

**IN THE SUPREME COURT OF FLORIDA**

IN RE: AMENDMENTS TO RULES      CASE NO. SC2024-  
REGULATING THE FLORIDA BAR –  
MISCELLANEOUS PETITION

**PETITION TO AMEND THE RULES REGULATING THE FLORIDA  
BAR**

The Florida Bar (the bar) petitions this Court for an order amending the Rules Regulating the Florida Bar and states:

**Jurisdictional Statement**

This petition has been authorized by the Board of Governors of The Florida Bar (Board of Governors) under R. Regulating Fla. Bar 1-12.1.

**Discussion of Proposed Amendments**

The bar proposes new rules or amendments to existing rules as indicated in the listing that follows. The bar is filing 4 petitions simultaneously that include rules amendments approved by the Board of Governors after submission of the last rules package. This section provides information regarding development of these rules proposals as required by *In re: Guidelines for Rules Submissions*, AOSC22-78 (Fla. 2022).

Each entry provides the following information regarding each proposal: an explanation of each amendment; the reasons for each recommended change; the source of each proposal; the names of groups or individuals who commented or collaborated on a proposal during its development; voting records of pertinent committees and the Board of Governors; and dissenting views within the Board of Governors, if any.

## **Amendments**

### **RULES REGULATING THE FLORIDA BAR**

#### *Chapter 1 General*

#### **RULE 1-3.2 MEMBERSHIP CLASSIFICATIONS**

*Explanation:* Within subdivision (b), adds that only a current member in good standing may elect inactive status.

*Reasons:* The change would codify current practice. Occasionally members who are delinquent or suspended request to go inactive, likely to pay lower membership fees and not have to complete continuing legal education or other requirements for membership. The bar's membership records department policies and annual fee statement state that a member has to be in good standing currently to elect inactive status, which means that members have to clear their delinquency or be reinstated from a suspension and make sure all membership requirements are current before they can elect inactive status.

*Source:* Bar Staff

*Background Information – Member Commentary / Committee Action:*

- Rules Committee approved 6-0 on a substantive and procedural basis July 27, 2023.
- Program Evaluation Committee approved on a strategic basis 14-0 on September 7, 2023.
- The bar's chief financial officer agreed with de minimis fiscal impact on November 16, 2023.

*Board Action:* The Florida Bar Board of Governors approved on voice vote without objection on December 1, 2023.

#### **RULE 1-3.7 REINSTATEMENT TO MEMBERSHIP**

*Explanation:* In subdivision (b), adds "except that the executive director may waive or extend the time period to complete continuing legal education or basic skills course requirements on a showing of undue hardship."

*Reasons:* There currently is no provision to allow for waiver or extensions of continuing legal education or completion of the basic skills course requirements due to hardship. For example, a 92-

year-old Florida Bar member became delinquent and wanted to retire, but to do so he would have to complete the reinstatement petition, pay the fee, and complete 33+ CLE credits. In this case, the member was recently deemed delinquent, and his son has requested waiver allowing him to reinstate without the requirements so he can submit a request for retirement. The member missed his reporting cycle because he was in poor health and was also trying to care for his 90-year-old wife.

*Source:* Bar Staff

*Background Information – Member Commentary / Committee Action:*

- Rules Committee approved 5-0 on a substantive and procedural basis with minor style edits on July 28, 2022.
- The bar's chief financial officer agreed with de minimis impact assessment on September 12, 2022.
- Program Evaluation Committee approved 11-0 on a strategic basis on October 10, 2022.
- Rules Committee approved 4-0 with minor style edits on December 5, 2022.

*Board Action:* Board of Governors approved on voice vote without objection on May 12, 2023.

## **RULE 1-7.3 MEMBERSHIP FEES**

*Explanation:* Within subdivision (a), changes inactive under rule 3-7.13 to inactive due to incapacity under chapter 3.

*Reasons:* The bar's records need to distinguish between the 2 types of inactive status, because members inactive due to incapacity under chapter 3 are not required to pay membership fees, while those who voluntarily elect inactive status for other reasons pay a lesser fee than members in good standing. The bar proposes omitting the specific rule reference to a more generic “under chapter 3” to avoid having to change the rule in future if the rule numbering changes. To avoid having the term "incapacity" display on the members' profile page, the member will be reflected as "inactive" with a code that is not recognizable to the public to indicate the member owes no membership fees to allow for the automated processing of membership fees statements and notifications of delinquency.

*Source:* Bar Staff

*Background Information – Member Commentary / Committee*

*Action:*

- Rules Committee approved 4-0 on substantive and procedural basis on February 2, 2022.
- Program Evaluation Committee approved 19-0 on a strategic basis on March 24, 2022.
- The bar's chief financial officer agreed with the de minimis impact assessment on April 5, 2022. Board of Governors passed on voice vote without objection on May 20, 2022.
- Rules Committee approved further changes 4-0 on a substantive and procedural basis on October 11, 2022.

*Board Action:* Board of Governors approved on voice vote without objection on December 2, 2022.

## *Chapter 2 Bylaws of The Florida Bar*

### **BYLAW 2-3.10 MEETINGS**

*Explanation:* Deletes references to specific matters for which the board may meet in executive session and instead refers to the definition of executive session in the standing board policies.

*Reasons:* The change is consistent with proposed changes to the standing board policies addressing executive session generally. The change to the bylaw will allow the enumerated instances in the standing board policy to be amended more quickly than in a rule change and delete redundancy.

*Source:* Bar Staff

*Background Information – Member Commentary / Committee*

*Action:*

- Rules Committee approved 6-0 on a substantive and procedural basis on July 27, 2023.
- Program Evaluation Committee approved on a strategic basis 14-0 on September 7, 2023.
- The bar's chief financial officer agreed with de minimis fiscal impact on November 16, 2023.

*Board Action:* The Florida Bar Board of Governors approved on voice vote without objection on December 1, 2023.

## **CHAPTER 8. LAWYER REFERRAL RULE**

*Explanation:* The entire chapter is reorganized. New rule 8-2.2 is proposed addressing required content for bylaws of voluntary bar association lawyer referral services approved by The Florida Bar. New rule 8-3.2 subdivision (c) adds the requirement that approved lawyer referral services must notify the bar of each new applicant and obtain the applicant's disciplinary history before admission to membership in the service and provides requirements for eligibility. New rule 8-2.2(c) also adds eligibility requirements for new panel members, suspension of current panel members if probable cause is found against the panel member in disciplinary proceedings, and the circumstances under which the lawyer referral service will remove a member. New rule 8-3.2 subdivision (d) adds the requirement that an approved service notify the bar of each member who is removed or resigns from participation in the service. Rule 8-4.1 is amended to state that good cause for revocation of authority to operate includes failure to comply with any requirements of the chapter.

*Reasons:* The entire chapter has not been reviewed in years and contains outdated information and does not comport with *In re: Guidelines for Rules Submissions*, AOSC22-78 (Fla. 2022).

Proposed rule 8-2.2 moves requirements for bylaws out of current rule 8-2.2 on applications so they are more easily found and adds requirements so that voluntary bar association lawyer referral services will comply with requirements already found in the entirety of chapter 8.

Amendments to proposed rule 8-3.2(c) will ensure that only eligible Florida Bar members will be added to the service. Lawyer referral services may only make referrals to lawyers who are eligible to practice law in Florida under current Rule Regulating Fla. Bar 4-7.22(d)(3). Proposed eligibility requirements in proposed subdivision (c)(1) would ensure that not only are panel members eligible to practice law, they also have no pending discipline that could result in suspension or disbarment. Requirements of denial for the listed reasons ensures prospective clients will not be referred to lawyers with discipline in the past 5 years or serious discipline in the past 10 years or who is currently serving probation for discipline.

Proposed rule 8-2.2(c)(2) provides that the lawyer referral service will suspend membership if probable cause is found by any court or other disciplinary agency of any jurisdiction so that new prospective clients are not referred to a lawyer whose license may be affected by the pending disciplinary proceedings.

Proposed subdivision (c)(3) provides a mechanism to remove members for misconduct and grounds for removal, as the rules currently do not provide any mechanism or cause for removal.

Current rule 8-2.2(c)(3) requires that lawyer referral services provide quarterly updated lists to the bar for discipline checks to ensure that the member is in good standing with no pending discipline, but currently does not require a discipline history check before a new member is added to the service. This requirement will ensure that lawyers who are ineligible to practice are not added to the service.

The bar proposes a requirement that lawyer referral services notify the bar of every member who is removed or resigns from the service so that the bar's records are accurate in proposed subdivision (d) of proposed rule 8-3.2.

Rule 8-4.1 is amended to state that good cause for revocation of authority to operate includes failure to comply with any requirements of the chapter, which will provide notice to lawyer referral services of what constitutes cause for removal of authority to operate.

The bar's Rules Committee disseminated draft amendments to chapter 8 to all voluntary bar associations with approved lawyer referral services. The bar received comments from the Clearwater Bar Association (Appendix D, page D-1) and Jacksonville Bar Association (Appendix D, page D-2). Both comments suggested amending the rule to remove or change the restriction on membership to lawyers who maintain an office in the geographic area served by the proposed lawyer referral service. The comments pointed to changes in the way lawyers practice after the pandemic, with some moving their physical offices or eliminating them in favor of working from a home office. Additionally, there are geographic areas where there are lawyers who have an office in a near location but practice across multiple geographic areas. The Rules Committee carefully considered the comments and information provided by the bar's Lawyer Referral Service staff. The bar's

Lawyer Referral Service serves all geographic areas not covered by a specific approved local bar association lawyer referral service and expressed the importance of prospective clients contacting a local bar lawyer referral service being referred to a lawyer from that geographic area. Prospective clients not in the geographic area can be referred to the bar's Lawyer Referral Service, which refers the prospective client to a different local bar association lawyer referral service if one exists, or to a participating bar Lawyer Referral Service panel lawyer for a prospective client who is in a geographic area where no local bar association lawyer referral exists.

*Source:* Bar Staff

*Background Information – Member Commentary / Committee Action:*

- Rules Committee approved 4-0 on December 5, 2022.
- The bar's chief financial officer agreed with de minimis fiscal impact assessment January 19, 2023.
- Program Evaluation Committee approved 16-0 on a strategic basis on March 2, 2023.

*Board Action:* Board of Governors approved on voice vote without objection on May 12, 2023.

### *Chapter 11 Rules Governing the Law School Practice Program*

#### **RULE 11-1.9 CONTINUATION OF PRACTICE PROGRAM AFTER COMPLETION OF LAW SCHOOL PROGRAM OR GRADUATION**

*Explanation:* Adds new subdivision (b) that would allow a graduate of an American Bar Association approved law school who has received an initial clearance letter from the Florida Board of Bar Examiners to work as a certified legal intern for 12 months under the same requirements as a certified legal intern.

*Reasons:* The Florida Public Defender Association, Inc. requested by letter dated September 9, 2022 (Appendix D, pages D-3 through D-5) amendments to Rule Regulating Fla. Bar 11-1.9 to allow a graduate of any American Bar Association approved law school who has received an initial clearance letter from the Florida Board of Bar Examiners to appear on behalf of the attorney general, a state attorney, a public defender, or an approved legal aid organization in the same way that a law school graduate who had been a certified legal intern may appear for 12 months after

graduation. Public Defender and State Attorney offices are experiencing unprecedented difficulties in attracting new applicants, particularly those who have completed a law school practice program. The rule amendment would help Public Defender, State Attorney and legal services organizations serving the indigent to expand the pool of applicants by providing training and employment opportunities for law school graduates under the supervision of a licensed lawyer.

The bar's Rules Committee circulated information about the proposal and received comments from the Florida Board of Bar Examiners with some proposed technical amendments in light of the comments. The Florida Board of Bar Examiners' comments are in Appendix D, pages D-6 through D-8. The bar's Rules committee amended the Florida Public Defender Association, Inc. proposal to delete current subdivision (b) regarding graduates of out-of-state law schools as redundant and confusing in light of new subdivision (b), because current subdivision (b) requires completion of a clinical program for graduates of non-Florida law schools, while new subdivision (b) does not and applies to graduates of any ABA-approved law schools. The bar's Rules Committee also amended proposed terminology regarding who can employ the law school graduates to allow the broadest range of employers to employ law school graduates for 1 year while remaining consistent to the principles in the rule.

*Source:* Florida Public Defender Association, Inc.

*Background Information – Member Commentary / Committee Action:*

- Rules Committee approved 5-0 on a substantive and procedural basis on October 11, 2022.
- The bar's chief financial officer agreed with de minimis impact assessment on January 16, 2023.
- Program Evaluation Committee approved 17-0 on a strategic basis on January 26, 2023.
- Rules Committee voted 4-0 to remove "or has graduated from law school following successful completion of the program" from subdivision (a) on June 5, 2023.

*Board Action:* Board of Governors approved on voice vote without objection on July 28, 2023.

*Chapter 20 Florida Registered Paralegal Program*

**RULE 20-3.1 REQUIREMENTS FOR REGISTRATION**

*Explanation:* In subdivision (c), replaces "grandfathering" with "designation by attestation." Adds that a person who does not meet the requirements of subdivisions (a) or (b) may become a Florida Registered Paralegal by meeting the following requirements: (1) providing attestation from an employing or supervising lawyer on a form approved by The Florida Bar that the person has paralegal work experience as defined elsewhere in these rules for 5 of the 8 years immediately preceding the date of the attestation and a statement of proficiency describing the applicant's work experience as a paralegal; and (2) submitting at the time of the application proof that the applicant has completed the following continuing education requirements within the prior 3 years from the date of the application: 30 hours of general continuing education including 10 hours of ethics/professionalism, and 3 hours of technology. Acceptable courses include those approved for credit by The Florida Bar, NALA, or the NFPA.

*Reasons:* Chapter 20 allowing voluntary registration of Florida Registered Paralegals was originally adopted in *In re Amendments to the Rules Regulating The Florida Bar—Florida Registered Paralegal Program*, 969 So.2d 360 (Fla. 2007). As originally adopted, this chapter allowed for "grandfathering" for the first 3 years after adoption of the chapter of a person who did not meet the chapter's eligibility requirements by having a supervising lawyer attest to the person's paralegal work experience. This provision was amended to allow a former Florida Registered Paralegal to reapply based on work experience alone in *In re Amendments to Rules Regulating The Florida Bar (Biennial Rep.)*, 140 So. 3d 541 (Fla. 2014). The proposed amendment reinstates the original lawyer attestation of work experience to expand the qualifying criteria to include a work experience-only eligibility. Reinstating this provision should increase membership and allow well-qualified paralegals to receive the Florida Registered Paralegal designation. There has been a 45% decrease in applications to the Florida Registered Paralegal program. The bar's Rules Committee referred the proposal back to the Florida Registered Paralegal program to consider adding an educational component to attestation, which was approved and included in these amendments. The request of

the Florida Registered Paralegal Eligibility and Compliance Committee for amendments to Rule 20-3.1 is in Appendix D at pages D-9 through D-13.

*Source:* Florida Registered Paralegal Eligibility and Compliance Committee

*Background Information – Member Commentary / Committee Action:*

- Florida Registered Paralegal Compliance Committee voted 6-0 to approve on January 28, 2022.
- Florida Registered Paralegal Compliance Committee voted 6-0 to approve further amendments after consideration of the Rules Committee's concerns on October 20, 2022.
- Rules Committee approved 5-0 on December 5, 2022.
- Budget Committee agreed with moderate fiscal impact by vote of 10-0 on January 25, 2023.
- Program Evaluation Committee approved 17-0 on a strategic basis on January 26, 2023.

*Board Action:* Board of Governors approved on voice vote without objection on May 12, 2023.

### **Official Notice of Amendments**

The bar's official notice of intent to file all the proposals in this petition was published in the December issue of the bar *News* in accordance with R. Regulating Fla. Bar 1-12.1(g). A copy of the notice including the full text in legislative format published on the bar's website is included with this petition in Appendix C. The online notice can also be found at:

<https://www.floridabar.org/the-florida-bar-news/florida-bar-rules-proposals-6/>

### **Other Pending Amendments**

There are proposed amendments to Rule Regulating Fla. Bar 1-3.7 filed and pending with this Court in *In Re: Amendments to*

*Rules Regulating The Florida Bar - Continuing Legal Education*, case number SC23-1412 filed on October 13, 2023. Only the changes in double-legislative format in subdivision (b) in Appendix B are different from the amendments currently pending in case number SC23-1412, and they do not conflict with the other pending amendments.

### **Contents of Appendices**

The complete text of all proposals is included in Appendix A to this petition in legislative format (deleted language struck through, shown first, followed by new language underlined).

A separate two-column presentation follows in Appendix B, which includes extracted text of affected rules with proposed amendments in legislative format and an abbreviated recitation of the reasons for the changes.

Official notice of intent to file this petition, background information, and comments are provided in Appendix C.

Background information and comments received are in Appendix D. Comments of the Clearwater Bar Association regarding proposed amendments to Chapter 8 are at page D-1. Comments of Executive Director of the Jacksonville Bar Association regarding proposed amendments to Chapter 8 are in Appendix D at page D-2. The Florida Public Defenders Association request for amendments to Rule 11-1.8 is at pages D-3 through D-5. Comments of the Florida Board of Bar Examiners regarding amendments to Rule 11-1.8 are at pages D-6 through D-8. Request of the Florida Registered Paralegal Eligibility and Compliance Committee for amendments to Rule 20-3.1 is at pages D-9 through D-13.

## **Oral Argument Not Requested**

The bar does not seek oral argument regarding these amendments unless this Court orders oral argument or bar members file comments that require additional response or appearance by the bar.

## **Effective Date Request**

The bar requests that any amendments in response to this petition be made effective no sooner than 30 days from the date of this Court's order so that the bar can educate its members regarding any amendments.

The bar requests that this Court enter an order amending the Rules Regulating the Florida Bar as requested in this petition.

Respectfully submitted,

/s/ Joshua E. Doyle

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### **CERTIFICATE OF SERVICE**

I certify that a copy was furnished by e-mail on January 5, 2024,  
to:

Teresa Conte  
Executive Director, Clearwater Bar Association  
[teresa@clearwaterbar.org](mailto:teresa@clearwaterbar.org)

Craig Shoup  
Executive Director, Jacksonville Bar Association  
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Carlos J. Martinez  
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**CERTIFICATE OF TYPE SIZE AND STYLE**

I certify that this petition is typed in 14-point Bookman Old Style type.

**CERTIFICATE OF READ-AGAINST**

I certify that the Rules Regulating the Florida Bar set forth within this petition have been read against the most recent copy of Thomson Reuter's *Florida Rules of Court*.

/s/ Joshua E. Doyle

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Joshua E. Doyle  
Executive Director  
Florida Bar Number 25902