

Texas Board of Law Examiners
Rules Governing Admission to the Bar of Texas

Rule 23
Registration of In-House Counsel

Pursuant to Texas Government Code Section 81.102(b)(1), this Rule requires attorneys licensed to practice in States other than Texas, who reside in Texas and provide legal services for compensation to Business Organizations in Texas, to register as In-House Counsel. Registered In-House Counsel are permitted to lawfully provide legal services to Business Organizations in Texas without becoming a member of the State Bar of Texas.

§1. Definitions

- (a) “Registered In-House Counsel.” A “Registered In-House Counsel” is a lawyer who:
- (1) is authorized to practice law in a State other than Texas;
 - (2) is exclusively employed by a Business Organization, as herein defined, and receives or will receive compensation for legal services or representation on behalf of that Business Organization;
 - (3) is residing in Texas or is relocating to Texas for purposes of employment within six months of application for registration;
 - (4) has completed registration as In-House Counsel as required by this Rule and has paid all fees; and
 - (5) has been approved as Registered In-House Counsel by the Supreme Court of Texas.
- (b) “Business Organization.” A “Business Organization” is a corporation, company, partnership, association, or other legal entity, including its respective parents, subsidiaries, and affiliates, that is doing business in Texas, that is not engaged in the practice of law or the provision of legal services outside of the organization, and does not charge or collect a fee for legal representation or advice other than to entities comprising that organization for services of the Registered In-House Counsel.

§2. Activities

- (a) Authorized Activities. Registered In-House Counsel may provide legal services in Texas to a single Business Organization. Registered In-House Counsel are authorized to engage in the following activities:
 - (1) giving legal advice to the directors, officers, employees, and agents of the employing Business Organization regarding its business affairs;
 - (2) negotiating and documenting all matters for the employing Business Organization;
 - (3) representing the employing Business Organization in its dealings with any governmental or administrative agency or commission if authorized by the rules of the agency or commission; and
 - (4) participating in the provision of *pro bono* services offered under the auspices of organized legal aid societies or state/local bar association projects or provided under the supervision of an attorney licensed to practice law in Texas who is also working on the *pro bono* representation.
- (b) Unauthorized Activities. Except as provided by subsection (a), Registered In-House Counsel are not authorized to engage in the following activities:
 - (1) appearing for the Business Organization in Texas courts, either in person or by signing pleadings;
 - (2) interpreting Texas law or giving any advice concerning Texas law for anyone other than the Business Organization;
 - (3) participating in the Texas representation of any client other than the Business Organization, in any manner;
 - (4) preparing any legal instrument affecting title to real property, including a deed, deed of trust, note, mortgage, or transfer or release of lien, as proscribed by Texas Government Code Section 83.001; or
 - (5) rendering to anyone except the Business Organization any service requiring the use of legal skill or knowledge or performing any other act constituting the practice of law under Texas Government Code Section 81.101.

§3. Disclosure

Registered In-House counsel shall not represent themselves as members of the State Bar of Texas or that they are licensed to practice law in Texas. In any communication with individuals or organizations other than the employing Business Organization, Registered In-House Counsel must disclose that they are not licensed to practice law in the state of Texas. If the communication is in writing, Registered In-House Counsel must disclose the name of the employing Business Organization, their title or function within the organization, and that they are not licensed to practice law in Texas.

§4. Registration

- (a) Lawyers seeking registration as In-House Counsel in Texas shall file the following with the Board:
 - (1) a certificate or other documentation from each State or foreign jurisdiction in which the lawyer is authorized to practice law proving that the lawyer is authorized to practice law and is active and in good standing; and, for any jurisdiction in which the lawyer has an inactive status as an attorney, documentation or certification certifying that the lawyer is voluntarily inactive and was not involuntarily placed on inactive status;
 - (2) a statement executed by the lawyer under penalty of perjury that he or she:
 - (A) has read and is familiar with the *Texas Disciplinary Rules of Professional Conduct* and will follow its provisions;
 - (B) submits to the jurisdiction of the Supreme Court of Texas for all purposes as defined in *Texas Disciplinary Rules of Professional Conduct*, the *Rules Governing Admission to the Bar of Texas*;
 - (C) is not subject to a disciplinary proceeding or outstanding order of reprimand, censure, or disbarment, permanent or temporary, for professional misconduct by the bar or courts or duly constituted organization overseeing the profession or granting authority to practice law of any jurisdiction and has not been permanently denied admission to practice law in any jurisdiction based on the lawyer's character or fitness; and

- (D) authorizes notification to the State Bar of Texas of any disciplinary or other adverse action taken against the lawyer before the disciplinary authority overseeing the legal profession in all States and foreign jurisdictions in which the lawyer is licensed or otherwise authorized to practice law.
 - (3) a certificate or other documentation from the employing Business Organization certifying that it meets the definition of a Business Organization as defined in this Rule, that it is aware that the lawyer is not licensed to practice in Texas;
 - (4) an application to register as In-House Counsel as promulgated by the executive director of the Board; and
 - (5) payment of all required fees.
- (b) Review by the Board. The Board will review applications for compliance with this Rule. Application for registration as In-House Counsel constitutes authorization for the Board to conduct an investigation and make a determination of good moral character and fitness pursuant to Rule 10 of the *Rules Governing Admission to the Bar of Texas*.
 - (c) Registration with Supreme Court. The Board will submit the name and address of all lawyers meeting the requirements of this Rule to the clerk of the Supreme Court of Texas with a request that the lawyer be registered as In-House Counsel. Authorization to perform services under this Rule is effective on the date the clerk of the Supreme Court of Texas approves the request for registration. If the registrant is relocating to Texas, the authorization becomes effective on the date of employment in Texas, but in no case later than six months after the date of the application.
 - (d) Annual Renewal. The Registered In-House Counsel shall pay a non-refundable annual fee to the State Bar of Texas equal to the current fee paid by active members of the State Bar of Texas and shall provide any updated or amended information the bar requires.
 - (e) Duty to Report Change in Status. Registered In-House Counsel shall report any change in status or authority to practice in another State or foreign jurisdiction within 30 days of the effective date of the change in status. If a lawyer registered as In-House Counsel elects inactive status in any State or foreign jurisdiction after registration, the Registered In-House Counsel must provide documentation

as required by subsection (a)(1) of this Section. Failure to provide such notice or documentation by the Registered In-House Counsel constitutes a basis for discipline pursuant to the *Texas Disciplinary Rules of Professional Conduct*.

§5. Duration and Termination of Registration

(a) Authorization to perform legal services as In-House Counsel under this Rule terminates on the earliest of the following events:

- (1) admission of the Registered In-House Counsel to the general practice of law in Texas;
- (2) the In-House Counsel ceases to be employed by the Business Organization listed on his or her then-current registration under this Rule; if such Registered In-House Counsel, within 60 days of ceasing to be so employed, becomes employed by another Business Organization and such employment meets all requirements of this Rule, his or her registration shall remain in effect, if within said 60-day period, the In-House Counsel files with the Board:
 - (A) written notification by the lawyer stating the date on which the prior employment terminated, identification of the new employer and the date on which the new employment commenced;
 - (B) certification by the former Business Organization that the termination of the employment was not based on misconduct or lack of fitness or failure to comply with this Rule; and
 - (C) the certification specified in subsection (a)(3) of Section 4, duly executed by the new employer. If the employment of the In-House Counsel ceases with no subsequent employment within 60 days thereafter, the lawyer shall promptly notify the Board in writing of the date of termination of the employment and shall not represent any Business Organization, company, partnership, association, or other non-governmental business entity authorized to transact business in Texas;
- (3) a request by the Business Organization or the Registered In-House Counsel that the registration be withdrawn;

- (4) relocation of a Registered In-House Counsel outside of Texas for more than 180 days;
 - (5) suspension, other than administrative suspension, or disbarment from the practice of law in any jurisdiction or any court or agency before which the lawyer is admitted; or
 - (6) failure of Registered In-House Counsel to fully comply with any provision of this Rule.
- (b) Notice to the State Bar of Texas by the Registered In-house Counsel. Registered In-House Counsel must file notice of certification as In-House Counsel or issuance of new certification as provided in this Rule with the State Bar of Texas within 60 days of certification.
- (c) Termination of Authorization. The Board will request that the clerk of the Supreme Court of Texas terminate the authorization to perform legal services under this Rule after the Board has received the notice required by subsection (a)(2) of this Section. The Board will mail notice of the termination to the Registered In-House Counsel and to the Business Organization of record employing the Registered In-House Counsel.
- (d) Reapplication. A lawyer previously registered as In-House Counsel may reapply for registration as long as the requirements of this Rule are met.
- (e) Re-registration. Lawyers whose Registered In-House Counsel status was terminated for failure to pay annual fees or to complete continuing legal education requirements may be recertified in the same manner that administratively suspended members of the State Bar of Texas are reinstated.

§6. Discipline

- (a) Termination of Registration by Court. The Supreme Court of Texas may temporarily or permanently terminate a Registered In-House Counsel's registration for cause at any time, in addition to any other proceeding or discipline that may be imposed by the Supreme Court of Texas.
- (b) Notification to Other States and National Lawyer Regulatory Data Bank. The Board is authorized to notify each state or foreign jurisdiction in which the Registered In-House Counsel is licensed to practice law of any disciplinary action

against the Registered In-House Counsel, and is further authorized to notify the National Lawyer Regulatory Data Bank.

§7. Continuing Legal Education Requirement

In-House Counsel shall comply with all continuing legal education requirements applicable to members of the Bar unless otherwise exempt.

§8. Admission Without Examination

The requirements of active and substantial engagement in the lawful practice of law as required for exemption from taking the Texas Bar Examination, as provided in Rule 13 of the *Rules Governing Admission to the Bar of Texas*, may be met by continuous registration as In-House Counsel in Texas for a period of three of the last five years immediately preceding the filing of an application for admission without examination.

§9. Effective Date

- (a) This Rule requiring registration or licensure of In-House Counsel becomes effective on January 1, 2021.
- (b) Any application for registration as In-House Counsel shall authorize the lawyer to be employed by a Texas Business Organization and shall be effective as of the date of filing with the Board.
- (c) The Board will accept applications for registration as In-House Counsel beginning December 1, 2019.