

New York Resolves In-House Counsel Bar Admission Problem

Effective April 20, New York joins 44 other states in allowing lawyers to practice as in-house counsel without full admission to the bar.

Under the new rule, a lawyer admitted to practice in another U.S. jurisdiction may work as an in-house counsel in New York without being admitted to the New York bar if the lawyer registers as an in-house counsel. Filing for registration is mandatory. Continued practice as in-house counsel without registration constitutes professional misconduct.

Current New York in-house counsel who are not admitted to the New York bar must file for registration by July 19. Lawyers who start work as in-house counsel in New York after April 20 must file within 30 days of commencement of employment. Extensions of time to file are available for good cause.

Applications to register must be made to the Appellate Division. Application may be made in the Department where the lawyer resides or where the lawyer is employed or intends to be employed as in-house counsel. Registration is not automatic; it is discretionary with the Appellate Division. If registration is granted, the lawyer is authorized to represent the lawyer's employer and, for work directly related to work for the employer, to represent the employer's affiliates.

Filing for registration as an in-house counsel requires:

- A certificate of good standing from all jurisdictions where the lawyer is admitted to practice and that at least one such jurisdiction have a similar out-of-state lawyer registration rule.
- A letter from the grievance committee of each jurisdiction of admittance giving the status of any disciplinary charges.
- The lawyer's affidavit agreeing to confine representation in New York to the scope permitted by the new rule, to adhere to New York's professional conduct rules and to those of the registering Department, and to be subject to New York's disciplinary authority.
- The employer's affidavit that the lawyer is employed to render services in accordance with the new rule.
- The lawyer must meet New York's moral character and general fitness standards.

To maintain registration once granted, the lawyer must remain an active member of the bar of a U.S. jurisdiction in good standing and comply with the appropriate New York biennial registration requirements, including payment of fees.

The New York State Bar Association, since 2003, and the Association of the Bar of the City of New York and the New York County Lawyers Association had supported adoption of the ABA's Model Rule 5.5(d), which also authorizes work as in-house counsel without admission to the bar of the state of employment. Unlike New York's new rule, however, the ABA model rule does not require registration.

The new rule does not extend to foreign country lawyers. Foreign country lawyers are already eligible for licensure in New York as "legal consultants," with practice limitations that include a prohibition against advising on United States law.

If you have questions concerning this Alert, please contact **David Rabinowitz** at 212.554.7815/drabinowitz@mosessinger.com or **Devika Kewalramani** at 212.554.7832/dkewalramani@mosessinger.com.

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