

24-111. Emeritus attorney.

A. Definitions.

(1) *Emeritus attorney.* An “emeritus attorney” is an attorney who is or was a licensed attorney in good standing in the State of New Mexico or other jurisdiction who voluntarily withdrew from the practice of law or transferred to inactive status and does not ask for or receive compensation of any kind for the performance of legal services, but who is granted permission under Paragraph D of this rule to participate in the emeritus pro bono program described in Paragraph B of this rule.

(2) *Approved legal aid organization.* An “approved legal aid organization” for purposes of an emeritus pro bono program is a not for profit legal services organization whose primary purpose is to provide legal services to low income clients or a legal department within a non-profit organization that employs at least one (1) lawyer full-time to provide legal services to low income clients and

(a) is an organization described in Section 501(c)(3) and exempt from federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 or corresponding provisions of federal income tax laws from time to time in effect;

(b) is registered with the New Mexico Attorney General Registry of Charitable Organizations in compliance with the New Mexico Charitable Solicitations Act;

(c) is recommended by the New Mexico Commission on Access to Justice; and

(d) provides lawyer malpractice insurance for the emeritus attorney to cover services rendered by the attorney while under its supervision.

(3) *Supervising attorney.* A “supervising attorney” as used in this rule is an active status member in good standing of the New Mexico Bar who directs and supervises an emeritus attorney who is participating in the emeritus pro bono program. A supervising attorney shall

(a) be employed by or be a participating volunteer for an approved legal aid organization; and

(b) assume personal professional responsibility for supervising the services rendered by an emeritus attorney.

B. Emeritus pro bono program. An emeritus attorney, in association with an approved legal aid organization and under the supervision of a supervising attorney, may perform the following activities:

(1) Appear in any court or before any administrative tribunal in New Mexico on behalf of a client of an approved legal aid organization provided the client has consented in writing to that appearance and the supervising attorney has given written approval for that appearance. A copy of the written consent and approval shall be filed in the record of each case along with the entry of appearance of the emeritus attorney;

(2) Prepare pleadings and other documents to be filed in any court or before any administrative tribunal in New Mexico in any matter in which the emeritus attorney is involved; and

(3) Provide such other services as are authorized by an approved legal aid organization with the approval and consent of the supervising attorney.

C. Payment, expenses, and award of fees. Although an emeritus attorney is prohibited from personally receiving compensation for services performed in an emeritus pro bono program, the approved legal aid organization may reimburse the emeritus attorney for actual expenses incurred while rendering services in the program. An approved legal aid organization is not prohibited from charging for the services rendered by an emeritus attorney provided such charges normally would be charged by the organization. In addition, an approved legal aid organization shall be entitled to receive all court-awarded attorney fees and costs for the services rendered by an emeritus attorney.

D. Certification. To obtain permission to perform services in an emeritus pro bono program, an attorney who has voluntarily withdrawn as a member of the New Mexico Bar, or other jurisdiction, or transferred to inactive status shall file with the Supreme Court a motion to be approved as an emeritus attorney. Upon entry of an order by the Supreme Court granting the motion, an emeritus attorney is authorized to perform services in an emeritus pro bono program. The motion shall include the following:

(1) a sworn statement that the movant:

(a) has filed a notice with the Supreme Court for voluntary withdrawal as a member of the New Mexico Bar under Rule [24-102\(F\)](#) NMRA or has transferred to inactive status under Rule [17-202\(D\)](#) NMRA,

and/or has voluntarily withdrawn or transferred to inactive status in compliance with all applicable rules of all other jurisdictions in which the movant was licensed;

(b) agrees to abide by the New Mexico Rules of Professional Conduct and submit to the jurisdiction of the Supreme Court for disciplinary purposes;

(c) has not been disciplined, suspended, disbarred, or resigned in lieu of discipline in any jurisdiction. If the movant has been disciplined, suspended, disbarred, or resigned in lieu of discipline in any jurisdiction the movant shall disclose the details of same and the motion to be approved as an emeritus attorney shall be referred to the Disciplinary Board for investigation by the Board and a recommendation to the Supreme Court following such investigation;

(d) will not hold himself or herself out to be an active member of the New Mexico Bar;

(e) will not ask for or receive compensation of any kind for the legal services to be rendered in an emeritus pro bono program; and

(f) agrees to abide by the requirements and limitations of being an emeritus attorney.

(2) A certification by an approved legal aid organization stating that the emeritus attorney will associate with that legal aid organization once approved by the Supreme Court to do so, and that an attorney employed by or participating as a volunteer with that organization will assume the responsibility of supervising the emeritus attorney as required by these rules.

E. Exemption from certain fees and reporting requirements. An emeritus attorney shall not be responsible for the payment of the annual license fee under Rule [24-102](#) NMRA, the annual disciplinary fee under Rule [17-203](#) NMRA, or the annual client protection fund fee under Rule [17A-003](#) NMRA. An emeritus attorney shall not be required to comply with minimum continuing education requirements under Rule [18-201](#) NMRA, the mandatory disclosure of professional liability insurance under Rule [16-104](#) NMRA, or the trust account certification under Rule [17-204](#) NMRA.

F. Other Authorized Activities. An emeritus attorney may also serve on Supreme Court and state bar committees, boards, commissions, or other working groups engaged in activities designed to improve the legal profession.

[Adopted by Supreme Court Order No. 16-8300-006, effective December 31, 2016.]