

IN THE SUPREME COURT OF THE STATE OF UTAH

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In re: Rule 14-803 of the
RULES GOVERNING THE UTAH STATE BAR -
SPECIAL PRACTICE RULES

ORDER

IT IS HEREBY ORDERED that the proposed amendments to Rule 14-803 of the Special Practice Rules article of the Rules Governing the Utah State Bar in the Supreme Court Rules of Professional Practice are adopted and promulgated effective May 1, 2016.

FOR THE COURT:

4-27-16

Date



Matthew B. Durrant
Chief Justice

1 ~~Rule 14-803. Inactive lawyers providing legal services for legal services~~
2 ~~organizations; purposes. Pro Bono Authorization for Utah Inactive Attorneys and~~
3 ~~Attorneys Admitted in Other States.~~

4 ~~(a) Individuals admitted to the practice of law in Utah have a responsibility to provide~~
5 ~~competent legal services for all persons, including those unable to pay for such~~
6 ~~services.~~

7 ~~(b) A lawyer who is or was admitted to practice law before the Supreme Court and who~~
8 ~~has assumed inactive status may provide legal services with an approved legal services~~
9 ~~organization if he or she:~~

10 ~~(b)(1) has been a member in good standing of the Bar and has been approved to~~
11 ~~participate in the inactive pro bono lawyer program by the Bar's Office of Professional~~
12 ~~Conduct; and~~

13 ~~(b)(2) agrees to abide by the Utah Rules of Professional Conduct and submit to the~~
14 ~~jurisdiction of the Bar for disciplinary purposes; and~~

15 ~~(b)(3) neither asks for nor receives compensation of any kind for the legal services to be~~
16 ~~rendered.~~

17 ~~(c) Activities. A volunteer attorney, in association with an approved legal services~~
18 ~~organization and under the general supervision of a supervising attorney, may:~~

19 ~~(c)(1) appear in any court or before any administrative tribunal or arbitrator in Utah on~~
20 ~~behalf of a client of an approved legal services organization if a supervising attorney~~
21 ~~has given written approval for that appearance;~~

22 ~~(c)(2) prepare pleadings and other documents signed by the volunteer attorney and~~

23 ~~supervising attorney to be filed in any court or before any administrative tribunal or~~
24 ~~arbitrator in Utah in any manner in which the volunteer attorney is involved;~~

25 ~~(c)(3) render legal advice and perform other appropriate legal services but only after~~
26 ~~prior consultation with, and upon the express consent of, the supervising attorney; and~~

27 ~~(c)(4) engage in such other preparatory activities as are necessary for any matter in~~
28 ~~which he or she is involved.~~

29 ~~(d) Supervision and limitations.~~

30 ~~(d)(1) A volunteer attorney may not perform authorized activities unless he or she is~~
31 ~~under the general supervision of a supervising attorney.~~

32 ~~(d)(2) Volunteer attorneys are not, and shall not represent themselves to be, active~~
33 ~~members of the Bar licensed to practice law generally in Utah.~~

34 ~~(d)(3) The prohibition against compensation for the volunteer attorney shall not prevent~~
35 ~~the approved legal services organization from reimbursing the volunteer attorney for~~
36 ~~actual expenses incurred while rendering services hereunder nor shall it prevent the~~
37 ~~approved legal services organization from making such charges for its services as it~~
38 ~~may otherwise properly charge. The approved legal services organization shall be~~
39 ~~entitled to receive all court-awarded attorney fees for any representation rendered by~~
40 ~~the volunteer attorney.~~

41 ~~(e) Certification and documentation.~~

42 ~~(e)(1) Authorization to obtain an inactive pro bono attorney status in order for a~~
43 ~~volunteer attorney to perform authorized services shall become effective upon filing with~~
44 ~~and approval by the Bar of:~~

45 ~~(e)(1)(A) a notice of authorization issued by an approved legal services organization~~
46 ~~with which the volunteer attorney is currently associated that states that an attorney~~
47 ~~employed by that organization will assume the duties of the supervising attorney; and~~

48 ~~(e)(1)(B) a sworn statement by the volunteer attorney that he or she:~~

49 ~~(e)(1)(B)(i) has read and is familiar with the Utah Rules of Professional Conduct as~~
50 ~~adopted by the Supreme Court and will abide by the provisions thereof;~~

51 ~~(e)(1)(B)(ii) submits to the jurisdiction of the Supreme Court and the Bar for disciplinary~~
52 ~~purposes; and~~

53 ~~(e)(1)(B)(iii) will neither ask for nor receive compensation of any kind for the legal~~
54 ~~services authorized.~~

55 ~~(e)(2) Certification as an inactive lawyer providing pro bono legal services will not affect~~
56 ~~or negate the volunteer attorney's obligation to pay his or her annual inactive license~~
57 ~~fee.~~

58 ~~(f) Withdrawal of certification.~~

59 ~~(f)(1) If a volunteer attorney's certification is withdrawn for any reason, the supervising~~
60 ~~attorney shall immediately file a notice of such action in the official file of each matter~~
61 ~~pending before any court or tribunal in which the volunteer attorney was involved. In~~
62 ~~addition, all clients of the volunteer attorney immediately shall be notified.~~

63 ~~(f)(2) An approved legal services organization may withdraw certification at any time~~
64 ~~and it is not necessary that the notice state the cause of such withdrawal. A copy of the~~
65 ~~notice filed with the Bar also shall be mailed by the organization to the volunteer~~
66 ~~attorney. The notice shall state either:~~

67 ~~(f)(2)(A) the volunteer attorney has ceased to be associated with the organization, which~~
68 ~~notice must be filed within five days after such association has ceased; or that~~

69 ~~(f)(2)(B) the notice of authorization is withdrawn.~~

70 ~~(f)(3) The Bar, in its discretion and at any time, may withdraw authorization to perform~~
71 ~~authorized services. A copy of such notice shall be mailed by the Bar to the volunteer~~
72 ~~attorney and to the approved legal services organization to which he or she had been~~
73 ~~certified.~~

74 ~~(g) Discipline. In addition to any appropriate proceedings including the unauthorized~~
75 ~~practice of law and attorney discipline which may be initiated by the Bar, pursuant to~~
76 ~~Article 5, Lawyer Discipline and Disability and other law, the volunteer attorney shall be~~
77 ~~subject to the following measures:~~

78 ~~(g)(1) the presiding judge or hearing officer for any matter in which the volunteer~~
79 ~~attorney has participated may hold the volunteer attorney in contempt for any failure to~~
80 ~~abide by such tribunal's orders; and~~

81 ~~(g)(2) the Bar or the approved legal services organization may, at any time, with or~~
82 ~~without cause, withdraw certification.~~

83 **(1) Authorization to Provide *Pro Bono* Services.** A Utah attorney who is enrolled as
84 inactive under Rule 14-203(a)(4) of the rules governing the Utah State Bar or an
85 attorney who is admitted in another state and is in good standing or its equivalent in all
86 jurisdictions in which the attorney is admitted, shall be authorized to provide *pro bono*
87 legal services under the following circumstances:

88 (a) without compensation or an expectation of compensation as described in Rule 6.1 of

89 the Utah Rules of Professional Conduct;

90 (b) to persons of limited means or to organizations, as defined in paragraph (7) of this
91 rule; and

92 (c) under the auspices of a sponsoring entity, which must be a not-for-profit legal
93 services organization, governmental entity, law school, Utah State Bar affiliate or other
94 organization so designated by the Utah State Bar as providing *pro bono* legal services
95 as defined in paragraph (7) of this rule.

96 **(2) Duties of Sponsoring Entities.** In order to qualify as a sponsoring entity, an
97 organization must submit to the Utah State Bar an application identifying the nature of
98 the organization as one described in section (1)(c) of this rule. In the application, the
99 organization shall verify that they will provide appropriate training and support for
100 volunteers. The organization is required to inform the Utah State Bar if the organization
101 ceases to be a sponsoring entity under this rule.

102 **(3) Procedure for Attorneys Seeking Authorization to Provide *Pro Bono* Services.**
103 An attorney admitted in Utah who is enrolled as inactive or an attorney who is admitted
104 in another state but not in Utah who seeks to provide *pro bono* services under this rule
105 shall submit a statement to the Utah State Bar including a verification from a sponsoring
106 entity or entities indicating that the attorney will be participating in a *pro bono* program
107 under the auspices of that entity. An attorney who is seeking authorization based on
108 admission in another state or states shall also disclose all other state admissions and
109 certify they are in good standing or its equivalent in those jurisdictions. The attorney's
110 statement shall include the attorney's agreement that he or she will participate in any
111 training required by the sponsoring entity. The attorney's statement shall also include a

112 certificate of good standing or its equivalent and a disciplinary history and a sworn
113 statement that the attorney has read and is familiar with the Utah Rules of Professional
114 Conduct and will abide by them, that the attorney submits to the jurisdiction of the Utah
115 Supreme Court and the Utah State Bar for disciplinary purposes, and that the attorney
116 will neither ask for nor receive compensation of any kind for the legal services
117 authorized. Upon receiving all information required under this paragraph, the Utah State
118 Bar shall cause its records to reflect that the attorney is certified to provide *pro bono*
119 services. That certification shall continue until the end of the licensing year in which the
120 statement is submitted, unless the lawyer or the sponsoring entity sends notice to the
121 Utah State Bar that the program or the lawyer's participation in the program has ended.

122 **(4) Renewal of Authorization and Certification.** An attorney who has been authorized
123 to provide *pro bono* services under this rule must timely renew the authorization on an
124 annual basis through the Utah State Bar's relicensing process in order to continue
125 providing *pro bono* legal services under this rule. In addition, an attorney who is seeking
126 renewal based on admission in another state shall resubmit certificates of good
127 standing or the equivalent and disciplinary histories from all other states in which the
128 attorney is admitted.

129 **(5) MCLE Exemption.** The provisions of Rule 14-504 exempting attorneys from MCLE
130 requirements by reason of being enrolled as inactive shall apply to inactive attorneys
131 authorized to provide *pro bono* services under this rule, except that such attorneys shall
132 participate in training to the extent required by the sponsoring entity.

133 **(6) Disciplinary Authority.** Lawyers admitted in another state who are providing legal
134 services in this jurisdiction are subject to disciplinary authority, as provided in Rule 8.5

135 of the Rules of Professional Conduct, and all other Rules of Professional Conduct. Any
136 lawyer who provides legal services pursuant to this rule shall not be considered to be
137 engaged in the unlawful practice of law in this jurisdiction.

138 **(7) Authorized Pro Bono Legal Services.** *Pro bono* legal services as is defined in
139 Rule 6.1 (a) and (b)(1) of the Rules of Professional Conduct include: (a) legal services
140 rendered to a person of limited means;(b) legal services to charitable, religious, civic,
141 community, governmental or educational organizations in matters designed to address
142 the needs of persons of limited means;(c) legal services to charitable, religious, civic, or
143 community organizations in matters in furtherance of their organizational purposes.

144 **(8) Expenses and Attorney Fee Awards.** The prohibition against compensation for the
145 volunteer attorney shall not prevent the approved legal services organization from
146 reimbursing the volunteer attorney for actual expenses incurred while rendering
147 services hereunder nor shall it prevent the approved legal services organization from
148 making such charges for its services as it may otherwise properly charge. The approved
149 legal services organization shall be entitled to receive all court-awarded attorney fees
150 for any representation rendered by the volunteer attorney.

151 (9) Court appearances. A practitioner under this rule who appears in court must orally
152 advise the court at the initial appearance in a case that he or she is certified to appear
153 pursuant to the rule.

154 Comment:

155 [1] A volunteer attorney participating in any program advertised and recruited for
156 through the Pro Bono Commission only needs to submit one statement. The Access to

157 Justice Coordinator will then certify that volunteer for any sponsoring entities
158 participating through the Pro Bono Commission.

159 ~~[2] An attorney approved under this rule shall be assigned a certification number, which~~
160 ~~shall be used to identify the attorney's status as a pro bono attorney for purposes of e-~~
161 ~~filing access and recognition of limited status.~~

162 [32] This rule is intended to allow all attorneys, in good standing, to participate in pro
163 bono services; including inactive, retired, military attorneys, or in house counsel
164 practicing under a limited license. This rule does not allow attorneys licensed outside of
165 Utah to participate in other legal practice absent conforming to pro hac vice
166 requirements.