

Proposed Amendments to Paragraph 3(a) and (d)

The following changes in the bar's membership rules are being proposed to address several issues which have arisen under the present version of Paragraph 3. The change in Paragraph 3(a) requires each active member to establish an address of record with the membership department which will be used for all official mailings and notices. The record address can be either a post office box or a physical address, but when a post office box address is used, the amendment requires submission in writing to the membership department of an alternate physical address where process can be served. In order to protect members who, for one reason or another, choose to use a post office box for their address of record, the amendment specifies that the alternate address is personal information which will not be disclosed under the Freedom of Information Act.

The amendments to Paragraph 3(d) are designed to give the bar a bit more control over the election of disabled status, as well as the reinstatement process following election by an active member to transfer to the retired or disabled class of membership. An active member electing to retire on the basis of a per-

manent disability would need to submit medical documentation of the disability along with the request. The prohibition against a retired member having "an association with a law firm" would be deleted in order to treat retired members the same as associate members are treated under Paragraph 3(b). The amendments also make it clear that anyone who seeks to reactivate his or her membership after retiring would need to do more than simply make the request and pay active member dues for that year. Those persons would be required to petition for reinstatement, advising the bar of the change in circumstances that would enable them to resume practicing. Action on the petition would be deferred pending any unresolved disciplinary matters involving the person, or where there were questions about whether a disability had been ameliorated. Ultimately the Executive Committee would make the call as to whether or not a person should be restored to active status. If the petition is approved by the Executive Committee, the amendments clarify that the person must take care of all outstanding responsibilities and obligations of membership before being reactivated.

3. CLASSES OF MEMBERSHIP—Members of the Virginia State Bar shall be divided into four classes, namely: (a) active members, (b) associate members, (c) judicial members, and (d) disabled and retired members.

(a) Active Members—Those persons who are admitted to practice law in the courts of this state and who are engaged in the practice of law, either full-time or part-time, salaried or non-salaried, shall be active members of the Virginia State Bar. Those persons who are admitted to practice law in the courts of this state, but who are not presently so engaged, may acquire active status by paying the fee prescribed for active members. ~~All active members, whether or not engaged in the practice of law, shall be entitled to vote and hold office in the Virginia State Bar. Each active member shall file with the secretary of the Virginia State Bar a statement setting forth his or her business and residence address and the judicial circuit in this state in which his or her membership mailing address is maintained. The membership mailing address may be either the member's business address or residence address at the option of the member, but the chosen address will be used for the purpose of determining the judicial circuit in which the member is entitled to vote and for all other purposes related to membership in the Virginia State Bar. A member shall notify the secretary in writing of any change in address. Each active member shall submit in writing to the membership department of the Virginia State Bar an address of record which will establish the judicial circuit in which the member is entitled to vote and be used for all other membership and regulatory purposes, including official mailings and notice of disciplinary proceedings. If a member's address of record is not a~~

physical address where process can be served, the member must submit in writing to the membership department an alternate address where process can be served. The alternate address is personal information and shall not be subject to disclosure pursuant to Section 2.2-3704, Code of Virginia. Members have a duty promptly to notify the membership department in writing of any address changes.

(b) ***

(c) ***

(d) Disabled and Retired Members—Any active member of the bar who ~~by reason of retirement retires~~ from the practice of law may, either at age 70 or over, or on the basis of a permanent disability, ~~may~~ submit to the executive director of the Virginia State Bar a written request to be transferred to the disabled and retired class of membership. Members who are electing this status based on a permanent disability must submit adequate medical documentation with the request. Members qualifying for transfer to the disabled and retired class shall not be entitled to practice law, ~~or maintain an association with a law firm.~~ Further, such members shall not be eligible to vote or hold office in the Virginia State Bar. ~~Those members who, after removal on account of age or disability, desire to practice law again may, upon written request to the executive director, be returned to active status upon payment of dues if otherwise qualified according to law. Those retired members who, after removal from active membership on account of age or disability, desire to return to the practice of law must submit a petition to the executive director in writing for rein-~~

statement to active membership and state in the petition each circumstance that has changed since the member elected disabled or retired status. If there are any misconduct complaints or proceedings pending when the executive director receives a petition for reinstatement, or if the member appears to suffer from a continuing disability, the executive director shall defer consideration of the petition until the misconduct or disability issues are resolved. The Executive Committee of the Virginia State Bar shall consider and act on any such petition, taking into account the recommendation of the executive director. The Executive

Committee may deny a petition for reinstatement if the member is publicly disciplined or is determined to have a continuing disability raising a serious question as to the member's fitness or capacity to practice law. If the Executive Committee approves the petition, the member shall be returned to active status upon payment of active member dues, tender of sufficient MCLE credits to satisfy the requirements for one bar year, satisfaction of any other required membership obligations, and payment of any outstanding financial obligations to the bar.