

CHAPTER 17. AUTHORIZED HOUSE COUNSEL RULE
17-1. GENERALLY
RULE 17-1.1 PURPOSE

The purpose of this chapter is to facilitate the relocation of persons employed by or to be employed by any business organization, as herein defined, for the purpose of undertaking, in whole or in part, activities, as herein defined, for such organizations. Notwithstanding the provisions of article I, sections I, Rules of the Supreme Court of Florida Relating to Admissions to the Bar, this chapter shall authorize attorneys licensed to practice in jurisdictions other than Florida to be permitted to undertake said activities in Florida while exclusively employed by a business organization without the requirement of taking the bar examination.

Added April 21, 1994 (645 So.2d 968).

RULE 17-1.2 DEFINITIONS

(a) Authorized House Counsel. An "authorized house counsel" is any person who:

(1) is exclusively employed by a business organization located in the state of Florida and is residing in Florida or relocating to the state of Florida in furtherance of such employment within 6 months of such application under this chapter and receives or shall receive compensation for activities performed for that business organization;

(2) has complied with rule 17-1.4; and

(3) has been certified as an authorized house counsel by the Supreme Court of Florida.

(b) Business Organization. A "business organization" for the purpose of this rule is a corporation, partnership, association or other legal entity (taken together with its respective parents, subsidiaries, and affiliates) authorized to transact business in this state that is not itself engaged in the practice of law or the rendering of legal services outside such organization, whether for a fee or otherwise, and does not charge or collect a fee for the representation or advice other than to entities comprising such organization by the activities of the authorized house counsel. For purposes of this rule, a "business organization" does not include:

(1) a governmental entity, governmental subdivision, political subdivision, or school board;

(2) or any other entity that has the authority to levy a tax.

Added April 21, 1994 (635 So.2d 968); Amended March 18, 1999 (746 So.2d 442); May 20, 2004 (SC03-705) (875 So.2d 448); December 20, 2007, effective March 1, 2008 (SC06-736)(978 So.2d 91); November 19, 2009, effective February 1, 2010 (SC08-1890) (34 Fla.L.Weekly S628a).

RULE 17-1.3 ACTIVITIES

(a) Authorized Activities. An authorized house counsel, as an employee of a business organization, may provide legal services in the state of Florida to the business organization for which a registration pursuant to rule 17-1.4 is effective, provided, however, that such activities shall be limited to:

(1) the giving of legal advice to the directors, officers, employees, and agents of the business organization with respect to its business and affairs;

(2) negotiating and documenting all matters for the business organization; and

(3) representation of the business organization in its dealings with any administrative agency or commission having jurisdiction; provided however, authorized house counsel shall not be permitted to make appearances as counsel in any court, administrative tribunal, agency, or commission situated in the state of Florida unless the rules governing such court or body shall otherwise authorize, or the attorney is specially admitted by such court or body in a case.

(b) Disclosure. In any communication with individuals/organizations outside of the business organization, authorized house counsel shall disclose that they are not licensed to practice law in the state of Florida. If the communication is in writing, authorized house counsel shall disclose in writing the name of the business organization, their title or function, and that they are not licensed to practice law in the state of Florida. For example, the disclosure may state "J. Doe, XYZ Corporation, Authorized House Counsel, member(name of other state bar)..... only or not a member of The Florida Bar." In performing activities under this subdivision, authorized house counsel shall not represent themselves to be members of The Florida Bar licensed to practice law in this state.

(c) Limitation on Representation. In no event shall the activities permitted hereunder include the individual or personal representation of any shareholder, owner, partner, officer, employee, servant, or agent in any matter or transaction or the giving of advice therefor unless otherwise permitted or authorized by law, code, or rule or as may be permitted by subdivision 17-1.3(a).

(d) Opinions to Third Parties. An authorized house counsel shall not express or render a legal judgment or opinion to be relied upon by any person or party other than in the course of the authorized house counsel's representation of the business organization in which the authorized house counsel is employed.

Added April 21, 1994 (635 So.2d 968). Amended March 23, 2000 (763 So.2d 1002); April 25, 2002 (820 So.2d 210); December 20, 2007, effective March 1, 2008 (SC06-736) (978 So.2d 91).

RULE 17-1.4 REGISTRATION

(a) Filing with The Florida Bar. The following shall be filed with The Florida Bar by an individual seeking to be certified as authorized house counsel:

(1) A certificate from an entity governing the practice of law in all United States jurisdictions in which the registrant is licensed to practice law certifying that the registrant is in active status and is a member in good standing; or is in inactive status. If in inactive status, the certificate must certify that the registrant is in voluntary inactive status and was not placed on inactive status involuntarily. If available, the registrant must provide a certificate of good standing in addition to the certificate regarding the registrant's inactive status.

(2) a sworn statement by the registrant that the registrant:

(A) has read and is familiar with chapters 4 and 17 of the Rules Regulating The Florida Bar as adopted by the Supreme Court of Florida and will abide by the provisions thereof;

(B) submits to the jurisdiction of the Supreme Court of Florida for disciplinary purposes, as defined in chapter 3 of the Rules Regulating The Florida Bar and rule 17-1.6 herein, and authorizes notification to or from the entity governing the practice of law of each state, territory, or the District of Columbia in which the registrant is licensed to practice law of any disciplinary action taken against the registrant; and

(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 of any jurisdiction and has not been permanently denied admission to practice before the bar of any jurisdiction based upon such person's character or fitness;

(3) a certificate from a business organization certifying that: it is qualified as set forth in subdivision (b) of rule 17-1.2; that it is aware that the registrant is not licensed to practice in Florida; and it is not relying upon The Florida Bar in any manner in employing the authorized house counsel;

(4) an appropriate registration application to The Florida Bar as promulgated by the executive director of The Florida Bar; and

(5) an appropriate remittance of a filing fee prescribed and set by the executive director of The Florida Bar in an amount not to exceed the amount applicable for admission to the bar examination for an attorney licensed in a state other than Florida.

(b) Review by The Florida Bar. Upon receipt of the items set forth in subdivision (a) of this rule, The Florida Bar shall review the items for compliance with this chapter. Any application not meeting the requirements of this chapter shall be sent back to the applicant.

(c) Certification by Court. Upon review of the application by The Florida Bar, The Florida Bar shall file with the clerk of the Supreme Court of Florida the name and address of those registrants complying with the provisions of subdivision (a) of this rule

along with a request that the registrant be certified as authorized house counsel. Permission for authorized house counsel to perform services under this rule shall become effective upon approval of the request for certification by the clerk of the Supreme Court of Florida for a person employed in Florida or, if the registrant is not yet in Florida, the effective date of employment but not later than 6 months from the filing of the items set forth above.

(d) Annual Renewal. The registration pursuant to this section shall be annual in a manner consistent with that applicable to an attorney licensed to practice in the state of Florida including the annual fee therefor as if such authorized house counsel was so licensed, provided, however, such renewal shall include a statement that the registrant, if on active status, is in good standing in all states or United States territories in which licensed and is not subject to any disciplinary proceedings.

(e) Duty to Update. Should an individual certified as an authorized house counsel choose inactive status in 1 or more United States jurisdictions after certification, the authorized house counsel shall provide a certificate as required by subdivision (a)(1) of this rule.

Added April 21, 1994 (635 So.2d 968). Amended March 18, 1999 (746 So.2d 442); March 23, 2000 (763 So.2d 1002); Apr, 2002 (820 So.2d 210); May 20, 2004 (875 So.2d 448); December 20, 2007, effective March 1, 2008 (SC06-736) (978 So.2d 91); November 19, 2009, effective February 1, 2010 (SC08-1890) (34 Fla.L.Weekly S628a)..

RULE 17-1.5 TERMINATION OR WITHDRAWAL OF REGISTRATION

(a) Cessation of Authorization to Perform Services. Authorization to perform services under this rule shall cease upon the earliest of the following events:

(1) the termination or resignation of employment with the business organization for which registration has been filed, provided, however, that if the authorized house counsel shall commence employment with another business organization within 30 days of the termination or resignation, authorization to perform services under this rule shall continue upon the filing with The Florida Bar of a certificate as set forth in subdivision (a)(3) of rule 17-1.4;

(2) the withdrawal of registration by the business organization;

(3) the withdrawal of registration by the authorized house counsel;

(4) the relocation of an authorized house counsel outside of Florida for a period greater than 180 days;

(5) disbarment or suspension from the practice of law, or involuntary placement on inactive status, by a court or other authorized disciplinary agency of another state or by a federal court; or

(6) the failure of authorized house counsel to comply with any applicable provision of this rule.

Notice of 1 of the events set forth in subdivision (a)(1)-(4) of this rule or a new certificate as provided in subdivision (a)(1) of this rule must be filed with The Florida Bar by the authorized house counsel within 30 days after such action. An authorized house counsel disbarred or suspended from the practice of law, or involuntarily placed on inactive status, by a court or other authorized disciplinary agency of another state or by a federal court shall within 30 days after the effective date of disbarment, or suspension, or involuntary placement on inactive status, file with The Florida Bar a copy of the order or judgment effecting such status. Failure to provide notice by the authorized house counsel shall be a basis for discipline pursuant to the Rules Regulating The Florida Bar.

(b) Notice of Termination of Authorization. Upon receipt of the notice required by subdivision (a) of this rule, The Florida Bar shall forward a request to the clerk of the Supreme Court of Florida that the authorization under this chapter be terminated. Notice of the termination shall be mailed by the clerk of the Supreme Court of Florida to The Florida Bar. The Florida Bar shall mail notice of the termination to the authorized house counsel and to the business organization employing the authorized house counsel.

(c) Reapplication. Nothing herein shall prevent an individual previously authorized as house counsel to reapply for authorization as set forth in rule 17-1.4.

Added April 21, 1994 (635 So.2d 968). Amended Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179); March 18, 1999 (746 So.2d 442); November 19, 2009, effective February 1, 2010 (SC08-1890) (34 Fla.L.Weekly S628a).

RULE 17-1.6 DISCIPLINE

(a) Termination of Authorization by Court. In addition to any appropriate proceeding and discipline that may be imposed by The Florida Bar or the Supreme Court of Florida under chapter 3 of the Rules Regulating The Florida Bar, the Supreme Court of Florida may, at any time, with cause, terminate an authorized house counsel's registration, temporarily or permanently.

(b) Notification to Other States. The Florida Bar shall be authorized to notify each entity governing the practice of law in the state, territory, or the District of Columbia in which the authorized house counsel is licensed to practice law of any disciplinary action against the authorized house counsel.

Added April 21, 1994 (635 So.2d 968).

RULE 17-1.7 IMMUNITY FROM PROSECUTION

An authorized house counsel who has been duly registered under this rule shall not be subject to prosecution for the unlicensed practice of law for acting as counsel to a business organization prior to the effective date of this rule.

Added April 21, 1994 (635 So.2d 968). Amended May 20, 2004 (SC03-705).

RULE 17-1.8 AMENDMENT OR REVOCATION

The Supreme Court of Florida has the inherent power to amend or revoke this rule, in whole or in part, in accordance with the procedures for amending the Rules Regulating The Florida Bar.

Added April 21, 1994 (635 So.2d 968).

RULE 17-1.9 CONTINUING LEGAL EDUCATION REQUIREMENT

An individual certified as an authorized house counsel shall comply with rules 6-10.3, 6 10.4, and 6-12.3 of the Rules Regulating The Florida Bar unless the individual is eligible for an exemption to rule 6-12.3 pursuant to rule 6-12.4.

Added November 19, 2009, effective February 1, 2010 (SC08-1890) (34 Fla.L.Weekly S628a).