be a member of the Wyoming State Bar by removal of that person's name from the membership register. A member who has been suspended for failure to pay license fees or complete the required continuing legal education may not withdraw without curing the suspension, pursuant to Article I, § 4(d) of the Bylaws of the Wyoming State Bar and Rule 12 of the Rules of the Wyoming State Board of Continuing Legal Education. A member who has a pending disciplinary matter may not withdraw until such matter is resolved.

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