

any matter that detrimentally impacts the determination of the practitioner's moral character.

Any registered practitioner who is voluntarily inactivated pursuant to paragraph (d) of this section and who is an attorney may comply with the submission of information and material pertaining to the practitioner's moral character on proof of being a member in good standing with the highest court of a state. If the registered practitioner is no longer a member in good standing at the state bar, the practitioner must submit a signed declaration or affidavit explaining the circumstances surrounding their status at the state bar to the satisfaction of the OED Director that the reason for not being a member in good standing is not predicated on moral character. If the statement submitted is not to the satisfaction of the OED Director, the OED Director may decline restoration to active status on grounds of present lack of good moral character as set forth in § 11.7. Any adverse decision by the OED Director is reviewable under § 11.2. This does not preclude the practitioner from submitting additional evidence to establish the requisite moral character.

*Paragraph (e) of § 11.11* would allow for resignation from practice before the Office of a registered practitioner who is neither under investigation under § 11.22 for a possible violation of the Rules of Professional Conduct, nor subject to an adverse probable cause determination by a panel of the Committee on Discipline under § 11.23(b).

*Paragraph (f) of § 11.11* would establish a procedure for reinstatement of a registered practitioner who has been administratively suspended pursuant to § 11.11(b) or § 11.12(e), or who has resigned pursuant to § 11.11(d).

*Section 11.12* would introduce mandatory continuing education for practitioners licensed to practice in patent cases before the Office. Such continuing education would apply to all licensed practitioners, whether they are registered patent attorneys, patent agents, or persons granted limited recognition. With two exceptions, all licensed practitioners are currently required to pass the registration examination. The registration examination may be waived for former patent examiners who actively served for at least four years in the patent examining corps and separate from the Office without an legal competence issue. Also, by long-standing custom, foreign patent agents who are registered under 37 CFR 10.7(c) on the basis of reciprocity with their foreign patent office have not been required to take

and pass the registration examination. A licensed practitioner has been qualified through passing the registration examination. However, there is no requirement for periodic education to ensure that individuals maintain an expected level of competency in law, regulations, practices and procedures.

It is in the interest of the practitioner community, applicants and the efficiency of the USPTO that practitioners keep their legal knowledge current. In recent years there have been numerous changes to the Patent Act, and in the regulations governing the filing and prosecution of patent applications. After significant court decisions and other events, the Office has issued memoranda describing new procedures and policy to be followed by Office employees as well as registered practitioners and those granted limited recognition. Though licensed practitioners are ethically prohibited from handling a legal matter without preparation adequate in the circumstances, this has not prevented members of the public from criticizing the competence of practitioners. Such lapses can reflect adversely on the integrity of the intellectual property system, as well as on the reliability of practitioners as a whole. The ethics rules have not compelled practitioners to promptly become and remain familiar with changes to patent application practices and procedures.

A licensed practitioner's lack of currency with practice requirements impedes the efficiency and quality of the application process under current conditions. Within the USPTO, there is an office devoted to handling petitions, often by practitioners, seeking relief from some "unintentional" events, as well as "unavoidable" events, such as occur when new procedures and policies are not followed. Some petitions seeking relief from mistakes reflect an unawareness of the requirements of new rules, practices and procedures, as well as some well-established practices and procedures. This continual need for rework is an obstacle to improving pendency. Other mistakes may not be similarly curable.

The trend toward continuing legal education requirements by state bars is not sufficient to maintain the currency of knowledge among licensed practitioners regarding patent practice before the Office. First, while some attorneys may be required to take continuing legal education as a matter of state bar requirements, such requirements do not apply to patent agents and are not specific to obtaining additional patent education. The Office's licensing of patent agents who

are not attorneys effectively preempts the states' restrictions on practicing law without a license. Thus it is incumbent on the Office to assure that agents are required to be kept up-to-date on legal matters in ways equivalent to the requirements now imposed by forty state bars on lawyers. The foreign patent agents also are not subject to the restrictions and continuing legal education requirements imposed by states. Similarly, although one state is now considering special certification for patent lawyers, its proposal defers to the Office's authority over licensing patent practitioners and thus imposes no certification requirements based on Office practice. None of the states mandating continuing legal education (CLE) require registered patent attorneys to receive updated education in new Office practices and procedures.

To assure the public that licensed practitioners maintain their competence and proficiency, the Office proposes to deliver required education materials via the Internet and otherwise to practitioners and to certify their scrutiny of those materials through an interactive computer-delivered examination. Alternatively, the Office would accept mandatory continuing education given by a pre-approved sponsor. Section 11.12 would apply only to licensed practitioners, not to inventors applying *pro se*. The availability of the education, however, will make the patent process more accessible to inventors, while helping the quality and efficiency of prosecution.

Delivery of mandatory continuing education by the USPTO meets the need for equal availability of the program worldwide. The Office can provide this service at a minimal cost because we are building on a program we conduct for examiners. The Office is going to seek CLE credits for the program from state bars requiring attorneys to meet certain continuing legal education requirements. However, the Office is not sure all state bars with the requirements will recognize the mandatory education program offered by the Office. Therefore, the Office believes that regular continuing education sponsors should be able to offer the program content in alternative formats that are acceptable to state bars.

It is anticipated that the Office would publish on the Internet written material followed by self-administered questions and answers that would be linked to Office publications on Office's Web site that would provide the answers. The publications would include new rules, policy announcements, rule packages, question and answer memoranda, the