

**OFFICE OF PROFESSIONAL REGULATION
OF THE SUPREME COURT OF IOWA**



Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319
Telephone (515) 725-8029 Facsimile (515) 725-8032

Memorandum For: Supreme Court

From: Paul H. Wieck II, Director

Subject: Concept for Separate Retired and Inactive Statuses

Date: March 1, 2016

Summary

Iowa currently handles inactive and retired attorneys in a single license status entitled “exempt,” which frees the attorney from annual fees, reports, and continuing legal education requirements, but precludes practicing law in Iowa. Iowa is one of the few states that do not maintain contact with attorneys in inactive status and collect an annual fee from them. States that track and collect an annual fee from inactive attorneys generally provide a separate retired status for attorneys desiring complete retirement.

Separating the inactive and retired classifications in Iowa would facilitate tracking inactive attorneys through annual reports. Adopting an annual fee and report for inactive attorneys would produce additional annual fee revenue for the Client Security Trust Fund, but the amount collectible during the first several years following implementation would depend on the number of currently exempt attorneys who convert to the new inactive status with the annual fee. Transition to the new concept could be eased by making the new inactive and retired statuses available prospectively, and providing conversion privileges for a period of years for those attorneys currently in exempt status.

Current Practice Regarding Exempt, Inactive, and Retired Status

An Iowa attorney who does not actually practice law in Iowa may apply for a certificate of exemption from continuing legal education (CLE) attendance, reporting, and fee payment requirements pursuant to Iowa Court Rules 41.7 and 42.6, and a certificate of exemption from client security reporting and fee

payment requirements pursuant to Iowa Court Rule 39.7. It is permissible to apply for exemption for purposes of one commission, but not the other.

An attorney issued a certificate of exemption from either or both commissions may not practice law in Iowa until reinstated.¹ Reinstatement from exemption generally requires payment of current fees, filing current report forms, and in the case of CLE, showing satisfaction of the CLE attendance requirements the attorney would have completed had the attorney remained active during the period of exemption.²

In practice, no distinction has been made between attorneys who fully retire from practice, attorneys who move out of state, or attorneys who simply cease practicing law. All of these situations currently are addressed through the certificate of exemption process under rules 39.7, 41.7, and 42.6. The labels exempt, inactive, and retired tend to be used interchangeably.

Because attorneys in exempt status have no reporting duties, the contact information maintained by the Office of Professional Regulation (OPR) for exempt attorneys often is inaccurate. Especially with respect to exempt attorneys residing outside Iowa, OPR frequently is not aware when an exempt attorney is deceased.

Demographics of Exempt Attorneys in Iowa

As of June 23, 2015, the OPR database showed 6,333 attorneys in exempt status with both commissions. The array of that population by last known residence and date of admission to the Iowa bar is shown in Table A. Of the 6,333 attorneys in exempt status, only 27.8%, or 1,762, showed a last known address in Iowa in the OPR database.³ Exempt attorneys showing addresses

¹ The practice of law as used in this context includes the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns as well as the representation of others in any Iowa courts, the right to represent others in any Iowa courts, or to regularly prepare legal instruments, secure legal rights, advise others as to their legal rights or the effect of contemplated actions upon their legal rights, or to hold oneself out to so do; or to be a judge or one who rules upon the legal rights of others unless the state nor federal law requires the person so judging or ruling to hold a license to practice law. Iowa Ct. R. 39.7. Attorneys in exempt status have been permitted to request ICIS AT pin numbers and register as users in the EDMS system, however.

² In 2012, the CLE required for reinstatement was capped at a maximum of 100 hours, including up to 10 hours of legal ethics.

³ In most instances, the address shown was current when the attorney applied for exempt status but has not been updated since that time.

outside Iowa totaled 4,571. The total number of attorneys admitted after 1969, and showing a last known address in Iowa, was 1,100.

Table A. Exempt Attorney Population by Last Known Residence and Date of Admission

Date of Admission	Number of Exempt Attorneys	Last Known Address in Iowa	Last Known Address Outside Iowa
Before 1950	239	135	104
1950 through 1959	620	259	361
1960 through 1969	896	268	628
1970 through 1979	1606	355	1251
1980 through 1989	1120	256	864
1990 through 1999	887	233	654
2000 through 2009	696	207	489
2010 through present	269	49	220
Totals	6333	1762	4571

Inactive and Retired Status Rules in Surrounding States

A table comparing inactive and retired status rules in Iowa and the seven states generally surrounding Iowa is included at Appendix B.

All eight states have a provision for inactive status. In each state, inactive attorneys are exempt from compliance with CLE attendance requirements, but are not permitted to practice law. In most states, reinstatement involves satisfying prescribed CLE attendance requirements, submitting annual reports, and paying annual registration fees. The exception is South Dakota, which appears to require passing the bar examination again unless the supreme court finds the applicant is “manifestly qualified to practice.” All of the states surrounding Iowa have an annual fee payable by inactive attorneys. Only Iowa does not collect an annual fee from attorneys in inactive status.

All eight states have a provision for a separate emeritus or privileged status. In most of the eight states, an attorney is only eligible for this status after reaching a certain age or practicing a significant number of years. Attorneys in this status generally are exempt from CLE attendance and most fee payment requirements. The practice privileges afforded attorneys in this status appear to vary based on the purpose for the status. Four states (Minnesota, Illinois,

South Dakota, and Iowa) appear to encourage pro bono service by otherwise inactive attorneys, by allowing them to practice only in a pro bono capacity, generally in an approved organizational setting. Two states (Wisconsin and Missouri) appear to use this category to provide a special status to senior attorneys, who are exempt from CLE and most fees but still have full practice privileges.

Two states (Kansas and Nebraska) appear to use the emeritus or privileged category to create a de facto retired status, which allows very senior or disabled attorneys to remain nominal members of the bar and be exempt from all CLE and fees, but prohibits them from practicing. Five other states have provisions for full retirement or resignation from the bar. These provisions generally require a formal application or petition to the supreme court. If granted, the applicant has no further reporting or fee payment duties, and is not permitted to practice. Generally no reinstatement route is provided except for retaking the bar examination. Kansas is an exception, with specific reinstatement requirements set out that include paying registration fees and attending CLE.

Survey of Fees for Inactive Status

A table of annual fees payable by attorneys in inactive status in the fifty states and the District of Columbia is set out at Appendix C. Thirty-eight of the fifty-one jurisdictions assess an annual fee to inactive attorneys. The average annual inactive fee payable in these thirty-eight jurisdictions is \$132.87.⁴

All seven of the states generally surrounding Iowa assess an annual fee to attorneys in inactive status. The average inactive fee charged in these seven jurisdictions is \$115.14.

Table B. Annual Fees Assessed to Inactive Attorneys – Surrounding States

Jurisdiction	Total Attorneys	Inactive Fee
Minnesota	27,989	\$211
Wisconsin	24,988	\$210
Illinois	91,375	\$121
South Dakota	3,400	\$100
Kansas	15,021	\$65
Missouri	30,050	\$50
Nebraska	9,731	\$49

⁴ The table of inactive fees is based on the July 1, 2015 International Survey of Attorney Licensing Fees, published by the Office of Attorney Ethics of New Jersey. The attorney totals listed appear to include active and inactive attorneys.

Separating Exempt and Retired Statuses

Draft rules creating separate inactive and retired statuses are set out at Appendix D. The draft rules retain the current terms and rules for “exempt” and “exemption,” which after December 31, 2017 would be synonymous with “inactive.” New rules would be added describing the new, separate retired status.

The current client security exemption rule would be amended to require an annual exempt status fee and an annual report from those attorneys who choose exempt status. Attorneys in exempt status would continue to be precluded from practicing law in Iowa while exempt. Reinstatement requirements would continue to be set in rule 39.14(3), which involve filing a current annual report and questionnaire, paying fees and assessments for the current year, and paying all late filing fees that were delinquent at the time the attorney sought exempt status.⁵

The current CLE exemption rule would be left intact, with no reporting or fee payment duties during the period of exemption. Attorneys in exempt status would continue to be precluded from practicing law in Iowa while exempt. Reinstatement requirements would continue to be set in rule 42.7, which involve filing an application for reinstatement with a \$25 reinstatement fee, showing completion of CLE the attorney would have completed had he or she remained active,⁶ and paying all late filing fees that were delinquent at the time the attorney sought exempt status.

A new rule 39.7(2) and new rule 41.13 would create the new retired status, which would have no reporting or fee payment duties and would preclude the practice of law. No provision for reinstatement would exist for retired practitioners, and it would be necessary to seek readmission by passing the bar examination or satisfying admission on motion requirements. The only exception would be emeritus status under rule 31.19, which would remain available to retired attorneys upon application to encourage pro bono service to approved legal aid organizations.

Like the current application process for emeritus status, applications for retired status would be linked, meaning that an applicant would be required to submit concurrent applications for retired status in both CLE and client security. Unlike the current practice, applications for exempt status also

⁵ The provisions for collection of unpaid late filing fees will need to be retained because some attorneys currently in exempt status owed late fees at the time they sought exempt status, likely will not respond to notice of the separation of exempt and retired statuses, and could be grandfathered for reinstatement even though administratively retired.

⁶ Subject to the cap specified in rule 42.7(1)(b).

would be linked, so that it no longer would be possible to apply for exempt status for purposes of client security, but not for purposes of CLE, or vice versa. Attorneys who anticipate returning to active status in a few years traditionally have found it attractive to remain active and continue to file annual CLE reports, and be exempt for purposes only of client security, as it makes reinstatement much quicker. That goal can be accommodated using the existing CLE transcript utility that is part of the annual report filing system, so that maintaining active status for purposes of CLE no longer is necessary to use the online filing system to track CLE completed while in inactive status.

Transitioning to New Concept

The table at Appendix E shows the available status options before and after the proposed effective date of the new rules. The table also shows options for attorneys in exempt status at the implementation date, who would be granted a five year grace period to seek transfer to the new exempt status or reinstatement.

For purposes of CLE:

A separate fully retired status would become available effective January 1, 2018. Until December 31, 2017, attorneys in active status would be able to apply for exempt status or emeritus status. On or after January 1, 2018, attorneys in active status would be able to apply for exempt status, emeritus status, or the new retired status. Reinstatement from exempt status would be available on the same terms before and after January 1, 2018. No annual fee or report would be associated with exempt status for purposes of CLE, before or after January 1, 2018.

Attorneys who are in exempt status for purposes of CLE as of December 31, 2017, would continue to have no fee payment or annual reporting responsibilities. Commencing January 1, 2018, attorneys in exempt status would be able to request conversion to the new exempt status with the annual fee, emeritus status, the new retired status, or reinstatement, so long as their status for purposes of client security reporting permits a concurrent application for purposes of client security.

Attorneys who are in active status for purposes of CLE as of December 31, 2017, but are in exempt status for purposes of client security reporting, will be administratively transferred to exempt status for purposes of CLE on January 1, 2018. The purpose of the administrative transfer is to conform their statuses for purposes of both commissions to exempt status. Attorneys administratively transferred to exempt status for purposes of CLE would still be permitted to record and track their CLE attendance on their lawyer account pages, as a matter of convenience, should they choose to do so.

For purposes of client security:

A separate fully retired status also would become available effective January 1, 2018. At that same time, a new exempt status with a requirement for an annual report and annual \$50 fee would become effective. Until December 31, 2017, attorneys in active status would be able to apply for exempt status without payment of an annual fee, or emeritus status. On or after January 1, 2018, attorneys in active status would be able to apply for the new exempt status with payment of an annual fee, emeritus status, or the new retired status.

Attorneys who are in exempt status with client security as of December 31, 2017, would be accorded legacy status, and would not have fee payment or annual reporting responsibilities. For a period of five years commencing January 1, 2018, and ending December 31, 2022, attorneys in legacy status would be able to request conversion to the new exempt status with the annual fee, emeritus status, the new retired status, or reinstatement. On or after January 1, 2023, attorneys in legacy status no longer would be able to apply for conversion to exempt status with the annual fee, or reinstatement to active status. They still would be able to apply for emeritus status or the new retired status.

Plan for Implementation

Implementing the new rules separating exempt and retired statuses would involve several tasks. These tasks, and a possible timeline for implementation, are as follows:

April – December, 2016: Publish concept and proposed rules for comment.

January 2017: Adopt rules creating separate exempt and retired statuses, *with an effective date of January 1, 2018.*

May – August 2017: Adapt OPR software application and Oracle database to accommodate separate exempt and retired classifications, annual reporting and annual fee collection for exempt attorneys, and separate applications and certificates for each status.

May – August 2017: Notify the existing exempt attorney population of the pending separation in categories and their status change options before and after expiration of their five year grace period.

January 1, 2018: Implement the separate application process and certificate (of exemption or retirement) for each status. Administratively transfer attorneys in exempt status for purposes of client security but active status for

purposes of CLE to exempt status for purposes of CLE. Otherwise, change statuses based on applications received from individual attorneys.

January 1, 2018: Implement annual report and fee for exempt attorneys for the 2018 client security reporting season.

Considerations in Separating Retired and Exempt Statuses

Separating exempt and retired statuses for attorneys offers some advantages over the current situation in which attorneys who are retired in fact are consolidated with inactive attorneys. Those advantages include the following:

An annual reporting requirement for exempt attorneys would help OPR identify and reclassify those attorneys who become deceased.

An annual reporting requirement would help OPR maintain current address information for exempt attorneys.

An annual reporting requirement would facilitate collection of an annual fee, which would aid the Client Security Trust Fund.

An annual fee for retention of exempt status would encourage truly retired attorneys to seek retired status.

Separate exempt and retired statuses would provide an easy discriminator for eligibility to participate as an attorney user of EDMS services.

There are some considerations that militate against separating exempt and retired statuses, although some of these considerations appear transitory, and the rest appear relatively minor:

A short term administrative burden for OPR would arise from the requirement to notify the existing cohort of exempt attorneys regarding the new separate exempt and retired classifications and their options before and after expiration of the five year grace period.

One-time software programming costs would exist to add the new retired status and create an annual report and fee collection module for exempt attorneys. The staff at OPR estimates these programming costs to be in the range of \$20,000 to \$30,000.

The addition of the new cohort of exempt attorneys with an annual reporting and fee payment duty would create additional reporting delinquencies to be pursued each year, and probably result in a few exempt attorneys being suspended for noncompliance each year.

Financial Aspects of Implementing and Operating with Separate Statuses

As noted above, the one-time software programming costs associated with separation of exempt and retired statuses are estimated to be in the range of \$20,000 to \$30,000. These costs would be offset by the new annual fee associated with exempt status, but it may take a few years to recover those costs. Because election of the new exempt status with annual fee would be available prospectively as of January 1, 2018, it likely will take several years for elections by active attorneys to yield significant annual fee revenue. Also, it is difficult to predict how many attorneys in the current, or legacy exempt status, would convert to the new exempt status with the annual fee.

The demographics of the current inactive attorney population also suggest that caution is appropriate in projecting fee revenue. Table B shows that only 1,100 attorneys admitted during 1970 or the years since show a last known address in Iowa. Assuming that all 1,100 of these attorneys elect the new exempt status, or a combination of currently exempt attorneys residing in and outside Iowa and totaling 1,100 elect the new exempt status, inactive fees of various amounts would produce the fee revenue set out in Table C. If only a total of 550 attorneys elect the new exempt status, inactive fees of various amounts would produce the fee revenue set out in Table D.

Table C. Fee Revenue at Various Annual Inactive Attorney Fee Amounts (1,100 Exempt Attorneys)

Annual Inactive Fee	Number of Exempt Attorneys	Revenue
\$5	1,100	\$5,500
\$10	1,100	\$11,000
\$50	1,100	\$55,000
\$100	1,100	\$110,000
\$130	1,100	\$143,000

Table D. Fee Revenue at Various Annual Inactive Attorney Fee Amounts (550 Exempt Attorneys)

Annual Inactive Fee	Number of Exempt Attorneys	Revenue
\$5	550	\$2,750
\$10	550	\$5,500
\$50	550	\$27,500
\$100	550	\$55,000
\$130	550	\$71,500

Appendix A
Current Iowa Rules Regarding Inactive / Exempt / Retired Status

Client Security

Rule 39.7 Certificate of exemption — required statement. A member of the bar of the supreme court who is not engaged in the practice of law in the state of Iowa may be granted a certificate of exemption by the commission, and thereafter no fee or assessment shall be required from such member unless the member thereafter engages in the practice of law in the state of Iowa, in which case the certificate of exemption shall without further order of court stand revoked and the member shall file at once the statement required by rule 39.8(1), and the questionnaire required by rule 39.11 and pay the fee and assessment due under rules 39.5 and 39.6. A member of the bar requesting a certificate of exemption shall file with the director the statement required by rule 39.8(1), and such part of the rule 39.11 questionnaire as the director may deem necessary to determine the member's status. The practice of law as that term is employed in this chapter includes the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns as well as the representation of others in any Iowa courts, the right to represent others in any Iowa courts, or to regularly prepare legal instruments, secure legal rights, advise others as to their legal rights or the effect of contemplated actions upon their legal rights, or to hold oneself out to so do; or to be one who instructs others in legal rights; or to be a judge or one who rules upon the legal rights of others unless neither the state nor federal law requires the person so judging or ruling to hold a license to practice law.

Rule 39.8 Enforcement.

39.8(1) To facilitate the collection of the annual fee and assessment provided for in rules 39.5 and 39.6, all members of the Iowa bar required to pay the fee and assessment, and those exempted other than by rule 39.7, shall, on or before March 10 of each year, file a statement, on a form prescribed by the director, setting forth their date of admission to practice before the supreme court, their current residence and office addresses, and such other information as the director may from time to time direct. In addition to such statement, every bar member shall file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons admitted to practice before the supreme court shall file the statement required by this rule at the time of admission but no annual fee or assessment shall be payable until the time above provided. All attorneys failing to file the required statement by March 10 of each year shall, in addition to the annual fee and assessment provided for above, pay a penalty as set forth in the following schedule if the statement is filed after March 10. The penalty fees collected shall be used to pay the costs of administering the fund, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty Schedule:

If Filed:	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11	\$200

39.8(2) Attorneys who fail to timely pay the fee and assessments required under rules 39.5, 39.6, and 39.17, or fail to file the statement or supplement thereto provided in rule 39.8(1), may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, a notice of delinquency has been served upon them in the manner provided for the service of original notices in Iowa R. Civ. P. 1.305, or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in duplicate in the office of professional regulation an affidavit disclosing facts demonstrating the noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of the clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended. A hearing must be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney must be notified thereof by either of the two methods above provided for notice of delinquency.

39.8(3) Any attorney suspended pursuant to this chapter shall do all of the following:

a. Within 15 days in the absence of co-counsel, notify clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another lawyer.

b. Within 15 days deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days refund any part of any fees paid in advance that have not been earned.

d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties, of the suspension and consequent disqualification to act as a lawyer after the effective date of such discipline.

e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the foregoing.

g. Within 30 days file proof with the supreme court and with the Iowa Supreme Court Attorney Disciplinary Board of complete performance of the foregoing, and this shall be a condition for application for readmission to practice.

39.8(4) Any attorney suspended pursuant to this chapter shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

39.8(5) Attorneys who have been suspended pursuant to this chapter or who currently hold a certificate of exemption and who practice law or who hold themselves out as being authorized to practice law in this state are engaged in the unauthorized practice of law and may also be held in contempt of the court or may be subject to disciplinary action as provided by chapter 35 of the Iowa Court Rules.

Rule 39.14 Reinstatement from exemption or suspension.

. . .

39.14(3) An attorney who has been granted a certificate of exemption under the provisions of rule 39.7 may be reinstated after filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11, paying all late filing penalties due at the time the exemption was granted, and paying the current fee and assessment required by rules 39.5 and 39.6.

Continuing Legal Education

Rule 41.7 Inactive practitioners. A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7, upon application to the commission, may be granted a waiver of compliance with this chapter and obtain a certificate of exemption. No person holding such certificate of exemption shall practice law in this state until reinstated. The supreme court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not theretofore been entitled to practice law in this state for any period of time subsequent to their admission to the bar.

Rule 42.6 Exemptions for inactive practitioners. A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7 residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the commission. The application shall contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Iowa Ct. R. 39.7, without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form prescribed by the commission.

Rule 42.7 Reinstatement of inactive practitioners.

42.7(1) Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7, satisfy the following requirements for reinstatement:

a. Submit written application for reinstatement to the commission upon forms prescribed by the commission together with a reinstatement fee of \$25 and all late filing penalties due at the time the exemption was granted.

b. Furnish in the application evidence of one of the following:

(1) Having engaged in the full-time practice of law, as defined in Iowa Ct. R. 39.7, in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the commission to that required under chapter 41 of the Iowa Court Rules.

(2) Successful completion of an Iowa state bar examination conducted within one year immediately prior to the submission of such application for reinstatement.

(3) Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for such applicant, but limited to a maximum requirement of 100 hours. The continuing legal

education required for reinstatement shall include hours devoted specifically to the area of legal ethics, computed as follows: three hours for every two calendar years in which a certificate of exemption shall have been in effect, but limited to a maximum requirement of 10 hours. Alternatively, the legal ethics requirement may be satisfied by obtaining a scaled score of 80 or higher on the Multistate Professional Responsibility Examination within one year immediately prior to the submission of the application for reinstatement.

42.7(2) Notwithstanding that an applicant for reinstatement has not fully complied with the requirements for reinstatement set forth in rule 42.7(1)(b), the commission may conditionally reinstate such applicant on such terms and conditions as it may prescribe regarding the period of time in which the applicant shall furnish evidence of compliance with the requirements of rule 42.7(1)(b).

Appendix B Retired Status Rules in Surrounding States								
	State							
Topic	Minnesota	Wisconsin	Illinois	Missouri	Kansas	Nebraska	South Dakota	Iowa
Inactive Status Available	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Effect of Inactive Status	Not authorized to practice law. Appear to be exempt from CLE requirements.	Not authorized to practice law. Exempt from CLE requirements.	Not eligible to practice law. Exempt from CLE requirements.	Cannot practice law. Exempt from CLE attendance.	Cannot practice law. Exempt from CLE attendance.	Cannot practice law. Exempt from CLE attendance.	Cannot practice law. Exempt from CLE attendance.	Cannot practice while inactive. Exempt from CLE and client security filings and fees.
Annual Fee While Inactive	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Reinstatement Reqs from Inactive Status	Must file annual registration statement, pay a registration fee, complete certain CLE requirements.	Must file written request, pay dues required of active members, make up required CLE. If inactive more than ten years, must show active license in another state or petition the supreme court.	Must notify administrator in writing, pay registration fee, submit verification of compliance with CLE requirements.	Must petition, pay certain fees; must show attendance at 15 or 30 hours of CLE depending on length of inactivity unless lawyer was practicing in another state	Must pay \$25 reinstatement fee, current registration fee, complete certain CLE requirements.	May reinstate by filing application, paying required dues, and complying with other requirements to show fitness to practice.	Must pass bar examination unless supreme court finds applicant manifestly qualified to practice	Must apply for reinstatement, complete certain CLE, file client security report, pay CLE reinstatement fee and current year client security fees
Separate Emeritus or Privileged Status Available	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Effect of Emeritus or Privileged Status	Cannot practice, exempt from fees; must be 62+, must be retired from any gainful employment; may perform pro bono work under defined conditions.	Must be 70+, have actively practiced for past 2 years. Can practice law in WI. All fees but client security assessment and fee for support of low-income legal services are waived. Not required to attend CLE.	Cannot practice, is relieved of all fee payment obligations and CLE requirements, but can provide pro bono services through an authorized entity.	Must be retired judge or commissioner of a court of record, or licensed 50+ years, or be age 75+. Exempt from all fees. Apparently can still practice.	Lawyers who have retired from practice and are age 66+, or any lawyer on disabled status, are exempt from fees. Cannot practice law.	Lawyers who are 75+ or have practiced 50 years or more in NE may apply for emeritus status. Exempt from annual dues, but may not practice law in NE.	Must file emeritus form. May not practice law except for pro bono work through a recognized pro bono organization. Must pay same dues as inactive lawyers.	Emeritus lawyer is exempt from filing of client security report and fees due with that report. Practice limited to pro bono work with approved legal aid organization.
Annual Fee While Emeritus or Privileged	\$0	\$0	\$0	\$0	\$0	\$0	\$100	\$10
Reinstatement Reqs from Emeritus Status	Must file annual registration statement, pay a registration fee, complete certain CLE requirements.	NA	May reinstate by filing request, paying registration fees for all years while retired, and verify compliance with CLE attendance requirements.	NA	Must make written application. Supreme court may impose conditions, costs, and registration fees.	May reinstate by filing application, paying required dues, and complying with other requirements to show fitness to practice.	Apparently must pass bar examination unless supreme court finds applicant manifestly qualified to practice	Can reinstate by filing current year client security report and fees if admitted in Iowa prior to requesting emeritus status.
Retirement or Resignation Available*	Yes	Yes	Yes	Unclear - No Provision Found	Yes	Yes	Unclear - No Provision Found	No
Effect of Voluntary Resignation or Retirement	Requires petition to resign; court has discretion to accept. Must retake the bar examination to become licensed again.	Requires petition to resign.	Permanent retirement. Cannot practice, is relieved of all fee payment obligations and CLE attendance requirements, no right to reinstate or provide pro bono services.		Must submit written request, return certificate of admission. Can be reinstated by paying all registration fees and attending CLE for period retired, pay current CLE fee.	May submit written resignation. Cannot practice, is relieved of all reporting and fee payment requirements. Readmittance is possible, but mechanism is not clear.		NA
*Other than consent disbarment								

Appendix C
Inactive Status Fees in Other States

Jurisdiction	Total Attorneys	Inactive Fee
Arizona	23,485	\$265
Wyoming	3,658	\$238
Alaska	4,254	\$215
Minnesota	28,700	\$211
Wisconsin	25,112	\$210
New Hampshire	6,700	\$205
Washington	35,976	\$200
Michigan	44,400	\$188
South Carolina	15,504	\$175
Florida	98,595	\$175
Hawaii	7,765	\$153
Utah	11,838	\$150
Idaho	6,031	\$150
Montana	3,823	\$150
Massachusetts	70,072	\$150
California	254,455	\$145
Dist. of Columbia	102,210	\$145
Maine	5,239	\$136
Colorado	38,523	\$130
Oregon	20,863	\$125
Nevada	11,668	\$125
Virginia	44,941	\$125
Georgia	46,229	\$124
Illinois	96,250	\$121
South Dakota	3,199	\$100
New Mexico	8,800	\$100
West Virginia	9,712	\$100
Arkansas	8,734	\$100
Indiana	18,124	\$90
Vermont	3,450	\$85
Pennsylvania	74,966	\$70
Tennessee	26,436	\$70
Kansas	14,119	\$65
Delaware	4,206	\$60

Appendix C
Inactive Status Fees in Other States

Jurisdiction	Total Attorneys	Inactive Fee
Rhode Island	6,488	\$50
Missouri	30,393	\$50
Mississippi	11,135	\$50
Nebraska	9,551	\$49
Louisiana	22,000	
North Dakota	2,700	
North Carolina	35,202	
Alabama	17,599	
Iowa	16,524	
Kentucky	17,922	
Oklahoma	17,607	
Texas	112,270	
New Jersey	95,807	
New York	297,570	
Ohio	63,918	
Maryland	37,266	
Connecticut	38,500	

Appendix D
Draft Rules Separating Exempt and Retired Statuses in Iowa

Chapter 39

CLIENT SECURITY COMMISSION

Rule 39.5 Annual disciplinary fee. As a condition to continuing membership in the bar of the supreme court, including the right to practice law before Iowa courts, every bar member, unless exempt or retired, ~~exempted~~, shall pay to the commission through the office of professional regulation an annual fee as determined by the supreme court to finance the disciplinary system. The annual fee shall be due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31. Members of the bar of the supreme court who certify in writing to the commission that they are a justice, judge, associate judge, or full-time magistrate of any court, spend full time in the military service of the United States following admission to the Iowa bar, are admitted on examination to the bar of Iowa during the current calendar year, or are issued a certificate of exemption or a certificate of retirement pursuant to the provisions of rule 39.7 shall be exempt from payment of this fee.

Rule 39.6 Fund assessments.

39.6(1) Assessments. As a condition to continuing membership in the bar of Iowa, including the right to practice law before Iowa courts, every bar member, unless exempt or retired ~~exempted~~ under the provisions of rule 39.6(6) or rule 39.7, shall pay to the commission through the office of professional regulation the assessment specified in rule 39.6(2), 39.6(3), or 39.6(4), or as provided by court order. The assessment shall be paid annually and deposited in the fund created pursuant to the provisions of rule 39.3. Assessments shall be due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31.

. . .

Rule 39.7 Exemption and retirement. ~~Certificate of exemption~~ — required statement.

39.7(1) A member of the bar of the supreme court who is not engaged in the practice of law in the state of Iowa may be granted a certificate of exemption by the commission, and thereafter no fee or assessment except for an annual exemption fee of \$50 and late filing penalties shall be required from such member unless the member thereafter engages in the practice of law in the state of Iowa, in which case the certificate of exemption shall without further order of court stand revoked and the member shall file at once the statement required by rule 39.8(1), and the questionnaire required by rule 39.11 and pay

the fee and assessment due under rules 39.5 and 39.6. A member of the bar requesting a certificate of exemption shall file with the director ~~the statement required by rule 39.8(1), and~~ such part of the rule 39.11 questionnaire as the director may deem necessary to determine the member's status. Applications for a certificate of exemption must be submitted concurrently under rules 41.7, 42.6, and this rule.

39.7(2) A member of the bar of the supreme court who is fully retired from the practice of law in the state of Iowa and does not intend to ever again practice law in Iowa may be granted a certificate of retirement. Thereafter, no fee, assessment, annual statement, or questionnaire is required from such member. A member granted a certificate of retirement is not entitled to practice law in the state of Iowa and may not apply for reinstatement, but may be certified as an emeritus attorney under rule 31.19. A member granted a certificate of retirement who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the court rules. A member of the bar requesting a certificate of retirement shall file with the director such part of the rule 39.11 questionnaire as the director may deem necessary to determine the member's status. Applications for a certificate of retirement must be submitted concurrently under rule 41.13 and this rule.

39.7(3) The practice of law as that term is employed in this chapter includes the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns as well as the representation of others in any Iowa courts, the right to represent others in any Iowa courts, or to regularly prepare legal instruments, secure legal rights, advise others as to their legal rights or the effect of contemplated actions upon their legal rights, or to hold oneself out to so do; or to be one who instructs others in legal rights; or to be a judge or one who rules upon the legal rights of others unless neither the state nor federal law requires the person so judging or ruling to hold a license to practice law.

39.7(4) Transition provisions.

a. The provisions of rule 39.7(1) regarding an annual \$50 fee for exempt practitioners, concurrent application for exempt status, and rule 39.7(2) regarding a separate fully retired status are effective January 1, 2018.

b. Until December 31, 2017, attorneys in active status may apply for and be granted exempt status without payment of an annual fee, or emeritus status under rule 31.19.

c. On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status with payment of an annual fee, emeritus status under rule 31.19, or retired status under rule 39.7(2).

d. Attorneys who are in exempt status as of December 31, 2017, will be accorded legacy status. Attorneys in legacy status will have no fee payment or reporting responsibilities. For a period of five years commencing January 1, 2018, and ending December 31, 2022, attorneys in legacy status may apply for conversion to exempt status and begin paying the annual fee, emeritus status under rule 31.19, retired status under rule 39.7(2), or reinstatement to active

status under rule 39.14(3). On or after January 1, 2023, attorneys in legacy status are not entitled to apply for conversion to exempt status and begin paying the \$50 annual fee, or reinstatement to active status under rule 39.14(3), but may apply for emeritus status under rule 31.19 or retired status under rule 39.7(2).

Rule 39.8 Enforcement.

39.8(1) To facilitate the collection of the annual fees and assessments provided for in rules 39.5, ~~and 39.6, 39.7(1), and 39.17,~~ all members of the Iowa bar required to pay the fees and assessments, ~~and those exempted other than by rule 39.7,~~ shall, on or before March 10 of each year, file a statement, on a form prescribed by the director, setting forth their date of admission to practice before the supreme court, their current residence and office addresses, and such other information as the director may from time to time direct. In addition to such statement, every bar member shall file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons admitted to practice before the supreme court shall file the statement required by this rule at the time of admission but no annual fees or assessment shall be payable until the time above provided. All attorneys failing to file the required statement by March 10 of each year shall, in addition to the annual fees and assessment provided for above, pay a penalty as set forth in the following schedule if the statement is filed after March 10. The penalty fees collected shall be used to pay the costs of administering the fund, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty Schedule:

If Filed:	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11	\$200

39.8(2) Attorneys who fail to timely pay the fees and assessments required under rules 39.5, ~~and 39.6, 39.7(1), and 39.17,~~ or fail to file the statement or supplement thereto provided in rule 39.8(1), may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, a notice of delinquency has been served upon them in the manner provided for the service of original notices in Iowa R. Civ. P. 1.305, or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in duplicate in the office of professional regulation an affidavit disclosing facts demonstrating the noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of the clerk of the supreme court a request for hearing to show

cause why their license to practice law should not be suspended. A hearing must be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney must be notified thereof by either of the two methods above provided for notice of delinquency.

39.8(3) Any attorney suspended pursuant to this chapter shall do all of the following:

a. Within 15 days in the absence of co-counsel, notify clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another lawyer.

b. Within 15 days deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days refund any part of any fees paid in advance that have not been earned.

d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties, of the suspension and consequent disqualification to act as a lawyer after the effective date of such discipline.

e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the foregoing.

g. Within 30 days file proof with the supreme court and with the Iowa Supreme Court Attorney Disciplinary Board of complete performance of the foregoing, and this shall be a condition for application for readmission to practice.

39.8(4) Any attorney suspended pursuant to this chapter shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

39.8(5) Attorneys who have been suspended pursuant to this chapter or who currently hold a certificate of exemption or retirement and who practice law or who hold themselves out as being authorized to practice law in this state are engaged in the unauthorized practice of law and may also be held in contempt of the court or may be subject to disciplinary action as provided by chapter 35 of the Iowa Court Rules.

Chapter 41

CONTINUING LEGAL EDUCATION FOR LAWYERS

Rule 41.7 Inactive practitioners. A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7, upon application to the commission, may be granted a waiver of compliance with this chapter and obtain a certificate of exemption. No person holding such certificate of exemption shall practice law in this state until reinstated. The supreme court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not theretofore been entitled to practice law in this state for any period of time subsequent to their admission to the bar. Applications for a certificate of exemption must be submitted concurrently under rules 39.7, 42.6, and this rule.

41.13 Retired practitioners

41.13(1) A member of the bar of the supreme court who is fully retired from the practice of law in the state of Iowa and does not intend to ever again practice law in Iowa may be granted a certificate of retirement. Thereafter, no continuing legal education, annual report, or annual fee is required from such member. A member granted a certificate of retirement is not entitled to practice law in the state of Iowa and may not apply for reinstatement, but may be certified as an emeritus attorney under rule 31.19. A member granted a certificate of retirement who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the court rules. A member of the bar requesting a certificate of retirement shall file with the director an application in such form as the director may deem necessary to determine the member's status. Applications for a certificate of retirement must be submitted concurrently under rule 39.7(2) and this rule.

41.13(2) Transition provisions.

a. The provisions of rule 41.13(1) regarding a separate fully retired status and the provisions of rule 41.7 and 42.6 regarding concurrent applications for exempt status are effective January 1, 2018.

b. Until December 31, 2017, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6, or emeritus status under rule 31.19.

c. On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6, emeritus status under rule 31.19, or retired status under rule 41.13(1).

d. Attorneys in active status under rules 41.7 and 42.6 but exempt status under rule 39.7 as of December 31, 2017, will be administratively transferred to exempt status under rules 41.7 and 42.6 as of January 1, 2018. Attorneys administratively transferred to exempt status under this provision nonetheless

will be allowed to record their continuing legal education attendance on their attorney account pages while in exempt status.

Chapter 42

REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

Rule 42.6 Exemptions for inactive practitioners. A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7 residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the commission. The application shall contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Iowa Ct. R. 39.7, without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form prescribed by the commission. Applications for a certificate of exemption must be submitted concurrently under rules 39.7, 41.7, and this rule.

Appendix E

Transition to New Concept for Separate Inactive and Retired Statuses			
	Status Change Options Through December 31, 2017	Status Change Options On and After January 1, 2018	Status Change Options On and After January 1, 2023
Existing Status for Purposes of CLE	May apply for:	May apply for:	May apply for:
Active with Commission on CLE, Active with Client Security Commission	1. Exempt Status (No Annual Fee) 2. Emeritus Status	1. Exempt Status (No Annual Fee) 2. Emeritus Status 3. Retired Status	
Exempt with Commission on CLE	1. Emeritus Status 2. Reinstatement	1. Emeritus Status 2. Retired Status 3. Reinstatement	
Active with Commission on CLE, Exempt with Client Security Commission	1. Exempt Status (No Annual Fee) 2. Emeritus Status	Will be administratively converted to exempt status as of January 1, 2018	
Existing Status for Purposes of Client Security	May apply for:	May apply for:	May apply for:
Active with Client Security Commission	1. [Legacy] Exempt Status (No Annual Fee) 2. Emeritus Status	1. [New] Exempt Status with Annual Fee 2. Emeritus Status 3. Retired Status	
Exempt with Client Security Commission on or Before December 31, 2017 [Legacy Status]	1. Emeritus Status 2. Reinstatement	1. [New] Exempt Status with Annual Fee 2. Emeritus Status 3. Retired Status 4. Reinstatement	1. Emeritus Status 2. Retired Status
[New] Exempt Status with Annual Fee (After December 31, 2017)		1. Emeritus Status 2. Retired Status 3. Reinstatement	
[New] Retired Status with No Annual Fees or Reports (After December 31, 2017)		1. Emeritus Status 2. Application for Admission Under Chapter 31	

Note 1: Applications for emeritus status or retired status are linked; must be submitted to both commissions concurrently.

Note 2: Applications for exempt status are not linked; it is possible to request exempt status with client security but not CLE.

Note 3: Because applications for exempt status are not linked, applications for reinstatement are not linked either.