

MARYLAND RULES OF PROCEDURE  
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Rule 19-401. APPLICABILITY

The Rules in this Chapter apply to all trust accounts required by law to be maintained by attorneys for the deposit of funds that belong to others, except that these Rules do not apply to a fiduciary account maintained by an attorney as personal representative, trustee, guardian, custodian, receiver, or committee, or as a fiduciary under a written instrument or order of court.

Cross reference: Code, Business Occupations and Professions Article, §10-301 et seq. and Rule 19-301.15 (1.15) of the Maryland Attorneys' Rules of Professional Conduct.

Source: This Rule is derived from former Rule 16-601 (2016).

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Rule 19-402. DEFINITIONS

In this Chapter, the following definitions apply, except as expressly otherwise provided or as necessary implication requires:

(a) Approved Financial Institution

"Approved financial institution" means a financial institution approved by the Commission in accordance with these Rules.

(b) Attorney

"Attorney" means any individual admitted by the Court of Appeals to practice law.

(c) Attorney Trust Account

"Attorney trust account" means an account, including an escrow account, maintained in a financial institution for the deposit of funds received or held by an attorney or law firm on behalf of a client or third person.

(d) Bar Counsel

"Bar Counsel" means the individual appointed by the Commission as the principal executive officer of the disciplinary system affecting attorneys. All duties of Bar Counsel prescribed by these Rules shall be subject to the supervision and procedural

guidelines of the Commission.

(e) Client

"Client" includes any individual, firm, or entity for which an attorney performs any legal service, including acting as an escrow agent or as a legal representative of a fiduciary. The term does not include a public or private entity of which an attorney is a full-time employee.

(f) Commission

"Commission" means the Attorney Grievance Commission of Maryland, as authorized and created by Rule 19-702.

(g) Financial Institution

"Financial institution" means a bank, credit union, trust company, savings bank, or savings and loan association authorized by law to do business in this State, in the District of Columbia, or in a state contiguous to this State, the accounts of which are insured by an agency or instrumentality of the United States.

(h) IOLTA

"IOLTA" (Interest on Lawyer Trust Accounts) means interest on attorney trust accounts payable to the Maryland Legal Services Corporation Fund under Code, Business Occupations and Professions Article, §10-303.

(i) Law Firm

"Law firm" includes a partnership of attorneys, a professional or nonprofit corporation of attorneys, and a combination thereof engaged in the practice of law. In the case

of a law firm with offices in this State and in other jurisdictions, the Rules in this Chapter apply only to the offices in this State.

Source: This Rule is derived from former Rule 16-602 (2016).

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Rule 19-403. DUTY TO MAINTAIN ACCOUNT

An attorney or the attorney's law firm shall maintain one or more attorney trust accounts for the deposit of funds received from any source for the intended benefit of clients or third persons. The account or accounts shall be maintained in this State, in the District of Columbia, or in a state contiguous to this State, and shall be with an approved financial institution. Unless an attorney maintains such an account, or is a member of or employed by a law firm that maintains such an account, an attorney may not receive and accept funds as an attorney from any source intended in whole or in part for the benefit of a client or third person.

Source: This Rule is derived from former Rule 16-603 (2016).

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Rule 19-404. TRUST ACCOUNT - REQUIRED DEPOSITS

Except as otherwise permitted by rule or other law, all funds, including cash, received and accepted by an attorney or law firm in this State from a client or third person to be delivered in whole or in part to a client or third person, unless received as payment of fees owed the attorney by the client or in reimbursement for expenses properly advanced on behalf of the client, shall be deposited in an attorney trust account in an approved financial institution. This Rule does not apply to an instrument received by an attorney or law firm that is made payable solely to a client or third person and is transmitted directly to the client or third person.

Source: This Rule is derived from former Rule 16-604 (2016).



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Rule 19-405. DUTY OF ATTORNEY TO NOTIFY INSTITUTION

An attorney may not exercise any authority to sign checks or disburse or withdraw funds from an attorney trust account until the attorney in writing:

(a) Requests the financial institution to designate the account on its records as an attorney trust account, and

(b) Authorizes the financial institution to report to Bar Counsel any dishonored instruments or overdrafts in the account as required by the agreement under Rule 19-411 between the institution and the Commission.

Source: This Rule is derived from former Rule 16-605 (2016).

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Rule 19-406. NAME AND DESIGNATION OF ACCOUNT

An attorney or law firm shall maintain each attorney trust account with a title that includes the name of the attorney or law firm and that clearly designates the account as "Attorney Trust Account", "Attorney Escrow Account", or "Clients' Funds Account" on all checks and deposit slips. The title shall distinguish the account from any other fiduciary account that the attorney or law firm may maintain and from any personal or business account of the attorney or law firm.

Source: This Rule is derived from former Rule 16-606 (2016).

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Rule 19-407. ATTORNEY TRUST ACCOUNT RECORD-KEEPING

(a) Creation of Records

The following records shall be created and maintained for the receipt and disbursement of funds of clients or of third persons:

(1) Attorney Trust Account Identification

An identification of all attorney trust accounts maintained, including the name of the financial institution, account number, account name, date the account was opened, date the account was closed, and an agreement with the financial institution establishing each account and its interest-bearing nature.

(2) Deposits and Disbursements

A record for each account that chronologically shows all deposits and disbursements, as follows:

(A) for each deposit, a record made at or near the time of the deposit that shows (i) the date of the deposit, (ii) the amount, (iii) the identity of the client or third person for whom the funds were deposited, and (iv) the purpose of the deposit;

(B) for each disbursement, including a disbursement made by electronic transfer, a record made at or near the time of

disbursement that shows (i) the date of the disbursement, (ii) the amount, (iii) the payee, (iv) the identity of the client or third person for whom the disbursement was made (if not the payee), and (v) the purpose of the disbursement;

(C) for each disbursement made by electronic transfer, a written memorandum authorizing the transaction and identifying the attorney responsible for the transaction.

Cross reference: See Rule 19-410 (c), which provides that a disbursement that would create a negative balance with respect to any individual client matter or with respect to all client matters in the aggregate is prohibited.

### (3) Client Matter Records

A record for each client matter in which the attorney receives funds in trust, as follows:

(A) for each attorney trust account transaction, a record that shows (i) the date of the deposit or disbursement; (ii) the amount of the deposit or disbursement; (iii) the purpose for which the funds are intended; (iv) for a disbursement, the payee and the check number or other payment identification; and (v) the balance of funds remaining in the account in connection with the matter; and

(B) an identification of the person to whom the unused portion of a fee or expense deposit is to be returned whenever it is to be returned to a person other than the client.

### (4) Record of Funds of the Attorney

A record that identifies the funds of the attorney held in each attorney trust account as permitted by Rule 19-408 (b).

(b) Monthly Reconciliation

An attorney shall cause to be created a monthly reconciliation of all attorney trust account records, client matter records, records of funds of the attorney held in an attorney trust account as permitted by Rule 19-408 (b), and the adjusted month-end financial institution statement balance. The adjusted month-end financial institution statement balance is computed by adding subsequent deposits to and subtracting subsequent disbursements from the financial institution's month-end statement balance.

(c) Electronic Records

Whenever the records required by this Rule are created or maintained using electronic means, there must be an ability to print a paper copy of the records upon a reasonable request to do so.

Committee note: Electronic records should be backed up regularly by an appropriate storage device.

(d) Records to be Maintained

Financial institution month-end statements, any canceled checks or copies of canceled checks provided with a financial institution month-end statement, duplicate deposit slips or deposit receipts generated by the financial institution, and records created in accordance with section (a) of this Rule shall be maintained for a period of at least five years after the date the record was created.

Committee note: An attorney or law firm may satisfy the

requirements of section (d) of this Rule by maintaining any of the following items: original records, photocopies, microfilm, optical imaging, electronic records, or any other medium that preserves the required data for the required period of time and from which a paper copy can be printed.

Cross reference: Rule 19-301.15 (1.15) (Safekeeping Property) of the Maryland Attorneys' Rules of Professional Conduct.

Source: This Rule is derived from former Rule 16-606.1 (2016).

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Rule 19-408. COMMINGLING OF FUNDS

(a) General Prohibition

An attorney or law firm may deposit in an attorney trust account only those funds required to be deposited in that account by Rule 19-404 or permitted to be so deposited by section (b) of this Rule.

(b) Exceptions

(1) An attorney or law firm shall either (A) deposit into an attorney trust account funds to pay any fees, service charges, or minimum balance required by the financial institution to open or maintain the account, including those fees that cannot be charged against interest due to the Maryland Legal Services Corporation Fund pursuant to Rule 19-411 (b) (1) (D), or (B) enter into an agreement with the financial institution to have any fees or charges deducted from an operating account maintained by the attorney or law firm. The attorney or law firm may deposit into an attorney trust account any funds expected to be advanced on behalf of a client and expected to be reimbursed to the attorney by the client.

(2) An attorney or law firm may deposit into an attorney trust account funds belonging in part to a client and in part

presently or potentially to the attorney or law firm. The portion belonging to the attorney or law firm shall be withdrawn promptly when the attorney or law firm becomes entitled to the funds, but any portion disputed by the client shall remain in the account until the dispute is resolved.

(3) Funds of a client or beneficial owner may be pooled and commingled in an attorney trust account with the funds held for other clients or beneficial owners.

Cross reference: See Code, Business Occupations and Professions Article, §§10-301 et seq.

Source: This Rule is derived from former Rule 16-607 (2016).



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Rule 19-409. INTEREST ON FUNDS

(a) Generally

Any interest paid on funds deposited in an attorney trust account, after deducting service charges and fees of the financial institution, shall be credited and belong to the client or third person whose funds are on deposit during the period the interest is earned, except to the extent that interest is paid to the Maryland Legal Services Corporation Fund as authorized by law. The attorney or law firm shall have no right or claim to the interest.

Cross reference: See Rule 19-411 (b) (1) (D) providing that certain fees may not be deducted from interest that otherwise would be payable to the Maryland Legal Services Corporation Fund.

(b) Duty to Report IOLTA Participation

(1) Required as a Condition of Practice

As a condition precedent to the practice of law, each attorney admitted to practice in Maryland shall report annually in accordance with this Rule information concerning all IOLTA accounts, including name, address, location, and account number, on a form approved by the Court of Appeals.

(2) Oversight of the Reporting Process

The Court of Appeals shall designate an employee of the

Administrative Office of the Courts to oversee the reporting process set forth in this Rule.

(3) Mailing by the Administrative Office of the Courts

On or before January 10 of each year, the Administrative Office of the Courts shall mail an IOLTA Compliance Report form to each attorney on the list maintained by the Client Protection Fund of the Bar of Maryland. The addresses on that list shall be used for all notices and correspondence pertaining to the reports.

(4) Due Date

IOLTA Compliance Reports for each year shall be filed with the Administrative Office of the Courts on or before February 15 of that year.

(5) Enforcement

(A) Notice of Default

As soon as practicable after May 1 of each year, the Administrative Office of the Courts shall notify each defaulting attorney of the attorney's failure to file a report. The notice shall (i) state that the attorney has not filed the IOLTA Compliance Report for that year, (ii) state that continued failure to file the Report may result in the entry of an order by the Court of Appeals prohibiting the attorney from practicing law in the State, and (iii) be sent by first-class mail. The mailing of the notice of default shall constitute service.

(B) Additional Discretionary Notice of Default

In addition to the mailed notice, the Administrative Office of the Courts may give additional notice to defaulting attorneys by any of the means enumerated in Rule 19-606 (c).

(C) List of Defaulting Attorneys

As soon as practicable after July 1 of each year but no later than August 1, the Administrative Office of the Courts shall prepare, certify, and file with the Court of Appeals a list that includes the name and address of each attorney engaged in the practice of law who has failed to file the IOLTA Compliance Report for that year.

(D) Certification of Default; Order of Decertification

The Administrative Office of the Courts shall submit with the list a proposed Decertification Order stating the names and addresses of those attorneys who have failed to file their IOLTA Compliance Report. At the request of the Court of Appeals, the Administrative Office of the Courts also shall furnish additional information from its records or give further notice to the defaulting attorneys. If satisfied that the Administrative Office of the Courts has given the required notice to each attorney named on the proposed Decertification Order, the Court of Appeals shall enter a Decertification Order prohibiting each of them from practicing law in the State.

(E) Mailing of Decertification Order

The Administrative Office of the Courts shall mail by first-class mail a copy of the Decertification Order to each

attorney named in the Order. The mailing of the copy of the Decertification Order shall constitute service.

(F) Recertification; Restoration to Good Standing

If an attorney thereafter files the outstanding IOLTA Compliance Report, the Administrative Office of the Courts shall request the Court of Appeals to enter an order that recertifies the attorney and restores the attorney to good standing. Upon entry of that order, the Administrative Office of the Courts promptly shall furnish confirmation to the attorney. After an attorney is recertified, the fact that the attorney had been decertified need not be disclosed by the attorney in response to a request for information as to whether the attorney has been the subject of a disciplinary or remedial proceeding.

(G) Duty of Clerk of Court of Appeals

Upon entry of each Decertification Order and each order that recertifies an attorney and restores the attorney to good standing entered pursuant to this Rule, the Clerk of the Court of Appeals shall comply with Rule 19-761.

(H) Certain Information Furnished to the Maryland Legal Services Corporation

The Administrative Office of the Courts promptly shall submit to the Maryland Legal Services Corporation the data from electronically submitted IOLTA Compliance Reports and, upon request, shall forward the paper Compliance Reports.

(I) Confidentiality

Except as provided in subsection (b) (5) (H) of this Rule, IOLTA Compliance Reports, whether in paper or electronic form, are confidential and are not subject to inspection or disclosure under Code, General Provisions Article, §4-301. The Administrative Office of the Courts shall not release the Reports to any person or agency, except as provided in this Rule or upon order of the Court of Appeals. Nonidentifying information and data contained in an attorney's IOLTA Compliance Report are not confidential.

Cross reference: See Code, Business Occupations and Professions Article, §10-303.

Source: This Rule is derived from former Rule 16-608 (2016).

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Rule 19-410. PROHIBITED TRANSACTIONS

(a) Generally

An attorney or law firm may not borrow or pledge any funds required by the Rules in this Chapter to be deposited in an attorney trust account, obtain any remuneration from the financial institution for depositing any funds in the account, or use any funds for any unauthorized purpose.

(b) No Cash Disbursements

An instrument drawn on an attorney trust account may not be drawn payable to cash or to bearer, and no cash withdrawal may be made from an automated teller machine or by any other method. All disbursements from an attorney trust account shall be made by check or electronic transfer.

(c) Negative Balance Prohibited

No funds from an attorney trust account shall be disbursed if the disbursement would create a negative balance with regard to an individual client matter or all client matters in the aggregate.

Source: This Rule is derived from former Rule 16-609 (2016).

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Rule 19-411. APPROVAL OF FINANCIAL INSTITUTIONS

(a) Written Agreement to be Filed with Commission

The Commission shall approve a financial institution upon the filing with the Commission of a written agreement with the Maryland Legal Services Corporation (MLSC), complying with this Rule and in a form provided by the Commission, applicable to all branches of the institution that are subject to this Rule. The Commission may extend its approval of a previously approved financial institution for a reasonable period to allow the financial institution and the MLSC the opportunity to enter into a revised agreement that complies with this Rule.

(b) Contents of Agreement

(1) Duties to be Performed

The agreement shall provide that the financial institution, as a condition of accepting the deposit of any funds into an attorney trust account, shall:

(A) Notify the attorney or law firm promptly of any overdraft in the account or the dishonor for insufficient funds of any instrument drawn on the account.

(B) Report the overdraft or dishonor to Bar Counsel as set forth in subsection (b) (1) (C) of this Rule.

(C) Use the following procedure for reports to Bar Counsel required under subsection (b) (1) (B) of this Rule:

(i) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the institution's other regular account holders. The report shall be mailed to Bar Counsel within the time provided by law for notice of dishonor to the depositor and simultaneously with the sending of that notice.

(ii) If an instrument is honored but at the time of presentation the total funds in the account, both collected and uncollected, do not equal or exceed the amount of the instrument, the report shall identify the financial institution, the name and address of the attorney or law firm maintaining the account, the account name, the account number, the date of presentation for payment, and the payment date of the instrument, as well as the amount of the overdraft created. The report shall be mailed to Bar Counsel within five banking days after the date of presentation, notwithstanding any overdraft privileges that may attach to the account.

(D) Pay interest on its IOLTA accounts at a rate no less than the highest non-promotional interest rate generally available from the institution to its non-IOLTA customers at the same branch when the IOLTA account meets or exceeds the same minimum balance or other eligibility qualifications for its non-IOLTA accounts at that branch. In determining the highest



interest rate generally available from the institution to its IOLTA customers at a particular branch, an approved institution may consider, in addition to the balance in the IOLTA account, factors customarily considered by the institution at that branch when setting interest rates for its non-IOLTA customers; provided, however, that these factors shall not discriminate between IOLTA accounts and non-IOLTA accounts, nor shall the factors include or consider the fact that the account is an IOLTA account.

(i) An approved institution may satisfy the requirement described in subsection (b) (1) (D) of this Rule by establishing the IOLTA account in an account paying the highest rate for which the IOLTA account qualifies. The approved institution may deduct from interest earned on the IOLTA account Allowable Reasonable Fees as defined in subsection (b) (1) (D) (iii) of this Rule. This account may be any one of the following product option types, assuming the particular financial institution offers these account types to its non-IOLTA customers, and the particular IOLTA account qualifies to be established as this type of account at the particular branch:

(a) a business checking account with an automated investment feature, which is an overnight sweep and investment in repurchase agreements fully collateralized by U.S. Government securities, including securities of government-sponsored entities;

(b) checking accounts paying interest rates in excess of the lowest-paying interest-bearing checking account;

(c) any other suitable interest-bearing checking account offered by the approved institution to its non-IOLTA customers.

(ii) In lieu of the options provided in subsection (b) (1) (D) (i) of this Rule, an approved financial institution may:

(a) retain the existing IOLTA account and pay the equivalent applicable rate that would be paid at that branch on the highest-yield product for which the IOLTA account qualifies and deduct from interest earned on the IOLTA account Allowable Reasonable Fees; (b) offer a "safe harbor" rate that is equal to 55% of the Federal Funds Target Rate as reported in the Wall Street Journal on the first calendar day of the month on high-balance IOLTA accounts to satisfy the requirements described in subsection (b) (1) (D) of this Rule, but no fees may be deducted from the interest on a "safe harbor" rate account; or (c) pay a rate specified by the MLSC, if it chooses to specify a rate, which is agreed to by the financial institution and would be in effect for and remain unchanged during a period of twelve months from the agreement between the financial institution and MLSC to pay the specified rate. Allowable Reasonable Fees may be deducted from the interest on this "specified rate" account as agreed between MLSC and the financial institution.

(iii) "Allowable Reasonable Fees" means fees and service

charges in amounts customarily charged to non-IOLTA customers with the same type of account and balance at the same branch, including per-check charges, per-deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, and sweep fees, plus a reasonable IOLTA account administrative fee.

Allowable Reasonable Fees may be deducted from interest earned on an IOLTA account only in amounts and in accordance with the customary practices of the approved institution for non-IOLTA customers at the particular branch. Fees or service charges are not Allowable Reasonable Fees if they are charged for the convenience of or arise due to errors or omissions by the attorney or law firm maintaining the IOLTA account or that attorney's or law firm's clients, including fees for wire transfers, certified checks, account reconciliation services, presentations against insufficient funds, overdrafts, or deposits of dishonored items.

(iv) Nothing in this Rule shall preclude an approved institution from paying a higher interest rate than described herein or electing to waive any fees and service charges on an IOLTA account.

(v) Fees that are not Allowable Reasonable Fees are the responsibility of, and may be charged to, the attorney or law firm maintaining the IOLTA account.

Cross reference: Rule 19-408 (b) (1).

(E) Allow reasonable access to all records of an attorney

trust account if an audit of the account is ordered pursuant to Rule 19-731 (Audit of Attorney Accounts and Records).

(2) Service Charges for Performing Duties Under Agreement

Nothing in the agreement shall preclude an approved financial institution from charging the attorney or law firm maintaining an attorney trust account (A) a reasonable fee for providing any notice or record pursuant to the agreement or (B) fees and service charges other than the "Allowable Reasonable Fees" listed in subsection (b) (1) (D) (iii) of this Rule.

(c) Termination of Agreement

The agreement shall terminate only if:

(1) the financial institution files a petition under any applicable insolvency law or makes an assignment for the benefit of creditors; or

(2) the financial institution gives thirty days' notice in writing to the MLSC and to Bar Counsel that the institution intends to terminate the agreement and its status as an approved financial institution on a stated date and that copies of the termination notice have been mailed to all attorneys and law firms that maintain trust accounts with any branch of that institution; or

(3) after a complaint is filed by the MLSC or on its own initiative, the Commission finds, after prior written notice to the institution and adequate opportunity to be heard, that the institution has failed or refused without justification to

perform a duty required by the agreement. The Commission shall notify the institution that the agreement and the Commission's approval of the institution are terminated.

(d) Exceptions

Within 15 days after service of the notice of termination pursuant to subsection (c)(3) of this Rule, the institution may file with the Court of Appeals exceptions to the decision of the Commission. The institution shall file eight copies of the exceptions, which shall conform to the requirements of Rule 8-112. The Court shall set a date for oral argument, unless oral argument is waived by the parties. Oral argument shall be conducted in accordance with Rule 8-522. The decision of the Court of Appeals is final and shall be evidenced by an order of the Court.

Source: This Rule is derived from former Rule 16-610 (2016).

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Rule 19-412. NOTICE OF APPROVED INSTITUTIONS

The Commission shall cause to be posted on the Judiciary's website, at six-month intervals, a list that identifies:

- (a) all currently approved financial institutions; and
- (b) any financial institution whose agreement has terminated.

Source: This Rule is derived from former Rule 16-611 (2016).

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Rule 19-413. ENFORCEMENT

Upon receipt of a report of overdraft on or dishonored instrument drawn on an attorney trust account, Bar Counsel shall contact the attorney or law firm maintaining the account and request an informal explanation for the overdraft or dishonored instrument. The attorney or law firm shall provide any records of the account necessary to support the explanation. If Bar Counsel has requested but has failed to receive a satisfactory explanation for any overdraft or dishonored check, or if good cause exists to believe that an attorney or law firm has failed to perform any duty under these Rules, Bar Counsel may secure compliance with these Rules by appropriate means approved by the Commission, including application for an audit pursuant to Rule 19-731 (Audit of Attorney Accounts and Records).

Source: This Rule is derived from former Rule 16-612 (2016).

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Rule 19-501. STATE PRO BONO COMMITTEE AND PLAN

(a) Standing Committee on Pro Bono Legal Service

(1) Creation

There is a Standing Committee of the Court of Appeals on Pro Bono Legal Service.

(2) Members

The Standing Committee consists of the following members appointed by the Court of Appeals:

(A) eight members of the Maryland Bar, including one from each appellate judicial circuit and one selected from the State at large;

(B) a maximum of three Circuit Court judges selected from nominees submitted by the Conference of Circuit Judges;

(C) a maximum of three District Court judges selected from nominees submitted by the Chief Judge of the District Court;

(D) the Public Defender or a designee of the Public Defender;

(E) a representative from the Legal Aid Bureau, Maryland Volunteer Lawyers Service, Pro Bono Resource Center of Maryland, and one other pro bono referral organization; and

(F) a member of the general public.

(3) Terms; Chair

The term of each member is three years. A member may be reappointed to serve one or more additional terms. The Court of Appeals shall designate one of the members as chair.

(4) Consultants

The Standing Committee may designate a reasonable number of consultants from among court personnel or representatives of other organizations or agencies concerned with the provision of legal services to persons of limited means.

(b) Functions of the Standing Committee

(1) Required

The Standing Committee shall:

(A) develop standard forms for use by the Local Pro Bono Committees in developing and articulating the Local Pro Bono Action Plans and making their annual reports;

(B) recommend uniform standards for use by the Local Pro Bono Committees to assess the need for pro bono legal services in their communities;

(C) review and evaluate the Local Pro Bono Action Plans and the annual reports of the Local Pro Bono Committees;

(D) collect and make available to Local Pro Bono Committees information about pro bono projects;

(E) at the request of a Local Pro Bono Committee, provide guidance about the Rules in this Chapter and Rule 19-306.1 (6.1) of the Maryland Attorneys' Rules of Professional Conduct;

(F) file with the Court of Appeals an annual report and recommendations about the implementation and effectiveness of the Local Pro Bono Action Plans, the Rules in this Chapter, and Rule 19-306.1 (6.1) of the Maryland Attorneys' Rules of Professional Conduct; and

(G) prepare a State Pro Bono Action Plan as provided in section (c) of this Rule.

(2) Permitted

The Standing Committee may make recommendations to the Court of Appeals concerning the appointment and reappointment of its members.

(c) State Pro Bono Action Plan

(1) Generally

Within three years after the effective date of this Rule, the Standing Committee shall submit to the Court of Appeals a State Pro Bono Action Plan to promote increased efforts on the part of attorneys to provide legal assistance to persons of limited means. In developing the Plan, the Standing Committee shall:

(A) review and assess the results of the Local Pro Bono Action Plans;

(B) assess the data generated by the reports required by Rule 19-503;

(C) gather and consider information pertinent to the existence, nature, and extent of the need for pro bono legal

services in Maryland; and

(D) provide the opportunity for one or more public hearings.

(2) Contents

The State Pro Bono Action Plan may include a recommendation for increasing or decreasing the aspirational goals for pro bono publico legal service set forth in Rule 19-306.1 (6.1) of the Maryland Attorneys' Rules of Professional Conduct. The Plan should include suggestions for the kinds of pro bono activities that will be most helpful in meeting the need for pro bono legal service throughout the State and should address long-range pro bono service issues.

Committee note: Examples of long-range issues that may be addressed include opportunities for transactional attorneys, government attorneys, business attorneys, and in-house attorneys to render pro bono legal service; opportunities for pro bono legal service by attorneys who are unable to provide direct client representation; "collective responsibility" for pro bono legal service when a law firm designates certain attorneys to handle only pro bono matters; and encouraging pro bono legal service among law students and in the legal academic setting.

(d) Posting

The Clerk of the Court of Appeals shall cause the State Action Plan submitted by the Standing Committee to be posted on the Judiciary website and shall establish a reasonable period for public comment.

(e) Consideration by the Court of Appeals

After the comment period, the Court of Appeals shall hold a public hearing and take appropriate action on the Plan.

Source: This Rule is derived from former Rule 16-901 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 500 - PRO BONO LEGAL SERVICES

Rule 19-502. LOCAL PRO BONO COMMITTEES AND PLANS

(a) Local Pro Bono Committees

(1) Creation

There is a Local Pro Bono Committee for each county.

(2) Members

The Local Pro Bono Committee consists of at least two representatives nominated by legal services organizations and pro bono referral organizations that provide services in the county and selected by the County Administrative Judge and the District Administrative Judge, and no more than nine additional members, as follows:

(A) the District Public Defender for the county or an assistant public defender selected by the District Public Defender;

(B) at least three but no more than five attorneys, appointed by the president of the county bar association, who practice in the county and at least one of whom is an officer of the county bar association;

(C) at least one but no more than two individuals from the general public, appointed jointly by the County Administrative Judge and the District Administrative Judge; and

(D) at least one but no more than two trial court judges, with the selection of any circuit court judge made by the County Administrative Judge and the selection of any District Court judge made by the County Administrative Judge with the concurrence of the Chief Judge of the District Court.

(3) Term

Each Committee shall establish a procedure for new membership, including articulating length of terms, to ensure member rotation and involvement.

(4) Chair

The County Administrative Judge shall appoint a member of the Committee to serve as temporary chair. The temporary chair shall convene a meeting at which the Committee shall elect a member to serve as chair. Each Committee shall establish a procedure by which its chair will be replaced.

(5) Full Membership

On at least an annual basis, the County Administrative Judge shall assess the composition of the Committee and take steps to ensure full membership of the Committee.

(6) Consultants

The Committee may designate a reasonable number of consultants from among court personnel or representatives of other organizations or agencies concerned with the provision of legal services to persons of limited means. Each consultant should be encouraged to attend meetings and participate as a



member, providing input and assisting in the development and implementation of the plan, where appropriate, without being a voting member of the Committee.

(b) Duties of the Committee

The local pro bono committee shall:

(1) assess the needs in the county for pro bono legal service, including the needs of non-English speaking, minority, and isolated populations;

(2) determine the nature and extent of existing and proposed free or low-cost legal services, both staff and volunteer, for persons of limited means in the county;

(3) establish goals and priorities for pro bono legal service in the county;

(4) prepare a Local Pro Bono Action Plan as provided in section (c) of this Rule;

(5) in accordance with the policies and directives established by the Standing Committee or the Court of Appeals, implement or monitor the implementation of the Plan; and

(6) submit an annual report about the Plan to the Standing Committee by May 1.

(c) Local Pro Bono Action Plans

(1) Generally

The Local Pro Bono Committee shall develop, in coordination with existing legal services organizations and pro bono referral organizations that provide services in the county,

a detailed Local Pro Bono Action Plan to promote pro bono legal service to meet the needs of persons of limited means in the county. The Plan shall be submitted to the Standing Committee within one year after creation of the Local Committee. The Local Pro Bono Committees of two or more adjoining counties may collaborate and form a Regional Pro Bono Committee with approval of the Administrative Judges of the counties that wish to collaborate. With the approval of the Standing Committee, a single joint Pro Bono Action Plan may be developed for two or more adjoining counties, by collaboration of the Local Pro Bono Committees.

(2) Contents

The Local Pro Bono Action Plan shall address the following matters:

(A) screening applicants for pro bono representation and referring them to appropriate referral sources or panels of participating attorneys;

(B) establishing or expanding attorney referral panels;

(C) continuing and supporting current services provided by existing pro bono and legal services organizations;

(D) a procedure for matching cases with individual attorney expertise, including specialized panels;

(E) support for participating attorneys, including:

(i) providing litigation resources and out-of-pocket expenses for pro bono cases;

(ii) providing or supplementing legal malpractice insurance for participating attorneys;

(iii) providing legal education and training for participating attorneys in specialized areas of the law relevant to pro bono legal service, including consultation services with attorneys who have expertise in areas of law in which participating attorneys seek to provide pro bono service; and

(iv) recommending court scheduling and docketing preferences for pro bono cases;

(F) methods of informing attorneys about the ways in which they may provide pro bono legal service;

Committee note: Ways in which attorneys may provide pro bono legal service include assisting in the screening and intake process; interviewing prospective clients and providing basic consultation; participating in self-represented clinics or other programs in which attorneys provide advice and counsel, assist persons in drafting letters or documents, or assist persons in planning transactions or resolving disputes without the need for litigation; representing clients through case referral; acting as co-counsel with legal service providers or other participating attorneys; providing consultation to legal service providers for case reviews and evaluations; training or consulting with other participating attorneys or staff attorneys affiliated with a legal service provider; engaging in legal research and writing; and, if qualified through training and experience, serving as a mediator, arbitrator, or neutral evaluator.

(G) coordinating implementation of the Plan with the courts, county bar associations, and other agencies and organizations;

(H) the number of hours of pro bono legal services needed annually to meet the needs of persons of limited means in the county; and

(I) programs to recognize attorneys who provide pro bono legal services.

Source: This Rule is derived from former Rule 16-902 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 500 - PRO BONO LEGAL SERVICES

Rule 19-503. REPORTING PRO BONO LEGAL SERVICE

(a) Required as a Condition of Practice

As a condition precedent to the practice of law, each attorney admitted to practice in Maryland shall file annually with the Administrative Office of the Courts, in accordance with this Rule, a Pro Bono Legal Service Report on a form approved by the Court of Appeals. The form shall not require the identification of pro bono clients.

Committee note: The purpose of pro bono legal service reporting is to document the pro bono legal service performed by attorneys in Maryland and determine the effectiveness of the Local Pro Bono Action Plans, the State Pro Bono Action Plan, the Rules in this Chapter, and Rule 19-306.1 (6.1) of the Maryland Attorneys' Rules of Professional Conduct.

(b) Oversight of the Reporting Process

The Court of Appeals shall designate an employee of the Administrative Office of the Courts to oversee the reporting process set forth in this Rule.

(c) Mailing by the Administrative Office of the Courts

On or before January 10 of each year, the Administrative Office of the Courts shall mail a Pro Bono Legal Service Report form to each attorney on the list maintained by the Client Protection Fund of the Bar of Maryland. The addresses on that list shall be used for all notices and correspondence pertaining

to the reports.

(d) Due Date

Pro Bono Legal Service Reports for a given calendar year shall be filed with the Administrative Office of the Courts on or before February 15 of the following calendar year.

(e) Enforcement

(1) Notice of Default

As soon as practicable after May 1 of each year, the Administrative Office of the Courts shall notify each defaulting attorney of the attorney's failure to file a report. The notice shall (A) state that the attorney has not filed the Pro Bono Legal Service Report for the previous calendar year, (B) state that continued failure to file the Report may result in the entry of an order by the Court of Appeals prohibiting the attorney from practicing law in the State, and (C) be sent by first class mail. The mailing of the notice of default shall constitute service.

(2) Additional Discretionary Notice of Default

In addition to the mailed notice, the Administrative Office of the Courts may give additional notice to defaulting attorneys by any of the means enumerated in Rule 19-606 (c).

(3) List of Defaulting Attorneys

As soon as practicable after July 1 of each year but no later than August 1, the Administrative Office of the Courts shall prepare, certify, and file with the Court of Appeals a list that includes the name and address of each attorney engaged in

the practice of law who has failed to file the Pro Bono Legal Service Report for the previous year.

(4) Certification of Default; Order of Decertification

The Administrative Office of the Courts shall submit with the list a proposed Decertification Order stating the names and addresses of those attorneys who have failed to file their Pro Bono Legal Service Reports for the specified calendar year. At the request of the Court of Appeals, the Administrative Office of the Courts also shall furnish additional information from its records or give further notice to the defaulting attorneys. If satisfied that the Administrative Office of the Courts has given the required notice to each attorney named on the proposed Decertification Order, the Court of Appeals shall enter a Decertification Order prohibiting each of them from practicing law in the State.

(5) Mailing of Decertification Order

The Administrative Office of the Courts shall mail by first class mail a copy of the Decertification Order to each attorney named in the Order. The mailing of the copy of the Decertification Order shall constitute service.

(6) Recertification; Restoration to Good Standing

If a decertified attorney thereafter files the outstanding Pro Bono Legal Service Report, the Administrative Office of the Courts shall request the Court of Appeals to enter an order that recertifies the attorney and restores the attorney

to good standing. Upon entry of that order, the Administrative Office of the Courts promptly shall furnish confirmation to the attorney. After an attorney is recertified, the fact that the attorney had been decertified need not be disclosed by the attorney in response to a request for information as to whether the attorney has been the subject of a disciplinary or remedial proceeding.

(7) Duty of Clerk of Court of Appeals

Upon the entry of each Decertification Order and each order that recertifies an attorney and restores the decertified attorney to good standing entered pursuant to this Rule, the Clerk of the Court of Appeals shall comply with Rule 19-761.

(f) Certain Information Furnished to the Standing Committee on Pro Bono Legal Service

The Administrative Office of the Courts shall submit promptly to the Standing Committee on Pro Bono Legal Service a compilation of non-identifying information and data from the Pro Bono Legal Service Reports.

(g) Confidentiality

Pro Bono Legal Service Reports are confidential and are not subject to inspection or disclosure under Code, General Provisions Article, §4-301. The Administrative Office of the Courts shall not release the Reports to any person or agency, except upon order of the Court of Appeals. Nonidentifying information and data contained in an attorney's Pro Bono Legal



Service Report are not confidential.

Source: This Rule is derived from former Rule 16-903 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 500 - PRO BONO LEGAL SERVICES

Rule 19-504. PRO BONO ATTORNEY

(a) Definition

As used in this Rule, "pro bono attorney" means an attorney who is authorized by Rule 19-215 or Rule 19-605 (a) (2) to represent clients, without compensation other than reimbursement of reasonable and necessary expenses, and whose practice is limited to providing such representation. "Pro bono attorney" does not include (1) an active member of the Maryland Bar in good standing or (2) an attorney whose certificate of authorization to practice under Rule 19-215 permits the attorney to receive compensation for the practice of law under that Rule.

Cross reference: For the professional responsibility of an active member of the Maryland Bar to render pro bono publico legal service, see Rule 19-306.1 (6.1) (Pro Bono Publico Service) of the Maryland Attorneys' Rules of Professional Conduct.

(b) Authorization to Practice as a Pro Bono Attorney

To practice as a pro bono attorney, an out-of-state attorney shall comply with Rule 19-215 and a retired/inactive member of the Maryland Bar shall comply with Rule 19-605 (a) (2).

(c) Recovery of Attorneys' Fees

If the substantive law governing a matter in which a pro

bono attorney is providing representation permits the recovery of attorneys' fees, the pro bono attorney may seek attorneys' fees in accordance with the Rules in Title 2, Chapter 700 or Rule 3-741 but shall remit to the legal services or pro bono publico program that referred the matter to the attorney all attorneys' fees that are recovered.

(d) Reports

Upon request by the Administrative Office of the Courts, a pro bono attorney shall timely file an IOLTA Compliance Report in accordance with Rule 19-409 and a Pro Bono Legal Service Report in accordance with Rule 19-503.

Source: This Rule is derived from former Rule 16-904 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 500 - PRO BONO LEGAL SERVICES

Rule 19-505. LIST OF PRO BONO AND LEGAL SERVICES PROGRAMS

At least once a year, the Maryland Legal Services Corporation shall provide to the State Court Administrator a current list of all grantees and other entities recognized by the Corporation that serve low-income individuals who meet the financial eligibility criteria of the Corporation. The State Court Administrator shall post the current list on the Judiciary website.

Cross reference: See Rules 1-325, 1-325.1, and 19-215 and 19-605.

Source: This Rule is derived from former Rule 16-905 (2016).

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MARYLAND RULES OF PROCEDURE

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CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-601. DEFINITIONS

In Rules 19-601 through 19-611, the following definitions apply:

(a) Client Protection Fund; Fund

"Client Protection Fund" and "Fund" mean the Client Protection Fund of the Bar of Maryland created by Code, Business Occupations and Professions Article, §10-311.

(b) Local Bar Association

"Local Bar Association" means (1) in Baltimore City, the Bar Association of Baltimore City, or (2) in each county, the bar association with the greatest number of members who are residents of the county and who maintain their principal offices for the practice of law in that county.

(c) These Rules

"These Rules" means Rules 19-601 through 19-611.

Source: This Rule is derived from former Rule 16-811.1 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-602. PURPOSE

(a) Purpose

The purpose of the Client Protection Fund is to maintain the integrity and protect the good name of the legal profession by reimbursing, to the extent authorized by these Rules and deemed proper and reasonable by the trustees of the Fund, losses caused by defalcations by members of the Bar of Maryland or out-of-state attorneys authorized to practice in this State under Rule 19-215 or 19-216, acting either as attorneys or, except to the extent they are bonded, as fiduciaries.

(b) Fiduciary; Definition

For purposes of this Rule, "fiduciary" means an attorney acting in a fiduciary capacity that is traditional and customary in the practice of law in Maryland, such as a personal representative of a probate estate, a trustee of an express trust, a guardian, a custodian acting pursuant to statute, or an attorney-in-fact by written appointment.

Cross reference: Regulations of the Client Protection Fund of the Bar of Maryland, subsection (a)(1).

(c) Fiduciary Relationship Not Formed

A fiduciary relationship is not formed between an attorney and a third party who has been assigned an interest in the



proceeds of a civil award or settlement, including attorneys' fees, in consideration for the advancement of funds by the third party to the attorney or client.

Committee note: For purposes of this Rule, a fiduciary relationship is not formed between an attorney and a lawsuit cash advance lending company. Section (c) is not intended to apply to medical, healthcare, or other service providers that may be owed money for services rendered.

Source: This Rule is derived from former Rule 16-811.2 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-603. APPOINTMENT, COMPENSATION, MEETINGS OF TRUSTEES

(a) Number of Trustees

The Court of Appeals shall appoint nine individuals to be the trustees of the Client Protection Fund. Eight of the trustees shall be members of the Maryland Bar. One individual shall not be an attorney.

(b) Geographic Appointment

One trustee who is a member of the Maryland Bar shall be appointed from each of the seven appellate judicial circuits. The other two trustees shall be appointed at large.

(c) Term

The term of each trustee is seven years. A trustee may be removed by the Court at any time. In the event of a vacancy, the Court shall appoint a successor trustee for the unexpired term.

(d) Compensation; Expenses

The trustees shall serve without compensation, but unless no other source of funds is available, shall be entitled to reimbursement from the Fund for their expenses reasonably incurred in the performance of their duties as trustees, including transportation costs.

(e) Meetings

Meetings of the trustees shall be held at the call of the chair or a majority of the trustees on reasonable notice. The trustees shall meet at least once each year.

(f) Quorum

(1) Five trustees shall constitute a quorum. Except as otherwise provided by these Rules, a majority of the trustees present at a duly constituted meeting may exercise any powers held by the trustees.

(2) The trustees' powers under Rule 19-604 (a) may be exercised only by the affirmative vote of at least five trustees.

Source: This Rule is derived from former Rule 16-811.3 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-604. POWERS AND DUTIES OF TRUSTEES; TREASURER

(a) Trustees

The trustees have the following powers and duties:

(1) To elect, from among their membership, a chair, a treasurer, and such other officers as they deem necessary or appropriate.

(2) To receive, hold, manage, and distribute, pursuant to this Rule, the funds raised hereunder, and any other monies that may be received by the Fund through voluntary contributions or otherwise.

(3) To authorize payment of claims in accordance with this Rule.

(4) To adopt regulations for the administration of the Fund and the procedures for the presentation, consideration, recognition, rejection and payment of claims, and to adopt procedures for conducting business. A copy of the regulations shall be filed with the Clerk of the Court of Appeals, who shall mail a copy of them to the clerk of the circuit court for each county and to all Registers of Wills. The regulations shall be posted on the Judiciary website.

(5) To enforce claims for restitution arising by subrogation,

assignment, or otherwise.

(6) To deposit funds in any bank or other savings institution (A) that is chartered and whose financial activities are regulated under federal or Maryland law, and (B) whose deposits are insured by an instrumentality of the federal government.

(7) To invest funds not needed for current use in such investments as they deem appropriate, consistent with an investment policy specified in regulations adopted by the trustees and approved by the Court of Appeals.

(8) To employ and compensate consultants, agents, attorneys, and employees.

(9) To delegate the power to perform routine acts which may be necessary or desirable for the operation of the Fund, including the power to authorize disbursements for routine operating expenses of the Fund, but authorization for payments of claims shall be made only as provided in Rule 19-609.

(10) To sue or be sued in the name of the Fund without joining any or all individual trustees.

(11) To comply with the requirements of Rules 19-704 (e), 19-705 (c), 19-708 (a), and 19-723 and all other applicable laws.

(12) To designate an employee to perform the duties set forth in Rules 19-708 (a) and 19-723 and notify Bar Counsel of that designation.

(13) To file with the Court of Appeals an annual report of the management and operation of the Fund and to arrange for an

annual audit of the accounts of the Fund by state or private auditors. The cost of the audit shall be paid by the Fund if no other source of funds is available.

(14) To file additional reports and arrange for additional audits as the Court of Appeals or the Chief Judge of that Court may order.

(15) To perform all other acts authorized by these Rules or necessary or proper for the fulfillment of the purposes of the Fund and its efficient administration.

(b) Treasurer

The treasurer shall:

- (1) maintain the Fund in a separate account;
- (2) disburse monies from the Fund only upon the action of the trustees pursuant to these Rules;
- (3) file annually with the trustees a bond for the proper execution of the duties of the office of treasurer of the Fund in an amount established by the trustees and with one or more sureties approved by the trustees; and
- (4) comply with the requirements of Rule 19-705 (b).

Source: This Rule is derived from former Rule 16-811.4 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-605. OBLIGATIONS OF ATTORNEYS

(a) Conditions Precedent to Practice

(1) Generally

Except as otherwise provided in subsection (a) (2) of this Rule or 19-215 (h), each attorney admitted to practice before the Court of Appeals or issued a certificate of special authorization under Rule 19-215 or 19-216, as a condition precedent to the practice of law in this State, shall (A) provide to the treasurer of the Fund the attorney's Social Security number, (B) provide to the treasurer of the Fund the attorney's federal tax identification number or a statement that the attorney has no such number, and (C) pay annually to the treasurer of the Fund the sum, and all applicable late charges, set by the Court of Appeals.

(2) Exception

Unless the attorney is on permanent retired status pursuant to Rule 19-740, upon timely application by an attorney, the trustees of the Fund may approve the attorney for inactive/retired status. By regulation, the trustees may provide a uniform deadline date for seeking approval of inactive/retired status. An attorney on inactive/retired status may engage in the

practice of law without payment to the Fund or to the Disciplinary Fund if (A) the attorney is on inactive/ retired status solely as a result of having been approved for that status by the trustees of the Fund and not as a result of any action against the attorney pursuant to the Rules in Chapter 700 of this Title, and (B) the attorney's practice is limited to representing clients without compensation, other than reimbursement of reasonable and necessary expenses, as part of the attorney's participation in a legal services or pro bono publico program sponsored or supported by a local bar association, the Maryland State Bar Association, Inc., an affiliated bar foundation, or the Maryland Legal Services Corporation.

Cross reference: See Rule 19-705 (Disciplinary Fund).

(3) Bill; Request for Information; Compliance

For each fiscal year, the trustees by regulation shall set dates by which (A) the Fund shall send to an attorney a bill, together with a request for the information required by subsection (a)(1) of this Rule, and (B) the attorney shall comply with subsection (a)(1) of this Rule by paying the sum due and providing the required information. The date set for compliance shall be not earlier than 60 days after the Fund sends the bill and requests the information.

(4) Method of Payment

Payments of amounts due the Fund shall be by check or money order, or by any additional method approved by the



trustees.

(b) Change of Address

Each attorney shall give written notice to the trustees of every change in the attorney's resident address, business address, e-mail address, telephone number, or facsimile number within 30 days of the change. The trustees shall have the right to rely on the latest information received by them for all billing and other correspondence.

Source: This Rule is derived from former Rule 16-811.5 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-606. ENFORCEMENT OF OBLIGATIONS

(a) List of Delinquencies

As soon as practicable after January 1, but no later than February 15 of each calendar year, the trustees shall prepare, certify, and file with the Court of Appeals a list showing:

(1) the name and account number, as it appears on their records, of each attorney who, to the best of their information, is engaged in the practice of law and, without justification, has (A) failed to provide to the treasurer of the Fund the attorney's Social Security number, (B) failed to provide to the treasurer of the Fund the attorney's federal tax identification number or a statement that the attorney has no such number, or (C) failed to pay (i) one or more annual assessments, (ii) a penalty for late payment, (iii) any charge for a dishonored check, or (iv) reimbursement for publication charges; and

(2) the amount due from that attorney to the Fund.

(b) Required Notice of Delinquency

(1) The trustees shall give notice of delinquency promptly to each attorney on the list by first class mail addressed to the attorney at the attorney's last address appearing on the records of the trustees. The notice shall state whether the delinquency

is based upon (A) a failure to provide the attorney's Social Security number, (B) a failure to provide the attorney's federal tax identification number or a statement that the attorney has no such number, (C) a failure to pay the attorney's monetary obligation to the Fund, or (D) a combination of any of these failures. Notice of a failure to pay a monetary obligation to the Fund shall include a statement of the amount overdue. A notice of delinquency shall include a statement that failure to provide the required information and pay the amount owed to the Fund within 30 days following the date of the notice will result in the entry of an order by the Court of Appeals prohibiting the attorney from practicing law in the State.

(2) The mailing by the trustees of the notice of delinquency constitutes service of the notice on the attorney.

(c) Additional Discretionary Notice

(1) In addition to the mailed notice, the trustees may give any additional notice to the attorneys on the delinquency list as the trustees deem desirable. Additional notice may be in the form of:

(A) publication in one or more newspapers selected by the trustees;

(B) telephone, facsimile, e-mail, or other transmission to the named attorneys;

(C) dissemination to local bar associations or other professional associations;

(D) posting in one or more courthouses of the State; or

(E) any other means the trustees deem appropriate.

(2) The additional notice may be statewide, regional, local, or personal to a named attorney as the trustees direct.

(d) Temporary Suspension

(1) Proposed Order

Promptly after expiration of the deadline date stated in the mailed notice, the trustees shall submit to the Court of Appeals a proposed Temporary Suspension Order stating the names and account numbers of (A) those attorneys who have failed to provide their Social Security number, (B) those attorneys who have failed to provide their federal tax identification number or a statement that they have no such number, and (C) those attorneys whose accounts remain unpaid. The trustees shall furnish additional information from their records or give further notice as the Court of Appeals may direct.

(2) Entry of Order

If satisfied that the trustees have given the required notice to the attorneys remaining delinquent, the Court of Appeals shall enter a Temporary Suspension Order prohibiting each of them from practicing law in the State. The trustees shall mail by first class mail a copy of the Temporary Suspension Order to each attorney named in the order at the attorney's last address as it appears on the records of the trustees. The mailing by the trustees of the copy constitutes service of the

order on the attorney.

(3) Effect of Order

(A) An attorney who has been served with a copy of a Temporary Suspension Order and has not been restored to good standing may not practice law and shall comply with the requirements of Rule 19-742 (c) and (d). In addition to any other remedy or sanction allowed by law, an action for contempt may be brought against a attorney who practices law in violation of a Temporary Suspension Order.

(B) Upon written request from any judge, attorney, or member of the public, the trustees, by informal means and, if requested, in writing, promptly shall confirm whether a Maryland attorney named in the request has been temporarily suspended and has not been restored to good standing.

(e) Termination of Temporary Suspension Order

(1) Duty of Trustees

Upon receipt of the attorney's Social Security number, federal tax identification number or statement that the attorney has no such number, and all amounts due by the attorney, including all related costs prescribed by the Court of Appeals or the trustees, the trustees shall:

(A) remove the attorney's name from the list of delinquent attorneys;

(B) if a Temporary Suspension Order has been entered, inform the Court of Appeals that the Social Security number,

federal tax identification number or statement that the attorney has no such number, and full payment have been received and request the Court to enter an order terminating the attorney's suspension; and

(C) if requested by the attorney, confirm that the trustees have complied with the requirements of subsection (e)(1)(A) and (B) of this Rule.

(2) Duty of Court

Upon receipt of the notice and request provided for in subsection (e)(1)(B) of this Rule, the Court of Appeals shall enter an order terminating the temporary suspension of the attorney.

Committee note: Subsection (e)(2) does not affect any other suspension of the attorney.

Source: This Rule is derived from former Rule 16-811.6 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-607. DISHONORED CHECKS

(a) Notice by Treasurer

If a check to the Fund is dishonored, the treasurer of the Fund shall notify the attorney immediately by the quickest available means.

(b) Duty of Attorney

Within seven business days following the date of the notice, the attorney shall pay to the treasurer of the Fund the full amount of the dishonored check plus any additional charge that the trustees shall prescribe. Payment shall be by certified check or money order.

(c) Temporary Suspension Order

(1) Notice by Treasurer

The treasurer of the Fund promptly (but not more often than once each calendar quarter) shall submit to the Court of Appeals a proposed interim Temporary Suspension Order stating the name and account number of each attorney who remains in default of payment for a dishonored check and related charges.

(2) Entry and Service of Order

The Court of Appeals shall enter an Interim Temporary Suspension Order prohibiting the practice of law in the State by

each attorney as to whom the Court is satisfied that the treasurer has made reasonable efforts to give notice concerning the dishonored check. The treasurer shall mail by first class mail a copy of the interim Temporary Suspension Order to each attorney named in the order at the attorney's last address as it appears on the records of the trustees. The mailing by the treasurer of the copy constitutes service of the order on the attorney.

(d) Payment; Termination or Replacement of Interim Order

(1) Procedure Upon Payment

Upon payment of the full amount due by the attorney, the trustees and the Court shall follow the procedure set forth in Rule 19-605 (a) (4).

(2) If No Payment

If the full amount due is not paid by the time the Court enters its next Temporary Suspension Order under Rule 19-606 and, as a result, the attorney is included in that order, the interim order shall terminate and be replaced by the Temporary Suspension Order.

Source: This Rule is derived from former Rule 16-811.7 (2016).



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-608. NOTICES CONCERNING TEMPORARY SUSPENSIONS

Upon entry of each Temporary Suspension Order and each order that terminates a temporary suspension and restores the attorney to good standing entered pursuant to the Rules in this Chapter, the Clerk of the Court of Appeals shall comply with Rule 19-761.

Source: This Rule is derived from former Rule 16-811.8 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-609. CLAIMS

(a) Method of Making Claim

A claim against the Fund shall be made in conformance with regulations adopted by the trustees.

(b) Review by Trustees

(1) Generally

The trustees shall determine whether a claim merits reimbursement from the Fund and, if so:

- (A) the amount of such reimbursement;
- (B) the time, place, and manner of payment;
- (C) any conditions upon which payment will be made; and
- (D) the order in which payments will be made.

(2) No Rights in Fund

No claimant or other person has any right in the Fund, as beneficiary or otherwise.

(3) Assistance in Investigation

The trustees may request bar associations, Bar Counsel, other organizations of attorneys, individual attorneys, and other individuals selected by the trustees to assist the trustees in the investigation of claims.

(c) Factors to be Considered

In exercising their discretion, the trustees may consider:

(1) The amounts available and likely to become available to the Fund for the payment of claims;

(2) The amount and number of claims likely to be presented in the future;

(3) The total amount of losses caused by defalcations of any one attorney or associated groups of attorneys;

(4) The unreimbursed amounts of claims recognized by the trustees in the past as meriting reimbursement, but for which reimbursement has not been made in the total amount of the loss sustained;

(5) The amount of the claimant's loss as compared with the amount of the losses sustained by other claimants who may merit reimbursement from the Fund;

(6) The degree of hardship the claimant has suffered by the loss; and

(7) Any other factor the trustees deem appropriate.

(d) Conditions to Payment

In addition to other conditions and requirements, the trustees may require claimants, as a condition of payment, to take such action and to enter into such agreements and execute such instruments as the trustees find appropriate, including assignments, subrogation agreements, trust agreements, and promises to cooperate with the trustees in making and prosecuting claims or charges against any person.

Source: This Rule is derived from former Rule 16-811.9 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-610. JUDICIAL REVIEW

(a) Generally

A person aggrieved by a final determination of the trustees may seek judicial review of the determination pursuant to Title 7, Chapter 200 of the Maryland Rules.

(b) Standard of Review

In the action for judicial review, the decision of the trustees shall be deemed prima facie correct and shall be affirmed unless the decision was arbitrary, capricious, unsupported by substantial evidence on the record considered as a whole, beyond the authority vested in the trustees, made upon unlawful procedure, or unconstitutional or otherwise illegal. Any party, including the Fund, aggrieved by the judgment of the circuit court may appeal the judgment to the Court of Special Appeals.

Source: This Rule is derived from former Rule 16-811.10 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

Rule 19-611. SUPERVISORY AUTHORITY OF COURT OF APPEALS

(a) Audit

In addition to the authority of the trustees under Rule 19-604, the Court of Appeals may at any time arrange for an audit of the accounts of the Fund to be made by State or private auditors. The cost of any such audit shall be paid by the Fund if no other source of funds is available.

(b) Administrative Advice

The trustees may apply to the Court of Appeals, in its non-adjudicatory, supervisory capacity, for interpretation of these Rules and for advice as to their powers and as to the proper administration of the Fund. Any final order issued by the Court in response to any such application shall determine all rights with respect to the matters covered and shall be binding.

(c) Dissolution

The Court of Appeals may provide for the dissolution and winding up of the affairs of the Fund.

Source: This Rule is derived from former Rule 16-811.11 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

GENERAL PROVISIONS

Rule 19-701. DEFINITIONS

- (a) Attorney
- (b) Circuit
- (c) Client Protection Fund
- (d) Commission
- (e) Conditional Diversion Agreement
- (f) Disbarment
- (g) Incapacity
- (h) Office for the Practice of Law
- (i) Petition for Disciplinary or Remedial Action
- (j) Professional Misconduct
- (k) Reinstatement
- (l) Serious Crime
- (m) State
- (n) Statement of Charges
- (o) Suspension
- (p) Warning

Rule 19-702. ATTORNEY GRIEVANCE COMMISSION

- (a) Creation and Composition
- (b) Term
- (c) Compensation
- (d) Chair and Vice Chair
- (e) Executive Secretary
- (f) Removal of Commission Members
- (g) Quorum
- (h) Powers and Duties
- (i) Effect of Chair's Decisions

Rule 19-703. BAR COUNSEL

- (a) Appointment
- (b) Powers and Duties

Rule 19-704. PEER REVIEW COMMITTEE

- (a) Creation
- (b) Composition
- (c) Individuals Ineligible for Appointment as an Attorney Member
- (d) Individuals Ineligible for Appointment as a Non-attorney Member
- (e) Procedure for Appointment
- (f) Term
- (g) Chair and Vice Chair
- (h) Compensation
- (i) Removal

Rule 19-705. DISCIPLINARY FUND

- (a) Establishment; Nature
- (b) Payment by Attorneys
- (c) Collection and Disbursement
- (d) Audit
- (e) Enforcement

Rule 19-706. SANCTIONS AND REMEDIES

- (a) For Professional Misconduct
- (b) For Incapacity

Rule 19-707. CONFIDENTIALITY

- (a) Peer Review Meetings
  - (1) Confidentiality Generally
  - (2) Privilege
- (b) Other Confidential Material
- (c) Public Proceedings and Records
- (d) Required Disclosures by Bar Counsel
  - (1) Reprimand by Commission
  - (2) Conviction of a Serious Crime
- (e) Required Disclosures by Clerk of the Court of Appeals
- (f) Permitted Disclosures
  - (1) Written Waiver of Attorney
  - (2) To Investigate a Complaint; Prepare a Defense to a Complaint; Prepare for a Hearing
  - (3) Communications with Complainant
  - (4) Requests by Authorities
  - (5) Request by Client Protection Fund
  - (6) Explanatory Statements



- (7) Court Order or Grand Jury Subpoena
- (8) Law Enforcement Officials
- (9) Other Disciplinary Authorities
- (10) Summarized Information

Rule 19-708. SERVICE OF PAPERS ON ATTORNEY

- (a) Statement of Charges
- (b) Service of Other Papers

Rule 19-709. COSTS

- (a) Generally
- (b) Costs Defined
- (c) Reinstatement Proceedings
- (d) Judgment
- (e) Enforcement

ADMINISTRATIVE PROCEEDINGS

Rule 19-711. COMPLAINT; INVESTIGATION BY BAR COUNSEL

- (a) Who May Initiate
- (b) Review of Complaint
- (c) Notice to Attorney
- (d) Time for Completing Investigation
  - (1) Generally
  - (2) Extension
  - (3) Sanction

Rule 19-712. INVESTIGATIVE SUBPOENA

- (a) Approval and Issuance
- (b) Contents
- (c) Service
- (d) Objection
- (e) Enforcement
- (f) Confidentiality
- (g) Recording of Statements

Rule 19-713. PERPETUATION OF EVIDENCE BEFORE PETITION FOR DISCIPLINARY OR REMEDIAL ACTION

Rule 19-714. ACTION BY BAR COUNSEL UPON COMPLETION OF INVESTIGATION

Rule 19-715. DISMISSAL OF COMPLAINT; TERMINATION OF DISCIPLINARY OR REMEDIAL PROCEEDING

- (a) Recommendation by Bar Counsel or Peer Review Panel
- (b) Action by Commission
- (c) Termination Accompanied by Warning
  - (1) Recommendation by Bar Counsel or Peer Review Panel
  - (2) Action by Commission
  - (3) Nature and Effect of Warning
- (d) Disclosure of Termination or Warning
  - (1) Disclosure of Dismissal or Termination
  - (2) Disclosure of Warning

Rule 19-716. CONDITIONAL DIVERSION AGREEMENT

- (a) When Appropriate
- (b) Voluntary Nature of Agreement; Effect of Rejection or Disapproval
  - (1) Voluntary Nature
  - (2) Effect of Rejection or Disapproval
- (c) Terms of Agreement
  - (1) In Writing and Signed
  - (2) Required Provisions
  - (3) Permissive Provisions
  - (4) If Monitor Designated
- (d) Submission to Commission
- (e) Action by Commission
  - (1) Generally
  - (2) Upon Commission Recommendations
- (f) Effect of Agreement
- (g) Amendment of Agreement
- (h) Revocation of Agreement
  - (1) Declaration of Proposed Default
  - (2) Petition
  - (3) Action by Commission
- (i) Satisfaction of Agreement
- (j) Confidentiality
  - (1) Fact that Approved Agreement was Signed; Notice to Complainant
  - (2) Contents of Agreement



Rule 19-717. REPRIMAND BY COMMISSION

- (a) Scope
- (b) Offer
  - (1) Service on Attorney
  - (2) Content
- (c) Response
- (d) Submission to Commission
- (e) Action by Commission
  - (1) Generally
  - (2) Upon Commission Recommendations
- (f) Effect of Rejection or Disapproval
- (g) Effect of Reprimand

Rule 19-718. STATEMENT OF CHARGES

- (a) Filing
- (b) Content
- (c) Service; Peer Review

Rule 19-719. PEER REVIEW PANEL

- (a) Appointment
- (b) Composition of Panel
- (c) Panel Chair
- (d) Removal and Recusal of Members
- (e) Quorum

Rule 19-720. PEER REVIEW PROCESS

- (a) Purpose
- (b) Scheduling of Meeting; Notice to Attorney
- (c) Meeting
- (d) Ex Parte Communications
- (e) Recommendation of Panel
  - (1) Agreed Upon Recommendation
  - (2) If No Agreement
- (f) Action by Commission

PROCEEDINGS ON PETITION FOR DISCIPLINARY  
OR REMEDIAL ACTION

Rule 19-721. PETITION FOR DISCIPLINARY OR REMEDIAL ACTION

- (a) Commencement of Action

- (1) Upon Approval or Direction of the Commission
- (2) Conviction of Crime; Reciprocal Action
- (b) Form of Petition

Rule 19-722. ORDER DESIGNATING JUDGE AND CLERK

- (a) Order
- (b) Service
- (c) Motion to Amend Order Designating Judge

Rule 19-723. SERVICE OF PETITION AND ORDER

- (a) Generally
- (b) Alternative Service

Rule 19-724. ANSWER

- (a) Timing
- (b) Content and Scope
  - (1) Generally
  - (2) Limited Scope
- (c) Failure to Answer

Rule 19-725. PLEADINGS; MOTIONS; AMENDMENTS

- (a) Pleadings
- (b) Amendments
- (c) Motions

Rule 19-726. DISCOVERY

Rule 19-727. JUDICIAL HEARING

- (a) Evidence and Procedure Generally
- (b) Certain Evidence Allowed
- (c) Burdens of Proof
- (d) Findings and Conclusions
- (e) Time for Completion
- (f) Transcript
- (g) Transmittal of Record

Rule 19-728. POST-HEARING PROCEEDINGS

- (a) Notice of the Filing of the Record
- (b) Exceptions; Recommendations; Statement of Costs
- (c) Response
- (d) Form

Rule 19-729. PROCEEDINGS IN COURT OF APPEALS

- (a) Oral Argument
- (b) Review by Court of Appeals
  - (1) Conclusions of Law
  - (2) Findings of Fact
    - (A) If No Exceptions are Filed
    - (B) If Exceptions are Filed
- (c) Disposition
- (d) Decision

SPECIAL PROCEEDINGS

Rule 19-731. AUDIT OF ATTORNEY ACCOUNTS AND RECORDS

- (a) Action for Audit
- (b) Petition
- (c) Caption
- (d) Show Cause Order; Service
- (e) Response to Petition
- (f) Order Directing Audit
- (g) Finality of Order
- (h) Duty of Clerk to Preserve Confidentiality
- (i) Cost of Audit
- (j) Remedy Not Exclusive

Rule 19-732. INJUNCTION; EXPEDITED ACTION

- (a) Authority to Seek Injunction
- (b) Parties
- (c) Effect of Investigation or Disciplinary or Remedial Proceeding
- (d) Order Granting Injunction
- (e) Service on Financial Institution
- (f) Expedited Disciplinary or Remedial Action
  - (1) Filing of Petition
  - (2) Action on Petition

Rule 19-733. REFERRAL FROM CHILD SUPPORT ENFORCEMENT  
ADMINISTRATION

- (a) Referral
- (b) Show Cause Order
- (c) Action by the Court of Appeals
- (d) Presumptive Effect of Referral
- (e) Termination of Suspension
  - (1) On Notification by the Child Support Enforcement Administration
  - (2) On Verified Petition by Attorney
- (f) Other Disciplinary Proceedings

Rule 19-734. CONSERVATOR OF CLIENT MATTERS

- (a) Appointment; When Authorized; Service
- (b) Petition and Order
- (c) Inventory
- (d) Disposition of Files
- (e) Sale of Law Practice
- (f) Compensation
  - (1) Entitlement
  - (2) Motion for Judgment
  - (3) Payment from Disciplinary Fund
- (g) Confidentiality

Rule 19-735. RESIGNATION OF ATTORNEY

- (a) Application
- (b) When Attorney May Not Resign
- (c) Procedure
- (d) Order of the Court of Appeals
- (e) Duty of Clerk
- (f) Effect of Resignation
- (g) Motion to Vacate

Rule 19-736. CONSENT TO DISCIPLINE OR INACTIVE STATUS

- (a) General Requirement
- (b) Consent to Discipline for Misconduct
  - (1) Joint Petition
  - (2) Affidavit Required
  - (3) Order of the Court of Appeals
- (c) Consent to Placement on Active Status
  - (1) Joint Petition
  - (2) Affidavit Required
  - (3) Order of the Court of Appeals

- (d) Duty of Clerk
- (e) Effect of Denial

Rule 19-737. RECIPROCAL DISCIPLINE OR INACTIVE STATUS

- (a) Duty of Attorney
- (b) Petition in Court of Appeals
- (c) Show Cause Order
- (d) Temporary Suspension of Attorney
- (e) Exceptional Circumstances
- (f) Action by Court of Appeals
- (g) Conclusive Effect of Adjudication
- (h) Effect of Stay in Other Jurisdiction
- (i) Duties of Clerk of Court of Appeals

Rule 19-738. DISCIPLINE ON CONVICTION OF CRIME

- (a) Definition
- (b) Duty of Attorney
- (c) Petition Upon Conviction
  - (1) Generally
  - (2) Contents
- (d) Temporary Suspension
- (e) Petition When Imposition of Sentence is Delayed
  - (1) Generally
  - (2) Contents
  - (3) Interim Temporary Suspension
  - (4) Entry of Judgment of Conviction or Order for New Trial
- (f) Statement of Charges
- (g) Further Proceedings
  - (1) No Appeal of Conviction
  - (2) Appeal of Conviction
  - (3) Effect of Incarceration
- (h) Right to Earlier Hearing
- (i) Conclusive Effect of Final Conviction
- (j) Duties of Clerk of Court of Appeals

Rule 19-739. SUMMARY PLACEMENT ON INACTIVE STATUS

- (a) Grounds
- (b) Procedure
  - (1) Petition for Summary Placement; Confidentiality
  - (2) Service
- (c) Order of the Court of Appeals
- (d) Effect on Disciplinary or Remedial Proceeding
- (e) Termination of Inactive Status



(f) Duties of Clerk of Court of Appeals  
Rule 19-740. PERMANENT RETIRED STATUS

- (a) Purpose
- (b) Criteria
- (c) Action by Commission
- (d) Effect of Disapproval
- (e) Effect of Permanent Retired Status
- (f) Extension

DISPOSITIONS BY COURT OF APPEALS

Rule 19-741. DISPOSITION - GENERALLY

- (a) Oral Argument
- (b) Review by Court of Appeals
  - (1) Conclusions of Law
  - (2) Findings of Fact
    - (A) If No Exceptions are Filed
    - (B) If Exceptions are Filed
- (c) Disposition
  - (1) Generally
  - (2) If Suspension Ordered
- (d) Decision
- (e) Effective Date of Order

Rule 19-742. ORDER OF DISBARMENT OR SUSPENSION

- (a) Duties of Clerk
- (b) Effect of Order
- (c) Affirmative Duties of Attorney
  - (1) Requirements to be Completed Within 15 Days
  - (2) Requirements to be Completed Promptly and Within 30 Days
  - (3) Requirements to be Completed Within 30 Days
- (d) Duties of Bar Counsel
- (e) Conditions on Reinstatement
  - (1) Time for Application
  - (2) Other Conditions to or Upon Reinstatement
- (f) Responsibility of Affiliated Attorneys
- (g) Non-admitted Attorney
  - (1) Duties of Clerk
  - (2) Effect of Order
- (h) Modification of Order
- (i) Sanctions for Violations
  - (1) Disciplinary or Remedial Action
  - (2) Injunction
  - (3) Contempt



Rule 19-743. ORDER OF REPRIMAND

- (a) Accompanying Requirements
- (b) Content of Order

Rule 19-744. PLACEMENT ON INACTIVE STATUS

- (a) Effect of Order
  - (1) Generally
  - (2) If Attorney Unable to Comply with Rule 19-742 (c)
- (b) Duties of Clerk
- (c) Duties of Bar Counsel
- (d) Conditions on Reinstatement
- (e) Other Provisions of Rule 19-742

REINSTATEMENT

Rule 19-751. REINSTATEMENT - SUSPENSION SIX MONTHS OR LESS

- (a) Scope of Rule
- (b) Reinstatement Not Automatic
- (c) Petition for Reinstatement
  - (1) Requirement
  - (2) Timing
  - (3) Content
- (d) Review by Bar Counsel
- (e) Action by Court of Appeals
  - (1) If No Timely Objection Filed
  - (2) If Timely Objection Filed
- (f) Effective Date of Reinstatement Order
- (g) Duties of Clerk
  - (1) Attorney Admitted to Practice
  - (2) Attorney Not Admitted to Practice
- (h) Motion to Vacate Reinstatement

Rule 19-752. REINSTATEMENT - OTHER SUSPENSION; DISBARMENT;  
INACTIVE STATUS; RESIGNATION

- (a) Scope of Rule
- (b) Reinstatement Not Automatic
- (c) Petition for Reinstatement
  - (1) Requirement
  - (2) Timing Following Order of Suspension or Disbarment
  - (3) Content
- (d) Information for Bar Counsel
  - (1) Generally

- (2) If Disbarred or Suspended
  - (3) If Placed on Inactive Status
- (e) Response to Petition
  - (1) Generally
  - (2) Consent
- (f) Disposition
  - (1) Consent by Bar Counsel
  - (2) Other Cases
- (g) Further Proceedings
  - (1) Order Designating Judge
  - (2) Discovery
  - (3) Hearing
  - (4) Proceedings in Court of Appeals
- (h) Criteria for Reinstatement
  - (1) Generally
  - (2) Specific Criteria
- (i) Conditions to Reinstatement
- (j) Effective Date of Reinstatement Order
- (k) Duties of Clerk
  - (1) Attorney Admitted to Practice
  - (2) Attorney Not Admitted to Practice
- (l) Motion to Vacate Reinstatement

REGISTER OF ATTORNEYS; NOTICES

Rule 19-761. DUTIES OF CLERK OF COURT OF APPEALS UPON ATTORNEY'S  
SUSPENSION, TERMINATION, OR REINSTATEMENT

- (a) Register of Attorneys
- (b) Notice
- (c) Notice Upon Request
- (d) Form of Notice

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

GENERAL PROVISIONS

Rule 19-701. DEFINITIONS

In this Chapter, the following definitions apply except as otherwise expressly provided or as necessary implication requires:

(a) Attorney

"Attorney" means an individual admitted by the Court of Appeals to practice law in this State. For purposes of discipline or inactive status, the term also includes (1) an individual not admitted by the Court of Appeals but who engages in the practice of law in this State, holds himself or herself out as practicing law in this State, or who has the obligation of supervision or control over another attorney who engages in the practice of law in this State, and (2) an individual who is seeking reinstatement pursuant to Rules 19-751 or 19-752 following the imposition of discipline or inactive status.

Cross reference: See Rule 19-308.5 (8.5) of the Maryland Attorneys' Rules of Professional Conduct.

(b) Circuit

"Circuit" means Appellate Judicial Circuit.

(c) Client Protection Fund

"Client Protection Fund" means the Client Protection Fund of

the Bar of Maryland created by Code, Business and Occupations Article, §10-311 and administered pursuant to Rule 19-604.

(d) Commission

"Commission" means the Attorney Grievance Commission of Maryland.

(e) Conditional Diversion Agreement

"Conditional diversion agreement" means the agreement provided for in Rule 19-716.

(f) Disbarment

"Disbarment" means the unconditional termination of any privilege to practice law in this State pursuant to Rule 19-742 and, when applied to an attorney not admitted by the Court of Appeals to practice law, means the unconditional exclusion from the admission to or the exercise of any privilege to practice law in this State.

(g) Incapacity

"Incapacity" means the inability to render adequate legal service by reason of mental or physical illness or infirmity, or addiction to or dependence upon alcohol or one or more drugs or other intoxicants.

(h) Office for the Practice of Law

"Office for the practice of law" means an office in which an attorney usually devotes a substantial part of the attorney's time to the practice of law during ordinary business hours in the traditional work week.

(i) Petition for Disciplinary or Remedial Action

"Petition for disciplinary or remedial action" means the petition filed by Bar Counsel pursuant to Rule 19-721.

(j) Professional Misconduct

"Professional misconduct" or "misconduct" has the meaning set forth in Rule 19-308.4 (8.4) of the Maryland Attorneys' Rules of Professional Conduct in Chapter 300 of this Title. The term includes the knowing failure to respond to a request for information authorized by this Chapter without asserting, in writing, a privilege or other basis for such failure.

(k) Reinstatement

"Reinstatement" means the termination of disbarment, resignation, suspension, inactive status, or any exclusion to practice law in this State pursuant to an Order entered under Rule 19-751 or 19-752.

(l) Serious Crime

"Serious crime means (1) a felony under Maryland law; (2) a crime committed in another state or under federal law that would have been a felony under Maryland law had the crime been committed in Maryland or in violation of Maryland law, and (3) a crime under federal law or the law of any state that is punishable by imprisonment for three years or more.

(m) State

"State" means (1) a state, possession, territory, or commonwealth of the United States or (2) the District of

Columbia.

(n) Statement of Charges

"Statement of charges" means the document filed by Bar Counsel pursuant to Rule 19-718.

(o) Suspension

"Suspension" means the temporary termination of the privilege to practice law, either for a fixed period or indefinitely and, when applied to an attorney not admitted by the Court of Appeals to practice law, means the temporary or indefinite exclusion from the admission to or the exercise of any privilege to practice law in this State.

(p) Warning

"Warning" means a notice that warns an attorney about future misconduct.

Source: This Rule is derived from former Rule 16-701 (2016).



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-702. ATTORNEY GRIEVANCE COMMISSION

(a) Creation and Composition

There is an Attorney Grievance Commission which shall consist of 12 members appointed by the Court of Appeals. Nine members shall be attorneys and three members shall not be attorneys.

(b) Term

Subject to section (f) of this Rule, the term of each member is three years. The terms of the members shall be staggered so that the terms of three attorney members and one non-attorney member expire each year.

(c) Compensation

A member of the Commission may not receive compensation for serving in that capacity but is entitled to reimbursement for expenses reasonably incurred in the performance of official duties in accordance with standard State travel regulations.

(d) Chair and Vice Chair

The Court of Appeals shall designate one attorney member as the Chair of the Commission and one attorney member as the Vice Chair. In the absence or disability of the Chair or upon an express delegation of authority by the Chair, the Vice Chair

shall have the authority and perform the duties of the Chair.

(e) Executive Secretary

The Commission may select an attorney as Executive Secretary. The Executive Secretary shall serve at the pleasure of the Commission and receive the compensation set forth in the budget of the Commission. As directed by the Commission, the Executive Secretary shall (1) receive documents that are filed with the Commission and maintain the records of the Commission, (2) prepare the agenda of meetings of the Commission and before each meeting send to each Commission member a copy of the agenda and meeting materials, (3) serve as in-house attorney to the Commission, (4) serve as liaison to the Chair of the Peer Review Committee, and (5) have such other administrative powers and duties assigned by the Commission.

(f) Removal of Commission Members

The Court of Appeals may remove a member of the Commission at any time.

(g) Quorum

The presence of seven members of the Commission constitutes a quorum for the transaction of business. The concurrence of seven members is required for all actions taken by the Commission other than adjournment of a meeting for lack of a quorum.

(h) Powers and Duties

The Commission has the powers and duties to:

(1) recommend to the Court of Appeals the adoption of procedural and administrative guidelines and policies consistent with these Rules;

(2) employ and prescribe the compensation of the Executive Secretary;

(3) with the approval of the Court of Appeals, appoint Bar Counsel;

(4) supervise the activities of Bar Counsel;

(5) authorize Bar Counsel to employ attorneys, investigators, and staff personnel and to prescribe their compensation;

(6) appoint special counsel as the need arises;

(7) appoint members of the Peer Review Committee, designate the Chair and one or more Vice Chairs, and remove any member for cause;

(8) employ and prescribe the compensation of personnel to assist the Chair of the Peer Review Committee;

(9) exercise the authority granted in the Rules in this Chapter with respect to the approval or disapproval of (A) the dismissal of a complaint or Statement of Charges, (B) the termination of a complaint with or without a warning, (C) a Conditional Diversion Agreement, (D) a reprimand, or (E) the filing of a Petition for Disciplinary or Remedial Action;

(10) grant or deny any requests for extensions of time permitted under the Rules of this Chapter or delegate to the Chair of the Commission the authority to grant or deny such

requests;

(11) authorize the issuance of subpoenas in accordance with these Rules;

(12) perform the duties required by Title 19, Chapter 400 (Attorney Trust Accounts);

(13) administer the Disciplinary Fund;

(14) submit not later than September 1 of each year a report to the Court of Appeals accounting for the Disciplinary Fund, evaluating the effectiveness of the disciplinary system, and recommending any changes; and

(15) submit annually to the State Court Administrator for review and approval by the Court of Appeals a proposed budget for the disciplinary system.

(i) Effect of Chair's Decisions

When a request for action under this Chapter is subject to the approval of the Chair of the Commission, the Chair's approval of the request is final and shall be reported to the Commission. If the Chair denies the request or refers it to the Commission for action, the Commission shall act upon the request at its next meeting.

Source: This Rule is derived from former Rule 16-711 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-703. BAR COUNSEL

(a) Appointment

Subject to approval by the Court of Appeals, the Commission shall appoint an attorney as Bar Counsel. Before appointing Bar Counsel, the Commission shall notify bar associations and the general public of the vacancy and consider any recommendations that are timely submitted. Bar Counsel shall serve at the pleasure of the Commission and shall receive the compensation set forth in the budget of the Commission.

(b) Powers and Duties

Subject to the supervision and approval, if required, of the Commission, Bar Counsel has the powers and duties to:

(1) investigate professional misconduct or incapacity on the part of an attorney;

(2) issue subpoenas as provided by Rule 19-712;

(3) enter into and implement Conditional Diversion Agreements, issue notices, and administer warnings and reprimands;

(4) file statements of charges, participate in proceedings before Peer Review Panels, and prosecute all disciplinary and remedial proceedings;

(5) file and prosecute petitions for disciplinary and remedial actions in the name of the Commission;

(6) monitor and enforce compliance with all disciplinary and remedial orders of the Court of Appeals;

(7) investigate petitions for reinstatement and applications for resignation from the practice of law and represent the Commission in those proceedings;

(8) initiate, intervene in, and prosecute actions to enjoin the unauthorized practice of law;

(9) employ attorneys, investigators, and staff personnel as authorized by the Commission at the compensation set forth in the Commission's budget;

(10) discharge any employee;

(11) maintain dockets and records of all papers filed in disciplinary or remedial proceedings;

(12) make reports to the Commission; and

(13) perform other duties prescribed by the Commission, this Chapter, and the Rules in Title 19, Chapter 400 (Attorney Trust Accounts).

Source: This Rule is derived from former Rule 16-712 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-704. PEER REVIEW COMMITTEE

(a) Creation

There is a Peer Review Committee, the members of which are appointed to serve on Peer Review Panels pursuant to Rule 19-719.

(b) Composition

The Peer Review Committee consists of the number of individuals in each circuit that the Commission determines is necessary to conduct the volume of peer review proceedings. Of the number of members determined for each circuit, one-third shall be residents of that circuit who are not attorneys and the remainder shall be attorneys who maintain offices for the practice of law within that circuit.

(c) Individuals Ineligible for Appointment as an Attorney Member

The Commission may not appoint as an attorney member to the Peer Review Committee an individual who:

(1) is not admitted by the Court of Appeals to practice law in Maryland;

(2) has not actively and lawfully engaged in the practice of law in Maryland for at least five years;

(3) is a judge of a court of record;

(4) is the subject of a pending statement of charges or petition for disciplinary or remedial action; or

(5) was ever disbarred or suspended by the Court of Appeals or by a disciplinary body or court of the United States or any state.

(d) Individuals Ineligible for Appointment as a Non-attorney Member

The Commission may not appoint as a non-attorney member to the Peer Review Committee an individual who:

(1) has been convicted of a serious crime and the conviction has not been reversed or vacated; or

(2) is the complainant in a pending matter against an attorney under the Rules in this Chapter.

(e) Procedure for Appointment

Before appointing members of the Peer Review Committee, the Commission shall notify bar associations and the general public in the appropriate circuit and consider any applications and recommendations that are timely submitted. The Commission shall prepare a brief notice informing attorneys how they may apply to serve on the Peer Review Committee and deliver the notice to the Trustees of the Client Protection Fund of the Bar of Maryland, who at least once a year shall send a copy of the notice to each attorney who is required to pay an annual fee to the Fund.

(f) Term



The term of each member is two years. The Commission may extend the term of any member assigned to a Peer Review Panel until the completion of a pending matter. A member may be reappointed.

(g) Chair and Vice Chair

The Commission shall designate one attorney member of the Peer Review Committee as Chair and one or more attorney members as Vice Chairs. In the absence or disability of the Chair or upon express delegation of authority by the Chair, the Vice Chair shall have the authority and perform the duties of the Chair.

(h) Compensation

A member of the Peer Review Committee may not receive compensation for serving in that capacity but is entitled to reimbursement for expenses reasonably incurred in the performance of official duties in accordance with standard State travel regulations.

(i) Removal

The Commission may remove a member of the Peer Review Committee for cause.

Source: This Rule is derived from former Rule 16-713 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-705. DISCIPLINARY FUND

(a) Establishment; Nature

There is a Disciplinary Fund. The Fund is created and administered pursuant to the Constitutional authority of the Court of Appeals to regulate the practice of law in the State of Maryland and to implement and enforce the Maryland Attorneys' Rules of Professional Conduct adopted by the Court. The Fund consists entirely of contributions made by attorneys pursuant to section (b) of this Rule and income from those contributions. It is dedicated entirely to the purposes established by the Rules in this Title.

(b) Payment by Attorneys

As a condition precedent to the practice of law, each attorney shall pay annually an amount prescribed by the Court of Appeals. The amount shall be in addition to and paid by the same date as other sums required to be paid to the Client Protection Fund pursuant to Rule 19-605.

(c) Collection and Disbursement

The treasurer of the Client Protection Fund of the Bar of Maryland shall collect and remit to the Commission the sums paid by attorneys to the Disciplinary Fund.

(d) Audit

The Commission shall direct annually an independent audit of the Disciplinary Fund. The expense of the audit shall be paid out of the Fund.

(e) Enforcement

Enforcement of payment of annual assessments of attorneys pursuant to this Rule is governed by the provisions of Rule 19-606.

Source: This Rule is derived from former Rule 16-714 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-706. SANCTIONS AND REMEDIES

(a) For Professional Misconduct

An attorney who is found to have committed professional misconduct is subject to one or more of the following sanctions and remedies:

- (1) disbarment by the Court of Appeals;
- (2) suspension, for a fixed period or indefinitely, by the Court of Appeals;
- (3) reprimand by the Court of Appeals or, with the attorney's consent, by the Commission;
- (4) conditional diversion in accordance with a Conditional Diversion Agreement; and
- (5) termination of a disciplinary proceeding with or without a warning.

(b) For Incapacity

An attorney who is found to have an incapacity is subject to the following:

- (1) placement on inactive status, subject to further order of the Court of Appeals;
- (2) conditional diversion in accordance with a Conditional Diversion Agreement; or

(3) termination of a remedial proceeding.

Source: This Rule is derived from former Rule 16-721 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-707. CONFIDENTIALITY

(a) Peer Review Meetings

(1) Confidentiality Generally

All communications, whether written or oral, and all non-criminal conduct made or occurring at a meeting of a peer review panel are confidential and not open to public disclosure or inspection. Except as otherwise expressly permitted in this Rule, individuals present at the meeting shall maintain that confidentiality and may not disclose or be compelled to disclose such communications or conduct in any judicial, administrative, or other proceeding.

(2) Privilege

Communications and conduct that are confidential under this Rule are privileged and are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use or occurrence at a peer review meeting.

(b) Other Confidential Material

Except as otherwise provided in this Rule, the records and proceedings listed in this section and the contents of those records and proceedings are (1) confidential and not open to

public inspection and (2) may not be disclosed by Bar Counsel, the staff and investigators of the Office of Bar Counsel, any member of the Commission, the staff of the Commission, the Peer Review Committee, any attorney involved in the proceeding, or, in any civil action or proceeding, by the complainant or an attorney for the complainant:

(A) the records of an investigation by Bar Counsel, including the existence and content of any complaint or response, until Bar Counsel files a petition for disciplinary or remedial action pursuant to Rule 19-721;

(B) the records and proceedings of a Peer Review Panel;

(C) information that is the subject of a protective order;

(D) the contents of a prior private reprimand or Bar Counsel reprimand pursuant to the Attorney Disciplinary Rules in effect prior to July 1, 2001, but the fact that a private or Bar Counsel reprimand was issued and the facts underlying the reprimand may be disclosed to a Peer Review Panel in a proceeding against the attorney alleging similar misconduct;

Committee note: Disclosure under subsection (b) (2) (D) of this Rule is not dependent upon a finding of relevance under Rule 19-720 (c) (1).

(E) the contents of a warning issued by the Commission as provided in Rule 19-715 (d);

(F) the contents of a Conditional Diversion Agreement as provided in Rule 19-716 (j) (2);

(G) the records and proceedings of the Commission on matters

that are confidential under this Rule;

(H) a Petition for Disciplinary or Remedial Action based solely on the alleged incapacity of an attorney and records and proceedings, other than proceedings in the Court of Appeals, on that petition; and

(I) a petition for an audit of an attorney's accounts filed pursuant to Rule 19-731 and records and proceedings, other than proceedings in the Court of Appeals, on that petition.

(c) Public Proceedings and Records

The following records and proceedings are public and open to inspection:

(1) except as otherwise provided in subsection (b) (2) (H) of this Rule, a Petition for Disciplinary or Remedial Action, all proceedings on that petition, and all documents or other items admitted into evidence at any hearing on the petition;

(2) an affidavit filed pursuant to Rule 19-736 that consents to discipline and an order that disbars, suspends, or reprimands the attorney by consent;

(3) a reprimand issued by the Commission pursuant to Rule 19-717; and

(4) except as otherwise provided by order of the Court of Appeals, all proceedings under this Chapter in the Court of Appeals.

(d) Required Disclosures by Bar Counsel

(1) Reprimand by Commission



If an attorney is reprimanded by the Commission, Bar Counsel shall notify the Clerk of the Court of Appeals.

(2) Conviction of a Serious Crime

If Bar Counsel has received and verified information that an attorney has been convicted of a serious crime, Bar Counsel shall notify the Commission and the Clerk of the Court of Appeals.

(e) Required Disclosures by Clerk of the Court of Appeals

If an attorney resigns or is reprimanded, convicted of a serious crime, or, by order of the Court of Appeals, disbarred, suspended, reinstated, or transferred to inactive status, the Clerk of the Court of Appeals of Maryland shall notify the National Lawyer Regulatory Data Bank of the American Bar Association and the disciplinary authority of every other jurisdiction in which the attorney is admitted to practice. In addition, the Clerk shall comply with Rule 19-761 upon entry of each order of the Court by which an attorney is disbarred, suspended, reinstated, or transferred to inactive status.

(f) Permitted Disclosures

(1) Written Waiver of Attorney

If the attorney has signed a written waiver of confidentiality, the Commission or Bar Counsel may disclose information to the extent permitted by the waiver.

(2) To Investigate a Complaint; Prepare a Defense to a Complaint; Prepare for a Hearing

The parties to a disciplinary or remedial action may use confidential information other than the records and proceedings of a Peer Review Panel to the extent reasonably necessary to investigate a complaint, prepare a defense to a complaint, or prepare for a public hearing in the action but shall preserve the confidentiality of the information in all other respects.

(3) Communications with Complainant

Upon request of a complainant, Bar Counsel may disclose to the complainant the status of an investigation and of any disciplinary or remedial proceedings resulting from information from the complainant.

(4) Requests by Authorities

Upon receiving a request that complies with this subsection, the Commission or Bar Counsel may disclose the pendency, subject matter, status, and disposition of disciplinary or remedial proceedings involving an attorney or former attorney that did not result in dismissal of a complaint. The request must be made in writing by a judicial nominating commission, a bar admission authority, the President of the United States, the Governor of a state, or a committee of the General Assembly of Maryland or of the United States Congress. The requesting entity must represent that it is considering the nomination, appointment, confirmation, approval, or admission to practice of the attorney or former attorney, and that the information will be treated as confidential and without the consent of the attorney

will not be copied or disclosed to anyone other than the requesting entity.

(5) Request by Client Protection Fund

Upon written request by the Client Protection Fund, Bar Counsel or the Commission may permit an authorized officer of the Fund to review and copy specific records relating to an attorney that are relevant to a claim pending before the Fund. Unless the Court orders otherwise, the Fund shall maintain the confidentiality of any records it has reviewed or copied.

(6) Explanatory Statements

The Chair of the Commission may issue a brief explanatory statement necessary to correct any public misperception about actual or possible proceedings.

(7) Court Order or Grand Jury Subpoena

Bar Counsel shall comply with an order of a court or a subpoena issued by a duly constituted grand jury of this State or the United States to produce records and disclose confidential information concerning the attorney.

(8) Law Enforcement Officials

With the approval of the Chair of the Commission, Bar Counsel may provide to law enforcement and prosecuting officials information involving criminal activity.

(9) Other Disciplinary Authorities

With the approval of the Chair of the Commission, Bar Counsel may provide to the disciplinary authority of any other

jurisdiction in which an attorney is admitted to practice records and other confidential information concerning the attorney.

(10) Summarized Information

In order to improve the administration of justice, the Commission and Bar Counsel may publish reports and summaries of confidential investigations, charges, and disciplinary or remedial proceedings, provided that the identity of attorneys, complainants, and witnesses is not revealed.

Source: This Rule is derived from former Rule 16-723 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-708. SERVICE OF PAPERS ON ATTORNEY

(a) Statement of Charges

A copy of a Statement of Charges filed pursuant to Rule 19-718 shall be served on an attorney in the manner prescribed by Rule 2-121. If after reasonable efforts the attorney cannot be served personally, service may be made upon the employee designated by the Client Protection Fund pursuant to Rule 19-604 (a) (12), who shall be deemed the attorney's agent for receipt of service. The Fund's employee shall send, by both certified mail and ordinary mail, a copy of the papers so served to the attorney at the address maintained in the Fund's records and to any other address provided by Bar Counsel.

(b) Service of Other Papers

Except as otherwise provided in this Chapter, other notices and papers may be served on an attorney in the manner provided by Rule 1-321 for service of papers after an original pleading.

Committee note: The attorney's address contained in the records of the Client Protection Fund of the Bar of Maryland may be the attorney's last known address.

Cross reference: See Rule 19-721 concerning service of a Petition for Disciplinary or Remedial Action.

Source: This Rule is derived from former Rule 16-724 (2016).



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-709. COSTS

(a) Generally

Except as provided in section (c) of this Rule, and unless the Court of Appeals orders otherwise, the prevailing party in proceedings under this Chapter is entitled to reasonable and necessary costs. By order, the Court may allocate costs among the parties.

(b) Costs Defined

Costs include:

- (1) court costs;
- (2) reasonable and necessary fees and expenses paid to an expert witness who testified in the proceeding before the circuit court judge;
- (3) reasonable and necessary travel expenses of a witness who is not an expert witness;
- (4) reasonable and necessary costs of a transcript of proceedings before the circuit court judge;
- (5) reasonable and necessary fees and expenses paid to a court reporter or reporting service for attendance at a deposition and for preparing a transcript, audio recording, or audio-video recording of the deposition; and

(6) other reasonable and necessary expenses, excluding attorneys' fees, incurred in investigating the claims and in prosecuting or defending against the petition for disciplinary or remedial action before the circuit court judge and in the Court of Appeals.

(c) Reinstatement Proceedings

In proceedings for reinstatement under Rules 19-751 or 19-752, the attorney shall pay all court costs and costs of investigation and other proceedings on the petition, including the costs of physical and mental examinations, transcripts, and other reasonable expenditures necessary to evaluate the petition.

(d) Judgment

Costs of proceedings under this Chapter, including the costs of all transcripts, shall be assessed by the Clerk of the Court of Appeals and included in the order as a judgment. On motion, the Court may review the action of the Clerk.

(e) Enforcement

Rule 8-611 applies to proceedings under this Chapter.

Source: This Rule is in part derived from former 16-761 (2016) and is in part new.



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEDURES

Rule 19-711. COMPLAINT; INVESTIGATION BY BAR COUNSEL

(a) Who May Initiate

Bar Counsel may file a complaint on Bar Counsel's own initiative, based on information from any source. Any other individual also may file a complaint with Bar Counsel. Any communication to Bar Counsel that (1) is in writing, (2) alleges that an attorney has engaged in professional misconduct or has an incapacity, (3) includes the name and address of the individual making the communication, and (4) states facts which, if true, would constitute professional misconduct by or demonstrate an incapacity of an attorney constitutes a complaint.

(b) Review of Complaint

(1) Bar Counsel shall make an appropriate investigation of every complaint that is not facially frivolous or unfounded.

(2) If Bar Counsel concludes that the complaint is either without merit or does not allege facts which, if true, would demonstrate either professional misconduct or incapacity, Bar Counsel shall dismiss the complaint and notify the complainant of the dismissal. Otherwise, subject to subsection (b)(3) of this Rule, Bar Counsel shall (A) open a file on the complaint, (B)

acknowledge receipt of the complaint and explain in writing to the complainant the procedures for investigating and processing the complaint, (C) comply with the notice requirement of section (c) of this Rule, and (D) conduct an investigation to determine whether reasonable grounds exist to believe the allegations of the complaint.

Committee note: Before determining whether a complaint is frivolous or unfounded, Bar Counsel may contact the attorney and obtain an informal response to the allegations.

(3) If Bar Counsel concludes that a civil or criminal action involving material allegations against the attorney substantially similar to those alleged in the complaint is pending in any court of record in the United States, Bar Counsel, with the approval of the Commission, may defer action on the complaint pending a determination of those allegations in that action. Bar Counsel shall notify the complainant of that decision and, during the period of the deferral, shall report to the Commission, at least every six months, the status of the other action. The Commission, at any time, may direct Bar Counsel to proceed in accordance with subsection (b) (2) of this Rule.

(c) Notice to Attorney

(1) Except as otherwise provided in this section, Bar Counsel shall notify the attorney who is the subject of the complaint that Bar Counsel is undertaking an investigation to determine whether the attorney has engaged in professional misconduct or is incapacitated. The notice shall be given before the conclusion

of the investigation and shall include the name and address of the complainant and the general nature of the professional misconduct or incapacity under investigation. As part of the notice, Bar Counsel may demand that the attorney provide information and records that Bar Counsel deems appropriate and relevant to the investigation. The notice shall state the time within which the attorney shall provide the information and any other information that the attorney may wish to present. The notice shall be served on the attorney in accordance with Rule 19-708 (b).

(2) Bar Counsel need not give notice of investigation to an attorney if, with the approval of the Commission, Bar Counsel proceeds under Rule 19-737, 19-738, or 19-739.

(d) Time for Completing Investigation

(1) Generally

Subject to subsection (b)(3) of this Rule or unless the time is extended pursuant to subsection (d)(2) of this Rule, Bar Counsel shall complete an investigation within 90 days after opening the file on the complaint.

(2) Extension

(A) Upon written request by Bar Counsel and a finding of good cause by the Commission, the Commission may grant an extension for a specified period. Upon a separate request by Bar Counsel and a finding of good cause, the Commission may renew an extension for a specified period.

(B) The Commission may not grant or renew an extension, at any one time, of more than 60 days unless it finds specific good cause for a longer extension.

(C) If an extension exceeding 60 days is granted, Bar Counsel shall provide the Commission with a status report at least every 60 days.

(3) Sanction

For failure to comply with the time requirements of section (d) of this Rule, the Commission may take any action appropriate under the circumstances, including dismissal of the complaint and termination of the investigation.

Source: This Rule is derived from former Rule 16-731 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-712. INVESTIGATIVE SUBPOENA

(a) Approval and Issuance

(1) The Chair of the Commission may authorize Bar Counsel to issue a subpoena to compel the attendance of witnesses and the production of designated documents or other tangible things at a time and place specified in the subpoena if the Chair finds that (A) the subpoena is necessary to and in furtherance of an investigation being conducted by Bar Counsel pursuant to Rule 19-711 or (B) the subpoena has been requested by a disciplinary authority of another jurisdiction pursuant to the law of that jurisdiction for use in a disciplinary or remedial proceeding in that jurisdiction to determine alleged professional misconduct or incapacity of an attorney subject to the jurisdiction of that disciplinary authority.

(2) Upon approval, Bar Counsel may issue the subpoena.

(b) Contents

A subpoena shall comply with the requirements of Rule 2-510 (c), except that to the extent practicable, a subpoena shall not identify the attorney under investigation. A subpoena to compel attendance of a witness shall include or be accompanied by a notice that the witness (1) has the right to consult with an

attorney with respect to the assertion of a privilege or any other matter pertaining to the subpoena and (2) may file a motion for judicial relief under Rule 2-510.

(c) Service

Except for service upon an attorney in accordance with Rule 19-708 (b), a subpoena shall be served in accordance with Rule 2-510. Promptly after service of a subpoena on a person other than the attorney under investigation and in addition to giving any other notice required by law, Bar Counsel shall serve a copy of the subpoena on the attorney under investigation.

Cross reference: For examples of other notice required by law, see Code, Financial Institutions Article, §1-304, concerning notice to depositors of subpoenas for financial records; Code, Health General Article, §4-306 concerning disclosure of medical records, and Code, Health General Article, §4-307, concerning notice of a request for issuance of compulsory process seeking medical records related to mental health services.

(d) Objection

The person served with the subpoena or the attorney under investigation may file a motion in the circuit court for the county in which the subpoena was served for any order permitted by Rule 2-510 (e). The motion shall be filed promptly and, whenever practicable, at or before the time specified in the subpoena for compliance.

(e) Enforcement

On the motion of Bar Counsel, the court may enforce compliance with the subpoena.

(f) Confidentiality

Any paper filed in court with respect to a subpoena shall be sealed upon filing and shall be open to inspection only by order of the court. A hearing before the court on any motion shall be on the record and shall be conducted out of the presence of all individuals other than Bar Counsel, the attorney, and those individuals whose presence the court deems necessary.

(g) Recording of Statements

All statements by the subpoenaed witness shall be under oath and shall be contemporaneously recorded stenographically or electronically.

Source: This Rule is derived from former Rule 16-732 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-713. PERPETUATION OF EVIDENCE BEFORE PETITION FOR  
DISCIPLINARY OR REMEDIAL ACTION

Before a Petition for Disciplinary or Remedial Action is filed, Bar Counsel or an attorney who is or may be the subject of an investigation by Bar Counsel may perpetuate testimony or other evidence relevant to a claim or defense that may be asserted in the expected action. The perpetuation of evidence shall be governed by Rule 2-404 and the issuance of subpoenas and protective orders shall be governed by Rules 2-510 and 2-403. The Commission shall perform the functions that the court performs under those Rules.

Source: This Rule is derived from former Rule 16-733 (2016).



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-714. ACTION BY BAR COUNSEL UPON COMPLETION OF INVESTIGATION

Upon completion of an investigation, Bar Counsel shall:

(a) recommend to the Commission dismissal of the complaint or termination of the proceeding without disciplinary or remedial action, with or without a warning, in accordance with Rule 19-715;

(b) recommend to the Commission approval of a Conditional Diversion Agreement in accordance with Rule 19-716;

(c) recommend to the Commission a reprimand in accordance with Rule 19-717;

(d) file with the Commission a Statement of Charges in accordance with Rule 19-718; or

(e) recommend to the Commission the immediate filing of a Petition for Disciplinary or Remedial Action, with or without collateral remedial proceedings, in accordance with Rules 19-737, 19-738, or 19-739.

Source: This Rule is derived from former Rule 16-734 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-715. DISMISSAL OF COMPLAINT; TERMINATION OF DISCIPLINARY OR REMEDIAL PROCEEDING

(a) Recommendation by Bar Counsel or Peer Review Panel

Bar Counsel, upon completion of an investigation, or a Peer Review Panel, after a meeting of the Panel, may recommend to the Commission that:

(1) a complaint be dismissed because the evidence fails to show that the attorney has engaged in professional misconduct or is incapacitated; or

(2) a disciplinary or remedial proceeding be (A) terminated, with or without a warning, because any professional misconduct on the part of the attorney was not sufficiently serious to warrant discipline and is not likely to be repeated, or (B) terminated, without a warning, because any incapacity on the part of the attorney is not sufficiently serious or long-lasting to warrant remedial action or, if resolved, is not likely to recur.

(b) Action by Commission

If satisfied with the recommendation of Bar Counsel or the Peer Review Panel, the Commission shall dismiss the complaint or terminate the disciplinary or remedial proceeding, as appropriate. If the recommendation includes a warning, the

matter shall proceed as provided in section (c) of this Rule.

(c) Termination Accompanied by Warning

(1) Recommendation by Bar Counsel or Peer Review Panel

Bar Counsel or the Peer Review Panel may recommend to the Commission that the termination of a disciplinary or remedial proceeding be accompanied by a warning upon their respective conclusion that such a warning would be helpful to ensure that the conduct that led to the proceeding is not repeated.

(2) Action by Commission

(A) If satisfied that termination of the disciplinary or remedial proceeding should be accompanied by a warning, the Commission shall mail to the attorney a notice that states (i) that on or after 30 days from the date of the notice, the Commission intends to terminate the disciplinary or remedial proceeding and accompany the termination with a warning, (ii) the content of the proposed warning, and (iii) that the attorney may reject the proposed warning by filing a written rejection with the Commission no later than 25 days after the date of the notice.

(B) If the warning is not timely rejected, the Commission shall issue the warning when it dismisses the disciplinary or remedial proceeding.

(C) If the warning is timely rejected, the warning shall not be issued, but Bar Counsel or the Commission may take any other action permitted under this Chapter.

(3) Nature and Effect of Warning

A warning does not constitute discipline.

(d) Disclosure of Termination or Warning

(1) Disclosure of Dismissal or Termination

(A) Except as provided in subsection (d) (2) of this Rule, a dismissal or a termination under this Rule, with or without a warning, shall not be disclosed by the Commission or Bar Counsel in response to any request for information as to whether an attorney has been the subject of a disciplinary or remedial proceeding.

(B) The nature and existence of a proceeding terminated under this Rule, including any investigation by Bar Counsel that led to the proceeding, need not be disclosed by an attorney in response to a request for information as to whether the attorney has been the subject of a disciplinary or remedial proceeding.

(2) Disclosure of Warning

(A) The fact that a warning was issued in conjunction with the termination of a complaint shall be disclosed to the complainant.

(B) The fact that a warning was issued and the facts underlying the warning may be disclosed in a subsequent proceeding against the attorney when relevant to a complaint alleging similar conduct by the attorney.

(C) Neither the fact that a warning was proposed or rejected nor the contents of a warning that was not issued is

admissible into evidence in any judicial or administrative proceeding.

Source: This Rule is derived from former Rule 16-735 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-716. CONDITIONAL DIVERSION AGREEMENT

(a) When Appropriate

Upon completing an investigation, Bar Counsel may agree to a Conditional Diversion Agreement if Bar Counsel concludes that:

(1) the attorney committed professional misconduct or is incapacitated;

(2) the professional misconduct or incapacity was not the result of any wilful or dishonest conduct and did not involve conduct that could be the basis for an immediate Petition for Disciplinary or Remedial Action pursuant to Rules 19-737, 19-738, or 19-739;

(3) the cause or basis of the professional misconduct or incapacity is subject to remediation or resolution through alternative programs or mechanisms, including (A) medical, psychological, or other professional treatment, counseling, or assistance, (B) appropriate educational courses or programs, (C) mentoring or monitoring services, or (D) dispute resolution programs; and

(4) the public interest and the welfare of the attorney's clients and prospective clients will not be harmed if, instead of the matter proceeding immediately with a disciplinary or remedial proceeding, the attorney agrees to and complies with specific measures that, if pursued, will remedy the immediate problem and likely prevent any recurrence of it.

Committee note: Examples of conduct that may be susceptible to conditional diversion include conduct arising from (A) unfamiliarity with proper methods of law office management, record-keeping, or accounting, (B) unfamiliarity with particular areas of law or legal procedure, (C) negligent management of attorney trust accounts or other financial matters, (D) negligent failure to maintain proper communication with clients, (E) negligent failure to provide proper supervision of employees, or (F) emotional stress or crisis or abuse of alcohol or other drugs.

(b) Voluntary Nature of Agreement; Effect of Rejection or Disapproval

(1) Voluntary Nature

Neither Bar Counsel nor the attorney is under any obligation to propose or enter into a Conditional Diversion Agreement.

(2) Effect of Rejection or Disapproval

If a Conditional Diversion Agreement is proposed and rejected or if a signed Agreement is not approved by the Commission, Bar Counsel may take any other action permitted under this Chapter. Neither the fact that an Agreement was proposed, rejected, or not approved nor the contents of the Agreement may be admitted into evidence.

(c) Terms of Agreement

(1) In Writing and Signed

A Conditional Diversion Agreement shall be in writing and signed by Bar Counsel, the attorney, and any monitor designated in the Agreement.

(2) Required Provisions

The agreement shall:

(A) recite the basis for it, as set forth in section (a) of this Rule;

(B) state that the attorney voluntarily consents to its terms and promises to pay all expenses reasonably incurred in connection with its performance and enforcement;

(C) contain an acknowledgment by the attorney that the attorney (i) has engaged in conduct that constitutes professional misconduct, or (ii) is currently incapacitated, and a warranty that the attorney has not concealed from or misrepresented to Bar Counsel any material fact pertaining to the attorney's conduct or status as incapacitated or to the Agreement;

(D) state the particular course of remedial action that the attorney agrees to follow and a time for performance or completion of that action;

(E) provide for a stay of any disciplinary or remedial proceeding pending satisfactory performance by the attorney; and

(F) state that it is expressly conditioned on (i) the attorney's not engaging in any further conduct that would constitute professional misconduct, or, (ii) non-recurrence of

the nature or severity of the incapacity.

(3) Permissive Provisions

The agreement may:

(A) provide for any program or corrective action appropriate under the circumstances, including:

- (i) mediation or binding arbitration of a fee dispute;
- (ii) restitution of unearned or excessive fees in a stipulated amount;
- (iii) a public apology to designated persons;
- (iv) assistance in law office management, including temporary or continuing monitoring, mentoring, accounting, bookkeeping, financial, or other professional assistance, and completion of specific educational programs dealing with law office management;
- (v) completion of specific legal education courses or curricula, including courses in legal ethics and professional responsibility;
- (vi) an agreement not to practice in specific areas of the law (a) unless the attorney associates himself or herself with one or more other attorneys who are proficient in those areas, or (b) until the attorney has successfully completed a designated course of study to improve the attorney's proficiency in those areas;
- (vii) one or more specific courses of treatment for emotional distress, mental disorder or disability, dependence on



alcohol, drugs, or other intoxicants;

(viii) a stipulated number of hours of pro bono legal services; or

(ix) a reprimand to be issued upon the successful termination of a Conditional Diversion Agreement. The text of the reprimand shall be agreed upon and attached to the Agreement as a separate document; and

Committee note: The text of the Conditional Diversion Agreement must be separate from the text of the reprimand because the contents of the Agreement are confidential, whereas the contents of the reprimand are public. See Rules 19-716 (j) and 19-717.

(B) designate either a private monitor engaged at the attorney's expense or Bar Counsel to supervise performance and compliance with the terms and conditions of the agreement.

(4) If Monitor Designated

(A) If the agreement designates Bar Counsel or a private monitor pursuant to subsection (c) (3) (B) of this Rule, the agreement shall authorize Bar Counsel or the monitor to request and receive all information and inspect any records necessary to verify compliance.

(B) If a private monitor is designated, the agreement shall specify the fees of the monitor and the method and frequency of payment of the fees and shall direct the monitor promptly to report any violation or noncompliance to Bar Counsel.

(d) Submission to Commission

A Conditional Diversion Agreement is not effective until approved by the Commission. Upon signing the Agreement, Bar

Counsel and the attorney shall submit to the Commission the Agreement, any explanatory material they believe relevant, and any further information that the Commission requests.

(e) Action by Commission

(1) Generally

After consideration, the Commission may:

(A) approve the Agreement if satisfied that it is reasonable and in the public interest;

(B) disapprove the Agreement if not convinced that it is reasonable and in the public interest; or

(C) recommend amendments to the Agreement as a condition of approval.

(2) Upon Commission Recommendations

The parties may accept or reject the Commission's proposed amendments. If Bar Counsel and the attorney accept the proposed amendments, they shall notify the Commission of the acceptance, and the Commission shall approve the Agreement as amended. If either party rejects a proposed amendment, the Agreement shall be deemed disapproved by the Commission.

(f) Effect of Agreement

Approval by the Commission of a Conditional Diversion Agreement does not constitute discipline.

(g) Amendment of Agreement

A Conditional Diversion Agreement may be amended from time to time. An amendment shall be in a writing signed by Bar

Counsel and the attorney and approved by the Commission.

(h) Revocation of Agreement

(1) Declaration of Proposed Default

Bar Counsel may declare a proposed default on a Conditional Diversion Agreement if Bar Counsel determines that the attorney (A) engaged in further professional misconduct while subject to the agreement, (B) wilfully misrepresented or concealed material facts during the negotiation of the Agreement that induced Bar Counsel to recommend approval of the Agreement, or (C) has failed in a material way to comply with the Agreement. Bar Counsel shall give written notice to the attorney of the proposed default and afford the attorney a reasonable opportunity to refute the determination.

(2) Petition

If the attorney fails to refute the charge or to offer an explanation or proposed remedy satisfactory to Bar Counsel, Bar Counsel shall file a petition with the Commission to revoke the Agreement and serve a copy of the petition on the attorney. The attorney may file a written response with the Commission within 15 days after service of the petition. The Commission may act upon the petition and response or may request the parties to supply additional information, in writing or in person.

(3) Action by Commission

If the Commission concludes that the attorney is in material default of the Agreement, it shall revoke the Agreement,

revoke the stay of the disciplinary or remedial proceeding and any reprimand, and direct Bar Counsel to proceed in accordance with Rule 19-721, or as otherwise authorized by the Rules in this Chapter.

(i) Satisfaction of Agreement

If Bar Counsel determines that the attorney has complied in full with the requirements of the Agreement and that the disciplinary or remedial proceeding should be terminated, Bar Counsel shall inform the Commission and request that the disciplinary or remedial proceeding be terminated. If satisfied with Bar Counsel's recommendation, the Commission shall terminate the disciplinary or remedial proceeding.

(j) Confidentiality

(1) Fact that Approved Agreement was Signed; Notice to Complainant

(A) The fact that an attorney has signed a Conditional Diversion Agreement approved by the Commission is public.

(B) Upon approval of an Agreement by the Commission, Bar Counsel shall inform the complainant (i) that such an Agreement has been entered into and approved, (ii) that the disciplinary or remedial proceeding has been stayed in favor of the Agreement, (iii) that, if the attorney complies with the Agreement, the proceeding will be terminated, and (iv) of the potential for and consequences to the attorney of noncompliance.

(2) Contents of Agreement

(A) Except as provided in subsections (j) (2) (B), (C), and (D) of this Rule, the contents of a Conditional Diversion Agreement are confidential and may not be disclosed.

(B) If the Agreement requires payment or the transfer of property to the complainant by the attorney or requires other communication with the complainant by the attorney, Bar Counsel shall inform the complainant of those requirements, but not of any other terms of the Agreement.

(C) Upon revocation of an Agreement pursuant to section (h) of this Rule, the contents of the Agreement may be disclosed in any ensuing disciplinary or remedial proceeding.

(D) The contents of a Conditional Diversion Agreement may be disclosed in a subsequent proceeding against the attorney if relevant to a subsequent complaint based on similar misconduct or incapacity.

Source: This Rule is derived from former Rule 16-736 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-717. REPRIMAND BY COMMISSION

(a) Scope

This Rule does not apply to a reprimand that is to be issued upon successful termination of a Conditional Diversion Agreement.

Cross reference: See Rule 19-716 (c) (3) (A) (ix).

(b) Offer

(1) Service on Attorney

If Bar Counsel determines after completion of an investigation, or the Peer Review Panel determines after a Panel meeting, that an attorney has engaged in professional misconduct and that the appropriate sanction for the misconduct is a reprimand, Bar Counsel or the Panel shall serve on the attorney a written offer of a reprimand and a waiver of further disciplinary or remedial proceedings that is contingent upon acceptance of the reprimand by the attorney and approval of the reprimand by the Commission.

(2) Content

The offer shall include the text of the proposed reprimand, the date when the offer will expire, a contingent waiver of further disciplinary or remedial proceedings, and

advice that the offer, if accepted, is subject to approval by the Commission. The text of the proposed reprimand shall summarize the misconduct for which the reprimand is to be imposed and include a reference to any rule, statute, or other law allegedly violated by the attorney.

(c) Response

The attorney may accept the offer by signing the stipulation, endorsing the proposed reprimand, and delivering both documents to Bar Counsel or the Panel within the time stated in the notice or otherwise agreed to by Bar Counsel or the Panel. The attorney may (1) reject the offer expressly or by declining to return the documents timely, or (2) propose amendments to the proposed reprimand, which Bar Counsel or the Panel may accept, reject, or negotiate.

(d) Submission to Commission

If the attorney agrees to the proposed reprimand, Bar Counsel or the Panel shall submit the proposed reprimand to the Commission for approval, together with any explanatory material that the attorney or Bar Counsel believes relevant and any further information that the Commission requests.

(e) Action by Commission

(1) Generally

After consideration, the Commission may:

(A) approve the reprimand, if satisfied that it is appropriate under the circumstances, in which event Bar Counsel

shall promptly administer the reprimand to the attorney and terminate the disciplinary or remedial proceeding;

(B) disapprove the reprimand, if not satisfied that it is appropriate under the circumstances and direct Bar Counsel to proceed in another manner; or

(C) recommend amendments to the reprimand as a condition of approval.

(2) Upon Commission Recommendations

The parties may accept or reject the Commission's proposed amendments. If the parties accept the amendments, they shall notify the Commission of the acceptance, and the Commission shall then approve the reprimand. If either party rejects a proposed amendment, the reprimand shall be deemed disapproved by the Commission.

(f) Effect of Rejection or Disapproval

If a reprimand is proposed and rejected or if a reprimand to which the parties have stipulated is not approved by the Commission, the proceeding shall resume as if no reprimand had been proposed, and neither the fact that a reprimand was proposed, rejected, or not approved nor the contents of the reprimand or stipulation may be admitted into evidence.

(g) Effect of Reprimand

A reprimand constitutes discipline.

Source: This Rule is derived from former Rule 16-737 (2016).



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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-718. STATEMENT OF CHARGES

(a) Filing

Upon completion of an investigation, Bar Counsel shall file with the Commission a Statement of Charges if Bar Counsel determines that:

(1) the attorney engaged in conduct constituting professional misconduct or is incapacitated;

(2) the professional misconduct or incapacity does not warrant an immediate Petition for Disciplinary or Remedial Action;

(3) a Conditional Diversion Agreement is not appropriate under the circumstances; and

(4) a reprimand is not appropriate under the circumstances or a proposed reprimand (A) was offered and rejected by the attorney or (B) was disapproved by the Commission and Bar Counsel was directed to file a Statement of Charges.

(b) Content

The Statement of Charges shall be in writing and:

(1) in clear and specific language, inform the attorney of all professional misconduct charged;

(2) contain a reference to each Rule of the Maryland

Attorneys' Rules of Professional Conduct allegedly violated; and

(3) include or be accompanied by a fair summary of the evidence developed through the investigation, including any response that the attorney sent to Bar Counsel regarding the matter.

(c) Service; Peer Review

Bar Counsel shall serve on the attorney and send to the Chair of the Peer Review Committee a copy of the Statement of Charges, together with the supporting documentation filed pursuant to section (b) of this Rule. The matter shall then proceed in accordance with Rules 19-719 and 19-720.

Cross reference: See Rule 19-708 (a) concerning service of the Statement of Charges on the attorney.

Source: This Rule is derived from former Rule 16-741 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-719. PEER REVIEW PANEL

(a) Appointment

Within 30 days after receiving a copy of a Statement of Charges filed with the Commission, the Chair of the Peer Review Committee shall (1) appoint a Peer Review Panel, (2) notify the Commission, Bar Counsel, and the attorney of the appointment of the Panel and the names and addresses of its members, (3) send to the members of the Panel a copy of the Statement of Charges and the supporting material filed by Bar Counsel with the Commission, and (4) in accordance with Rule 19-720 (b), schedule a meeting of the Peer Review Panel.

(b) Composition of Panel

(1) The Peer Review Panel shall consist of at least three members of the Peer Review Committee.

(2) A majority of the members of the Panel shall be attorneys, but at least one member shall not be an attorney.

(3) If practicable, the Chair shall appoint to the Panel members from the circuit in which the attorney who is the subject of the charges has an office for the practice of law or, if there is no such office, the circuit in which the last known address of the attorney, as reflected on the records of the Client

Protection Fund, is located.

(c) Panel Chair

The Chair of the Peer Review Committee shall appoint an attorney member of the Panel as the Panel Chair.

(d) Removal and Recusal of Members

The Chair of the Peer Review Committee may remove a member of the Peer Review Panel for cause. A member of a Peer Review Panel shall not participate in any proceeding in which the member's impartiality might reasonably be questioned. A member who is required to recuse or who cannot attend the Peer Review meeting shall immediately notify the Chair of the Peer Review Committee, who shall promptly appoint another member.

(e) Quorum

The presence of any three members of the Peer Review Panel constitutes a quorum, whether or not a non-attorney member is present. With the consent of the Panel members who are present, Bar Counsel and the attorney may waive the quorum requirement. The concurrence of a majority of the members present is necessary to a recommendation to the Commission.

Source: This Rule is derived from former Rule 16-742 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-720. PEER REVIEW PROCESS

(a) Purpose

The purpose of the peer review process is for the Peer Review Panel to consider the Statement of Charges and all relevant information offered by Bar Counsel and the attorney concerning it and to determine (1) whether the Statement of Charges has a substantial basis and there is reason to believe that the attorney has committed professional misconduct or is incapacitated, and, if so, (2) whether a Petition for Disciplinary or Remedial Action should be filed or some other disposition is appropriate. The peer review process is not intended to be an adversarial one and it is not the function of Peer Review Panels to hold evidentiary hearings, adjudicate facts, or write full opinions or reports.

Committee note: If a Peer Review Panel concludes that the complaint has a substantial basis indicating the need for some remedy, some behavioral or operational changes on the part of the attorney, or some discipline short of suspension or disbarment, part of the peer review process can be an attempt through both evaluative and facilitative dialogue, (a) to effectuate directly or suggest a mechanism for effecting an amicable resolution of the existing dispute between the attorney and the complainant, and (b) to encourage the attorney to recognize any deficiencies on his or her part that led to the problem and take appropriate remedial steps to address those deficiencies. The goal, in this setting, is not to punish or stigmatize the attorney or to create a fear that any admission of deficiency will result in substantial harm, but rather to create an ambience for a

constructive solution. The objective views of two fellow attorneys and a lay person, expressed in the form of advice and opinion rather than in the form of adjudication, may assist the attorney (and the complainant) to retreat from confrontational positions and look at the problem more realistically.

(b) Scheduling of Meeting; Notice to Attorney

(1) The Chair of the Peer Review Committee, after consultation with the members of the Peer Review Panel, Bar Counsel, and the attorney, shall schedule a meeting of the Panel.

(2) If, without substantial justification, the attorney does not agree to schedule a meeting within the time provided in subsection (b) (5) of this Rule, the Chair may recommend to the Commission that the peer review process be terminated. If the Commission terminates the peer review process pursuant to this subsection, the Commission may take any action that could be recommended by the Peer Review Panel under section (e) of this Rule.

(3) The Chair shall notify Bar Counsel, the attorney, and each complainant of the time, place, and purpose of the meeting and invite their attendance.

(4) The notice to the attorney shall inform the attorney of the attorney's right to respond in writing to the Statement of Charges by filing a written response with the Commission and sending a copy of it to Bar Counsel and each member of the Peer Review Panel at least ten days before the scheduled meeting.

(5) Unless the time is extended by the Commission, the meeting shall occur within 60 days after appointment of the

Panel.

(c) Meeting

(1) The Peer Review Panel shall conduct the meeting in an informal manner. It shall allow Bar Counsel, the attorney, and each complainant to explain their positions and offer such supporting information as the Panel finds relevant. Upon request of Bar Counsel or the attorney, the Panel may, but need not, hear from any other individual. The Panel is not bound by any rules of evidence, but shall respect lawful privileges. The Panel may exclude a complainant after listening to the complainant's statement and, as a mediative technique, may consult separately with Bar Counsel or the attorney. The Panel may meet in private to deliberate.

(2) If the Panel determines that the Statement of Charges has a substantial basis and that there is reason to believe that the attorney has committed professional misconduct or is incapacitated, the Panel may (A) conclude the meeting and make an appropriate recommendation to the Commission or (B) inform the parties of its determination and allow the attorney an opportunity to consider a reprimand or a Conditional Diversion Agreement.

(3) The Panel may schedule one or more further meetings, but, unless the time is extended by the Commission, it shall make a recommendation to the Commission within 90 days after appointment of the Panel. If a recommendation is not made within that time

or any extension granted by the Commission, the peer review process shall be terminated and the Commission may take any action that could be recommended by the Peer Review Panel under section (e) of this Rule.

(d) Ex Parte Communications

Except for administrative communications with the Chair of the Peer Review Committee and as allowed under subsection (c) (1) of this Rule as part of the peer review meeting process, no member of the Panel shall participate in an ex parte communication concerning the substance of the Statement of Charges with Bar Counsel, the attorney, the complainant, or any other person.

(e) Recommendation of Panel

(1) Agreed Upon Recommendation

(A) If Bar Counsel, the attorney, and the Panel agree upon a recommended disposition, the Panel shall transmit the recommendation to the Commission.

(B) If the Panel determines that the attorney committed professional misconduct or is incapacitated and that the parties should consider a Conditional Diversion Agreement, the Panel shall orally advise the parties of that determination and afford them the opportunity to consider and enter into such an Agreement in accordance with Rule 19-716. If an Agreement is reached, the Conditional Diversion Agreement shall be the Panel's recommended disposition.



(2) If No Agreement

If there is no agreed-upon recommendation under subsection (e) (1) of this Rule, the Panel shall transmit to the Commission an independent recommendation, not subject to the approval of Bar Counsel, and shall accompany its recommendation with a brief explanatory statement. The Panel's recommendation shall be one of the following:

(A) the filing of a Petition for Disciplinary or Remedial Action;

(B) a reprimand in accordance with Rule 19-717;

(C) dismissal of the complaint or termination of the proceeding without discipline, but with a warning, in accordance with Rule 19-715 (c); or

(D) dismissal of the complaint or termination of the proceeding without discipline and without a warning, in accordance with Rule 19-715.

(f) Action by Commission

The Commission may:

(1) direct Bar Counsel to file a Petition for Disciplinary or Remedial Action;

(2) take any action on the Panel's recommendation that the Commission could take on a similar recommendation made by Bar Counsel under Rule 19-714; or

(3) dismiss the Statement of Charges and terminate the proceeding.

Source: This Rule is derived from former Rule 16-743 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

PROCEEDINGS ON PETITION FOR DISCIPLINARY  
OR REMEDIAL ACTION

Rule 19-721. PETITION FOR DISCIPLINARY OR REMEDIAL ACTION

(a) Commencement of Action

(1) Upon Approval or Direction of the Commission

Upon approval or direction of the Commission, Bar Counsel, on behalf of the Commission, shall file a Petition for Disciplinary or Remedial Action in the Court of Appeals.

(2) Conviction of Crime; Reciprocal Action

If authorized by Rule 19-737 or 19-738, Bar Counsel, on behalf of the Commission, may file a Petition for Disciplinary or Remedial Action in the Court of Appeals without prior approval of the Commission. On review, the Commission may direct the withdrawal of a petition filed pursuant to this subsection, in which event, Bar Counsel shall withdraw the petition.

Cross reference: See Rule 19-707 (b) (2) (H) concerning confidentiality of a petition to place an incapacitated attorney on inactive status.

(b) Form of Petition

The Commission shall be the petitioner. The attorney shall be the respondent. The petition shall be sufficiently clear and specific to inform the attorney of any professional

misconduct charged and the basis of any allegation that the attorney is incapacitated and should be placed on inactive status.

Source: This Rule is derived from former Rule 16-751 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-722. ORDER DESIGNATING JUDGE AND CLERK

(a) Order

Upon the filing of a Petition for Disciplinary or Remedial Action, the Court of Appeals may enter an order designating (1) a judge of any circuit court to hear the action, and (2) the clerk responsible for maintaining the record. The order of designation shall require the judge, not later than 15 days after the date on which an answer is due, and after consultation with Bar Counsel and the attorney, to enter a scheduling order. The scheduling order shall define the extent of discovery and set dates for the completion of discovery, designation of experts, the filing of motions, and a hearing on the petition. Subject to Rule 19-727 (a) and (e) and for good cause, the judge may amend the scheduling order.

(b) Service

Upon entry of an order under section (a) of this Rule, the clerk of the Court of Appeals shall send two copies to Bar Counsel. Bar Counsel shall serve a copy of the order and a copy of the petition on the respondent. The copies shall be served in accordance with Rule 19-723 or as otherwise ordered by the Court of Appeals.

(c) Motion to Amend Order Designating Judge

Within 15 days after the respondent has been served, either party may file a motion in accordance with Rule 8-431 requesting that the Court of Appeals designate another judge. The motion shall not stay the time for filing an answer to the petition.

Source: This Rule is derived from former Rule 16-752 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-723. SERVICE OF PETITION AND ORDER

(a) Generally

A copy of a Petition for Disciplinary or Remedial Action filed pursuant to Rule 19-721 and the order of the Court of Appeals entered pursuant to Rule 19-722 shall be served on the attorney in the manner prescribed in Rule 2-121, or in any other manner directed by the Court of Appeals.

(b) Alternative Service

If after reasonable efforts the attorney cannot be served personally, service may be made on the attorney by serving the employee designated by the Client Protection Fund pursuant to Rule 19-604, who shall be deemed the attorney's agent for receipt of service. The employee promptly shall (1) send, by certified and first-class mail, a copy of the papers so served to the attorney at the attorney's address maintained in the Fund's records and to any other address provided by Bar Counsel, and (2) file a certificate of the mailing with the clerk and send a copy of the certificate to Bar Counsel.

Source: This Rule is in part derived from former Rule 16-753 (2016).

MARYLAND RULES OF PROCEDURE

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CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-724. ANSWER

(a) Timing

The attorney shall file with the designated clerk and serve on Bar Counsel an answer to the petition:

(1) if the petition and order were served pursuant to Rule 19-723 (a), within 15 days after service;

(2) if the petition and order were served pursuant to Rule 19-723 (b), within 15 days after a copy of the petition and order was mailed to the attorney by the employee of the Client Protection Fund; or

(3) by such other time specified by the Court of Appeals.

(b) Content and Scope

(1) Generally

Defenses and objections to the petition, including insufficiency of service, shall be stated in the answer and not by preliminary motion.

(2) Limited Scope

It is not a defense or ground for objection to a petition that procedural defects may have occurred during disciplinary or remedial proceedings prior to the filing of the petition.

(c) Failure to Answer



If the time for filing an answer has expired and the attorney has failed to file an answer in accordance with section (a) of this Rule, the court shall treat the failure as a default, and the provisions of Rule 2-613 shall apply.

Source: This Rule is derived from former Rule 16-754 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-725. PLEADINGS; MOTIONS; AMENDMENTS

(a) Pleadings

Except as provided in section (b) of this Rule or otherwise expressly permitted by these Rules or ordered by the Court of Appeals, the only pleadings permitted in an action for Disciplinary or Remedial Action are the petition and an answer.

(b) Amendments

Bar Counsel may amend a petition and the attorney may amend an answer in accordance with the applicable provisions of Rule 2-341.

(c) Motions

Motions dealing with discovery, pre-hearing procedural matters, or matters arising at the hearing conducted pursuant to Rule 19-727 are permissible and shall comply with applicable provisions of Rule 2-311. Motions to dismiss the proceeding are not permitted.

Committee note: Proceedings on a Petition for Disciplinary or Remedial Action are conducted pursuant to the original jurisdiction of the Court of Appeals to regulate the practice of law and are not the place for collateral actions or such things as counterclaims. Moreover, because the authority of the circuit court judge designated by the Court of Appeals pursuant to Rule 19-722 is limited to taking evidence and making findings of fact and proposed conclusions of law, that judge is not empowered to dismiss a petition. Defenses to the petition may be raised in the answer and may be addressed by the designated judge, but only

the Court of Appeals has authority to dismiss all or part of a petition.

Source: Sections (a) and (c) of this Rule are new. Section (b) is derived from former Rule 16-755 (2016).

MARYLAND RULES OF PROCEDURE

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Rule 19-726. DISCOVERY

After a Petition for Disciplinary or Remedial Action has been filed, discovery is governed by Title 2, Chapter 400, subject to any scheduling order entered pursuant to Rule 19-722.

Source: This Rule is derived from former Rule 16-756 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-727. JUDICIAL HEARING

(a) Evidence and Procedure Generally

Except as otherwise provided by the Rules in this Chapter, the hearing of a disciplinary or remedial action is governed by the rules of evidence and procedure applicable to a non-jury trial in a civil action in a circuit court.

(b) Certain Evidence Allowed

(1) Before the conclusion of the hearing, the judge may permit any complainant to testify, subject to cross-examination, regarding the effect of the alleged misconduct or incapacity.

(2) The attorney may offer, or the judge may inquire regarding, evidence otherwise admissible of any remedial action undertaken by the attorney relevant to the allegations of misconduct or incapacity. Bar Counsel may respond to any evidence of remedial action.

(c) Burdens of Proof

Bar Counsel has the burden of proving the averments of the petition by clear and convincing evidence. If the attorney asserts an affirmative defense or a matter of mitigation or extenuation, the attorney has the burden of proving the defense or matter by a preponderance of the evidence.

(d) Findings and Conclusions

The judge shall prepare and file a written statement which shall contain: (1) findings of fact and conclusions of law as to each charge; (2) findings as to any remedial action taken by the attorney; and (3) findings as to any aggravating or mitigating circumstances that exist. Unless the time is extended by the Court of Appeals, the statement shall be filed with the clerk responsible for the record no later than 45 days after the conclusion of the hearing. The clerks shall mail a copy of the statement to each party.

(e) Time for Completion

Unless extended by the Court of Appeals, the hearing shall be completed within 120 days after service on the attorney of the order entered under Rule 19-722.

(f) Transcript

Bar Counsel shall cause a transcript of the hearing to be prepared and included in the record.

(g) Transmittal of Record

Unless a different time is ordered by the Court of Appeals, the clerk shall transmit the record to the Court of Appeals within 15 days after the statement of findings and conclusions is filed.

Source: This Rule is derived from former Rule 16-757 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-728. POST-HEARING PROCEEDINGS

(a) Notice of the Filing of the Record

Upon receiving the record, the Clerk of the Court of Appeals shall notify the parties that the record has been filed.

(b) Exceptions; Recommendations; Statement of Costs

Within 15 days after service of the notice required by section (a) of this Rule, each party may file (1) exceptions to the findings and conclusions of the hearing judge, (2) recommendations concerning the appropriate disposition under Rule 19-729 (c), and (3) a statement of costs to which the party may be entitled under Rule 19-709.

(c) Response

Within 15 days after service of exceptions, recommendations, or a statement of costs, the adverse party may file a response.

(d) Form

The parties shall file eight copies of any exceptions, recommendations, and responses. The copies shall conform to the requirements of Rule 8-112.

Source: This Rule is derived from former Rule 16-758 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-729. PROCEEDINGS IN COURT OF APPEALS

(a) Oral Argument

The Court shall set a date for oral argument, unless oral argument is waived by the parties. Oral argument shall be conducted in accordance with Rule 8-522.

(b) Review by Court of Appeals

(1) Conclusions of Law

The Court of Appeals shall review de novo the circuit court judge's conclusions of law.

(2) Findings of Fact

(A) If No Exceptions are Filed

If no exceptions are filed, the Court may treat the findings of fact as established.

(B) If Exceptions are Filed

If exceptions are filed, the Court of Appeals shall determine whether the findings of fact have been proved by the requisite standard of proof set out in Rule 19-727 (c). The Court may confine its review to the findings of fact challenged by the exceptions. The Court shall give due regard to the opportunity of the hearing judge to assess the credibility of witnesses.



(c) Disposition

The Court of Appeals may order (1) disbarment, (2) suspension, (3) reprimand, (4) inactive status, (5) dismissal of the disciplinary or remedial action, or (6) a remand for further proceedings.

(d) Decision

The decision of the Court of Appeals is final. The decision shall be evidenced by an order which the clerk shall certify under the seal of the Court. The order may be accompanied by an opinion.

Source: This Rule is derived from former Rule 16-759 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

SPECIAL PROCEEDINGS

Rule 19-731. AUDIT OF ATTORNEY ACCOUNTS AND RECORDS

(a) Action for Audit

Bar Counsel or the Trustees of the Client Protection Fund may file a petition requesting an audit of the accounts and records that an attorney is required by law or Rule to maintain. The petition may be filed in the circuit court in any county where the attorney resides or has an office for the practice of law. If the attorney has no established office and the attorney's residence is unknown, the petition may be filed in any circuit court.

(b) Petition

The petition shall state the facts showing that an audit is necessary and shall request the appointment of a Certified Public Accountant to conduct the audit.

(c) Caption

The petition and all subsequent pleadings and papers filed in the action shall contain a caption, "In re: Application for Audit of an Attorney's Accounts and Records."

(d) Show Cause Order; Service

The court shall enter an order giving the attorney notice

of the action and directing the attorney to show cause on or before a stated date why an audit should not be conducted as requested. The order and the petition shall be served in the manner that the court directs so as to preserve the confidentiality of the action.

(e) Response to Petition

The attorney may file a response to the petition and show cause order not later than the date stated in the order or, if no date is stated, within five days after being served.

(f) Order Directing Audit

After considering the petition and any response and upon a finding of good cause, the court may order any of the accounts and records required by law or Rule to be maintained by the attorney to be audited by a Certified Public Accountant designated in the order. The order directing the audit shall expressly require that the audit be conducted and a report be made in a manner that preserves the confidentiality of the proceedings and the attorney's confidential relation with the attorney's clients.

(g) Finality of Order

An order granting or denying a petition for an audit is a final order for purposes of appeal.

(h) Duty of Clerk to Preserve Confidentiality

The clerk shall maintain a separate docket with an index for proceedings under this Rule. The docket entries shall not

identify the attorney against whom the petition is filed.

Pleadings and other papers filed in the proceedings shall be stamped "confidential" and sealed in accordance with Rule 19-707 (b) (2) (I) at the time they are filed. The docket, index, and papers in the proceedings shall not be open to inspection by any person, including the parties, except upon order of court after reasonable notice and for good cause shown.

(i) Cost of Audit

Upon completion of the audit, the court may order all or part of the costs of the audit and of the proceeding to be paid by any party to the proceeding, except that costs shall not be assessed against the attorney if the audit fails to disclose any irregularity.

(j) Remedy Not Exclusive

Neither this Rule nor any proceeding under this Rule precludes any other remedy or cause of action while the audit is pending or thereafter.

Source: This Rule is derived from former Rule 16-722 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-732. INJUNCTION; EXPEDITED ACTION

(a) Authority to Seek Injunction

Upon receiving information that an attorney is engaging in professional misconduct or has an incapacity and poses an immediate threat of causing (1) death or substantial bodily harm to another, (2) substantial injury to the financial interest or property of another, or (3) substantial harm to the administration of justice, Bar Counsel, with the approval of the Chair of the Commission, may apply in accordance with the provisions of Title 15, Chapter 500 for appropriate injunctive relief against the attorney. The relief sought may include restricting the attorney's practice of law, limiting or prohibiting withdrawals from any account in any financial institution, and limiting or prohibiting transfers of funds or property.

Committee note: Except as otherwise provided in this Rule, Rules 15-501 through 15-505, the rules relating to temporary restraining orders and injunctions, apply. The appealability of injunctions under this Rule is governed by Code, Courts Article, §12-303.

Cross reference: See Rule 19-734 for the right of Bar Counsel to request the appointment of a conservator when an attorney no longer can practice.

(b) Parties

The action for injunction shall be brought in the name of the Commission against the attorney whose conduct is alleged to be causing or threatening the harm and against any other person alleged to be assisting or acting in concert with the attorney.

(c) Effect of Investigation or Disciplinary or Remedial Proceeding

A court may not delay or deny an injunction solely because misconduct is or may become the subject of an investigation under Rule 19-711 or the basis for a Statement of Charges under Rule 19-718.

(d) Order Granting Injunction

In addition to meeting the requirements of Rule 15-502 (e), an order granting a preliminary or permanent injunction under this section shall include specific findings by a preponderance of the evidence that the attorney has engaged in the alleged professional misconduct or has the incapacity alleged and poses the threat alleged in the complaint. A bond shall not be required except in exceptional circumstances.

(e) Service on Financial Institution

An order granting an injunction under this section that limits or prohibits withdrawals from any account or that limits or prohibits a transfer of funds or property is effective against any financial institution upon which it is served from the time of service.

(f) Expedited Disciplinary or Remedial Action

(1) Filing of Petition

When an injunction is issued pursuant to this Rule, notwithstanding any pending appeal or motion to modify or dissolve the injunction, Bar Counsel shall immediately file a Petition for Disciplinary or Remedial Action pursuant to Rule 19-721. A certified copy of the order granting the injunction shall be attached to the petition.

(2) Action on Petition

The action shall proceed in accordance with Rules 19-721 through 19-729 and Rules 19-741 through 19-744, to the extent applicable. The Court of Appeals may assign the petition for hearing to the judge who granted the injunction.

Source: This Rule is derived from former Rule 16-776 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-733. REFERRAL FROM CHILD SUPPORT ENFORCEMENT  
ADMINISTRATION

(a) Referral

The Commission promptly shall transmit to Bar Counsel a referral from the Child Support Enforcement Administration pursuant to Code, Family Law Article, §10-119.3 (e) (3) and direct Bar Counsel to file a Petition for Disciplinary or Remedial Action in the Court of Appeals pursuant to Rule 19-721 (a) (1). A copy of the Administration's referral shall be attached to the Petition, and a copy of the Petition and notice shall be served on the attorney in accordance with Rule 19-723.

Committee note: The procedures set out in Code, Family Law Article, §10-119.3 (f) (1), (2), and (3) are completed before the referral to the Attorney Grievance Commission.

(b) Show Cause Order

When a petition and notice of referral have been filed, the Court of Appeals shall order that Bar Counsel and the attorney, within 15 days from the date of the order, show cause in writing why the attorney should not be suspended from the practice of law.

(c) Action by the Court of Appeals

Upon consideration of the petition and any answer to the



order to show cause, the Court of Appeals may enter an order: (1) immediately and indefinitely suspending the attorney from the practice of law, (2) designating a judge pursuant to Rule 19-722 to hold a hearing in accordance with Rule 19-727, or (3) containing any other appropriate provisions. The provisions of Rules 19-741 through 19-744, as applicable, apply to an order under this section that suspends an attorney.

(d) Presumptive Effect of Referral

A referral from the Child Support Enforcement Administration to the Attorney Grievance Commission is presumptive evidence that the attorney falls within the criteria specified in Code, Family Law Article, §10-119.3 (e) (1), but the introduction of such evidence does not preclude Bar Counsel or the attorney from introducing additional evidence or otherwise showing cause why no suspension should be imposed.

(e) Termination of Suspension

(1) On Notification by the Child Support Enforcement Administration

Upon notification by the Child Support Enforcement Administration that the attorney has complied with the provisions of Code, Family Law Article, §10-119.3 (j), the Court of Appeals shall order the attorney reinstated to the practice of law, unless other grounds exist for the suspension to remain in effect.

(2) On Verified Petition by Attorney

In the absence of a notification by the Child Support Enforcement Administration pursuant to subsection (e)(1) of this Rule, the attorney may file with the Court of Appeals a verified petition for reinstatement. The petition shall allege under oath that (A) the attorney is in compliance with the provisions of Code, Family Law Article, §10-119.3 (j) and is not currently in arrears in the payment of child support, (B) at least 15 days prior to filing the verified petition, the attorney gave written notice of those facts to the Child Support Enforcement Administration and requested that the Child Support Enforcement Administration notify the Court, (C) the Child Support Enforcement Administration has failed or refused to file such a notification, and (D) the attorney is entitled to be reinstated. All relevant documents shall be attached to the petition as exhibits. A copy of the petition and exhibits shall be served on Bar Counsel, who shall file an answer within 15 days after service. Upon consideration of the petition and answer, the Court of Appeals may enter an order reinstating the attorney, an order denying the petition, or any other appropriate order.

(f) Other Disciplinary Proceedings

Proceedings under this Rule shall not preclude (1) the use of the facts underlying the referral from the Child Support Enforcement Administration when relevant to a pending or subsequent disciplinary proceeding against the attorney or (2) prosecution of a disciplinary action based upon a pattern of

conduct adverse to the administration of justice.

Source: This Rule is derived from former Rule 16-778 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-734. CONSERVATOR OF CLIENT MATTERS

(a) Appointment; When Authorized; Service

If (1) an attorney dies, disappears, has been disbarred, suspended, or placed on inactive status, or is incapacitated or has abandoned the practice of law, (2) there are open client matters, and (3) and there is not known to exist any personal representative, partner, or other individual who is willing to conduct and capable of conducting the attorney's client affairs, Bar Counsel may file a petition requesting the appointment of a conservator to inventory the attorney's files and to take other appropriate action to protect the attorney's clients. The petition shall be served in accordance with Rule 2-121.

(b) Petition and Order

The petition to appoint a conservator may be filed in the circuit court in any county in which the attorney maintained an office for the practice of law. Upon such proof of the facts as the court may require, the court may enter an order appointing an attorney approved by Bar Counsel to serve as conservator subject to further order of the court.

(c) Inventory

Promptly upon accepting the appointment, the conservator

shall take possession and prepare an inventory of the attorney's files, take control of the attorney's trust and business accounts, review the files and accounts, identify open matters, and note the matters requiring action.

(d) Disposition of Files

With the consent of the client or the approval of the court, the conservator may assist the client in finding new counsel, assume responsibility for specific matters, or refer the client's open matters to attorneys willing to handle them.

(e) Sale of Law Practice

With the approval of the court, the conservator may sell the attorney's law practice in accordance with Rule 19-301.17 (1.17) of the Maryland Attorneys' Rules of Professional Conduct.

(f) Compensation

(1) Entitlement

The conservator is entitled to periodic payment from the attorney's assets or estate for reasonable hourly attorney's fees and reimbursement for expenditures reasonably incurred in carrying out the order of appointment.

(2) Motion for Judgment

Upon verified motion served on the attorney at the attorney's last known address or, if the attorney is deceased, on the personal representative of the attorney, the court may order payment to the conservator and enter judgment against the attorney or personal representative for the reasonable fees and

expenses of the conservator.

(3) Payment from Disciplinary Fund

If the conservator is unable to obtain full payment within one year after entry of judgment, the Commission may authorize payment from the Disciplinary Fund in an amount not exceeding the amount of the judgment that remains unsatisfied. If payment is made from the Disciplinary Fund, the conservator shall assign the judgment to the Commission for the benefit of the Disciplinary Fund.

(g) Confidentiality

A conservator shall not disclose any information contained in a client's file without the consent of the client, except as necessary to carry out the order of appointment.

Source: This Rule is derived from former Rule 16-777 (2016).

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CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-735. RESIGNATION OF ATTORNEY

(a) Application

An application to resign from the practice of law in this State shall be submitted in writing under oath to the Court of Appeals, with a copy to Bar Counsel. The application shall state that the resignation is not being offered to avoid disciplinary action and that the attorney has no knowledge of any pending investigation, action, or proceedings in any jurisdiction involving allegations of professional misconduct by the attorney.

(b) When Attorney May Not Resign

An attorney may not resign while the attorney is the subject of a disciplinary investigation, action, or proceeding involving allegations of professional misconduct. An application to resign does not prevent or stay any disciplinary action or proceeding against the attorney.

(c) Procedure

Upon receiving a copy of the application submitted in accordance with section (a) of this Rule, Bar Counsel shall investigate the application and file a response with the Clerk of the Court.

(d) Order of the Court of Appeals

The Court of Appeals shall enter an order accepting or denying the resignation. A resignation is effective only upon entry of an order accepting it.

(e) Duty of Clerk

When the Court enters an order accepting an attorney's resignation, the Clerk of the Court of Appeals shall strike the name of the attorney from the register of attorneys in that Court and shall certify that fact to the Trustees of the Client Protection Fund of the Bar of Maryland and the clerks of all courts in this State. The Clerk shall give any notice required by Rule 19-707 (e).

(f) Effect of Resignation

An attorney may not practice law in this State after entry of an order accepting the attorney's resignation.

(g) Motion to Vacate

On motion of Bar Counsel, the Court may vacate or modify the order if there has been intrinsic or extrinsic fraud.

Source: This Rule is derived from former Rule 16-775 (2016).



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Rule 19-736. CONSENT TO DISCIPLINE OR INACTIVE STATUS

(a) General Requirement

An attorney may consent to discipline or placement on inactive status in accordance with this Rule.

(b) Consent to Discipline for Misconduct

(1) Joint Petition

An attorney may consent to disbarment or other discipline by joining with Bar Counsel in a petition for an order disbarring the attorney, suspending the attorney from the practice of law, or reprimanding the attorney. The petition shall be signed by the attorney and Bar Counsel and filed in the Court of Appeals. If a suspension is requested, the petition shall state whether the suspension should be indefinite or for a stated period and shall set forth any conditions that the parties agree should be imposed. If a reprimand is requested, the petition shall state the proposed text of the reprimand and any conditions.

(2) Affidavit Required

A joint petition filed under subsection (b) (1) of this Rule shall be accompanied by an affidavit by the attorney that certifies that the attorney:

(A) is aware that an investigation or proceeding is

currently pending involving allegations of professional misconduct, the nature of which shall be specifically set forth;

(B) knows that if a hearing were to be held, sufficient evidence could be produced to sustain the allegations of misconduct;

(C) consents to the disbarment or other discipline stated in the petition;

(D) gives the consent freely and voluntarily without coercion or duress;

(E) is aware of the effects of the disbarment or other discipline to which the attorney is consenting; and

(F) agrees to comply with Rule 19-742 and any conditions stated in the petition that the Court of Appeals may impose.

(3) Order of the Court of Appeals

Upon the filing of the joint petition and the affidavit, the Court of Appeals may enter an order, signed by the Chief Judge or a judge designated by the Chief Judge, disbarring the attorney by consent from the practice of law in the State, suspending the attorney by consent from the practice of law, or reprimanding the attorney by consent and imposing any conditions stated in the petition. The provisions of Rule 19-742 apply to an order entered under subsection (b) (3) of this Rule.

(c) Consent to Placement on Inactive Status

(1) Joint Petition

If competent to do so, an attorney may consent to

placement on inactive status by joining with Bar Counsel in a petition for an order placing the attorney on inactive status. The petition shall be signed by the attorney and Bar Counsel and filed in the Court of Appeals. The petition shall state whether the inactive status should be indefinite or until the occurrence of a specified event and shall set forth any conditions that the parties agree should be imposed.

(2) Affidavit Required

A joint petition filed under subsection (c)(1) of this Rule shall be accompanied by an affidavit by the attorney that certifies that the attorney:

(A) understands and is competent to make the other certifications in subsection (c)(2) of this Rule;

(B) consents to the placement on inactive status;

(C) gives the consent freely and voluntarily without coercion or duress;

(D) is currently incapacitated and unable to render adequate legal service;

(E) knows that if a hearing were to be held, Bar Counsel would have the burden of proving by clear and convincing evidence that the attorney is so incapacitated as to require the attorney to be placed on inactive status;

(F) understands that being placed on inactive status, if ordered by the Court of Appeals, terminates the attorney's privilege to practice law in this State until otherwise ordered

by the Court;

(G) agrees to comply with Rule 19-744 and any conditions stated in the petition that the Court of Appeals may impose;

(H) understands that the attorney may not be reinstated to practice law unless the attorney is able to prove by a preponderance of the evidence that the attorney has regained the ability to render adequate legal services, that inactive status should be terminated, and that the attorney should be reinstated to active practice;

(I) has disclosed to Bar Counsel the name of every physician, other health care provider, and health care facility by whom or at which the attorney has been examined, evaluated, or treated; and

(J) has furnished Bar Counsel with written consent to the release of such health care information and records as Bar Counsel has requested and waived any privilege as to such information and records.

(3) Order of the Court of Appeals

Upon the filing of the joint petition and affidavit, the Court of Appeals may enter an order, signed by the Chief Judge or a judge designated by the Chief Judge, placing the attorney on inactive status by consent pending further order of the Court and imposing any conditions stated in the petition. The provisions of Rule 19-744 apply to an order entered under subsection (c) (3) of this Rule.

(d) Duty of Clerk

When an attorney has been disbarred, suspended, or placed on inactive status under this Rule, the Clerk of the Court of Appeals shall comply with Rule 19-761.

(e) Effect of Denial

If the Court of Appeals denies a joint petition for discipline or inactive status, the investigation or disciplinary or remedial proceeding shall resume as if no consent had been given. Neither the joint petition nor the affidavit may be admitted in evidence.

Source: This Rule is derived from former Rule 16-772 (2016).

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Rule 19-737. RECIPROCAL DISCIPLINE OR INACTIVE STATUS

(a) Duty of Attorney

An attorney who in another jurisdiction (1) is disbarred, suspended, or otherwise disciplined, (2) resigns from the bar while disciplinary or remedial action is threatened or pending in that jurisdiction, or (3) is placed on inactive status based on incapacity shall inform Bar Counsel promptly of the discipline, resignation, or inactive status.

(b) Petition in Court of Appeals

Upon receiving and verifying information from any source that in another jurisdiction an attorney has been disciplined or placed on inactive status based on incapacity, Bar Counsel may file a Petition for Disciplinary or Remedial Action in the Court of Appeals pursuant to Rule 19-721 (a) (2). A certified copy of the disciplinary or remedial order shall be attached to the Petition, and a copy of the Petition and order shall be served on the attorney in accordance with Rule 19-723.

(c) Show Cause Order

When a petition and certified copy of a disciplinary or remedial order have been filed, the Court of Appeals shall order that Bar Counsel and the attorney, within the time specified in

the order, show cause in writing based upon any of the grounds set forth in section (e) of this Rule why corresponding discipline or inactive status should not be imposed. A copy of the show cause order shall be served in accordance with Rule 19-723.

(d) Temporary Suspension of Attorney

When the petition and disciplinary or remedial order demonstrate that an attorney has been disbarred or is currently suspended from practice by final order of a court in another jurisdiction, the Court of Appeals may enter an order, effective immediately, suspending the attorney from the practice of law, pending further order of Court. The provisions of Rules 19-742 or 19-744, as applicable, apply to an order suspending an attorney under this section.

(e) Exceptional Circumstances

Reciprocal discipline shall not be ordered if Bar Counsel or the attorney demonstrates by clear and convincing evidence that:

(1) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(2) there was such infirmity of proof establishing the misconduct as to give rise to a clear conviction that the Court, consistent with its duty, cannot accept as final the determination of misconduct;

(3) the imposition of corresponding discipline would result

in grave injustice;

(4) the conduct established does not constitute misconduct in this State or it warrants substantially different discipline in this State; or

(5) the reason for inactive status no longer exists.

(f) Action by Court of Appeals

Upon consideration of the petition and any answer to the order to show cause, the Court of Appeals may: (1) immediately impose corresponding discipline or inactive status; (2) enter an order designating a judge pursuant to Rule 19-722 to hold a hearing in accordance with Rule 19-727; or (3) enter any other appropriate order. The provisions of Rules 19-742 or 19-744, as applicable, apply to an order under this section that disbars or suspends an attorney or that places the attorney on inactive status.

(g) Conclusive Effect of Adjudication

Except as provided in subsections (e) (1) and (e) (2) of this Rule, a final adjudication in a disciplinary or remedial proceeding by another court, agency, or tribunal that an attorney has been guilty of professional misconduct or is incapacitated is conclusive evidence of that misconduct or incapacity in any proceeding under this Chapter. The introduction of such evidence does not preclude the Commission or Bar Counsel from introducing additional evidence or preclude the attorney from introducing evidence or otherwise showing cause why no discipline or lesser



discipline should be imposed.

(h) Effect of Stay in Other Jurisdiction

If the other jurisdiction has stayed the discipline or inactive status, any proceedings under this Rule shall be deferred until the stay is no longer operative and the discipline or inactive status becomes effective.

(i) Duties of Clerk of Court of Appeals

The applicable provisions of Rule 19-761 apply when an order is entered under this Rule.

Source: This Rule is derived from former Rule 16-773 (2016).

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TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-738. DISCIPLINE ON CONVICTION OF CRIME

(a) Definition

In this Rule, "conviction" includes a judgment of conviction entered upon acceptance by the court of a plea of nolo contendere.

(b) Duty of Attorney

An attorney charged with a serious crime in this State or any other jurisdiction shall promptly inform Bar Counsel in writing of (1) the filing of the charge, (2) any finding or verdict of guilty on such charge, and (3) the entry of a judgment of conviction on such charge.

Cross reference: Rule 19-701 (1).

(c) Petition Upon Conviction

(1) Generally

Upon receiving and verifying information from any source that an attorney has been convicted of a serious crime, Bar Counsel may file a Petition for Disciplinary or Remedial Action pursuant to Rule 19-721 (a) (2). The petition may be filed whether an appeal or any other post-conviction proceeding is pending.

(2) Contents

The petition shall allege the fact of the conviction and include a request that the attorney be suspended immediately from the practice of law. A certified copy of the judgment of conviction shall be attached to the petition and shall be prima facie evidence of the fact that the attorney was convicted of the crime charged.

(d) Temporary Suspension

Upon filing of the petition pursuant to section (c) of this Rule, the Court of Appeals shall issue an order requiring the attorney to show cause within 15 days from the date of the order why the attorney should not be suspended immediately from the practice of law until the further order of the Court of Appeals. If, after consideration of the petition and the answer to the order to show cause, the Court of Appeals determines that the attorney has been convicted of a serious crime, the Court may enter an order suspending the attorney from the practice of law until final disposition of the disciplinary or remedial action. The Court of Appeals shall vacate the order and terminate the suspension if the conviction is reversed or vacated.

Cross reference: Rule 19-742.

(e) Petition When Imposition of Sentence is Delayed

(1) Generally

Upon receiving and verifying information from any source that an attorney has been found guilty of a serious crime but that sentencing has been delayed for a period of more than 30

days, Bar Counsel may file a Petition for Interim Disciplinary or Remedial Action. The petition may be filed whether or not a motion for new trial or other relief is pending.

(2) Contents

The petition shall allege the finding of guilt and the delay in sentencing and request that the attorney be suspended immediately from the practice of law pending the imposition of sentence and entry of a judgment of conviction. Bar Counsel shall attach to the petition a certified copy of the docket reflecting the finding of guilt, which shall be prima facie evidence that the attorney was found guilty of the crime charged.

(3) Interim Temporary Suspension

Upon the filing of the petition, the Court of Appeals shall issue an order requiring the attorney to show cause within the time specified in the order why the attorney should not be suspended immediately from the practice of law, on an interim basis, until further order of the Court of Appeals. If, after consideration of the petition and any answer to the order to show cause, the Court of Appeals determines that the attorney was found guilty of a serious crime but that sentencing has been delayed for a period of more than 30 days, the Court may enter an order suspending the attorney from the practice of law on an interim basis pending further action by the trial court and further order of the Court of Appeals.

(4) Entry of Judgment of Conviction or Order for New Trial

Upon the imposition of sentence and entry of a judgment of conviction or upon the granting of a new trial by the trial court, Bar Counsel shall inform the Court of Appeals and attach a certified copy of the judgment of conviction or order granting a new trial. If a judgment of conviction was entered, Bar Counsel may file a petition under section (c) of this Rule. The Court shall then proceed in accordance with section (d) of this Rule but may order that any interim suspension remain in effect pending disposition of the new petition. If the trial court has vacated the finding of guilt and granted a new trial, or if the attorney received probation before judgment, the Court of Appeals shall dismiss the petition for interim suspension and terminate any interim suspension that has been ordered.

(f) Statement of Charges

If the Court of Appeals denies a petition filed under section (c) of this Rule, Bar Counsel may file a Statement of Charges under Rule 19-718.

(g) Further Proceedings

When a petition filed pursuant to section (c) of this Rule alleges the conviction of a serious crime and the attorney denies the conviction, the Court of Appeals may enter an order designating a judge pursuant to Rule 19-722 to hold a hearing in accordance with Rule 19-727.

(1) No Appeal of Conviction

If the attorney does not appeal the conviction, the

hearing shall be held within a reasonable time after the time for appeal has expired.

(2) Appeal of Conviction

If the attorney appeals the conviction, the hearing shall be delayed, except as provided in section (h) of this Rule, until the completion of appellate review.

(A) If, after completion of appellate review, the conviction is reversed or vacated, the judge to whom the action is assigned shall either dismiss the petition or hear the action on the basis of evidence other than the conviction.

(B) If, after the completion of appellate review, the conviction is not reversed or vacated, the hearing shall be held within a reasonable time after the mandate is issued.

(3) Effect of Incarceration

If the attorney is incarcerated as a result of the conviction, the hearing shall be delayed until the termination of incarceration unless the attorney requests an earlier hearing and makes all arrangements (including financial arrangements) to attend the hearing or waives the right to attend.

(h) Right to Earlier Hearing

If the hearing on the petition has been delayed under subsection (g) (2) of this Rule and the attorney has been suspended from the practice of law under section (d) of this Rule, the attorney may request that the judge to whom the action is assigned hold an earlier hearing, at which the conviction

shall be considered a final judgment.

(i) Conclusive Effect of Final Conviction

In any proceeding under this Chapter, a final judgment of any court of record convicting an attorney of a crime, whether the conviction resulted from acceptance by the court of a plea of guilty or nolo contendere, or a verdict after trial, is conclusive evidence of the attorney's guilt of that crime. As used in this Rule, "final judgment" means a judgment as to which all rights to direct appellate review have been exhausted. The introduction of the judgment does not preclude the Commission or Bar Counsel from introducing additional evidence or the attorney from introducing evidence or otherwise showing cause why no discipline should be imposed.

(j) Duties of Clerk of Court of Appeals

The applicable provisions of Rule 19-761 apply when an order is entered under this Rule.

Source: This Rule is derived from former Rule 16-771 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-739. SUMMARY PLACEMENT ON INACTIVE STATUS

(a) Grounds

An attorney may be placed summarily on inactive status for an indefinite period if the attorney has been judicially determined to be mentally incompetent or to require a guardian of the person for any of the reasons stated in Code, Estates and Trusts Article, §13-705 (b), or, in accordance with law, has been involuntarily admitted to a facility for inpatient care treatment of a mental disorder.

(b) Procedure

(1) Petition for Summary Placement; Confidentiality

With the approval of the Commission, Bar Counsel may file a petition to summarily place an attorney on inactive status in accordance with Rule 19-721. The petition shall be supported by a certified copy of the judicial determination or involuntary admission. The petition and all other papers filed in the Court of Appeals shall be sealed and stamped "confidential" in accordance with Rule 19-707 (b) (2) (H).

(2) Service

The petition and all papers filed with the petition shall be served upon the attorney in accordance with Rule 19-723 and,



in addition, upon any guardian of the person of the attorney and the director of any facility to which the attorney has been admitted. Proof of service shall be made in accordance with Rule 2-126.

(c) Order of the Court of Appeals

Upon consideration of the petition and any answer, the Court of Appeals may: (1) immediately place the attorney on inactive status for an indefinite period pending further order of the Court; (2) enter an order designating a judge in accordance with Rule 19-722 to hold a hearing in accordance with Rule 19-727; or (3) enter any other appropriate order. The provisions of Rule 19-744 apply to an order that places an attorney on inactive status. Copies of the order shall be served upon Bar Counsel and each person named in the proof of service of the petition.

(d) Effect on Disciplinary or Remedial Proceeding

If a disciplinary or remedial proceeding for alleged misconduct is pending against the attorney, the entry of an order under this section shall stay the proceeding until the further order of the Court.

(e) Termination of Inactive Status

When an attorney who has been placed on inactive status under section (c) of this Rule is judicially determined to be competent or is judicially released after involuntary admission, the Court of Appeals shall terminate the inactive status and either dismiss the petition or enter an order designating a judge

in accordance with Rule 19-722 to hold a hearing in accordance with Rule 19-727.

(f) Duties of Clerk of Court of Appeals

The applicable provisions of Rule 19-761 apply when an order is entered under this Rule.

Source: This Rule is derived from former Rule 16-774 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-740. PERMANENT RETIRED STATUS

(a) Purpose

Permanent retired status is intended to enable an attorney whose alleged conduct (1) meets the criteria set forth in section (b) of this Rule and (2) was predominantly the product of the attorney's ill health or decline, to retire permanently from the practice of law with dignity and to ensure the protection of the public. Permanent retired status is not a sanction, and no record of any investigation by Bar Counsel, documents associated therewith, or proceedings in connection with the determination that the attorney be placed on permanent retired status, shall be made public except with the written consent of the attorney, a duly authorized representative of the attorney, or, upon good cause shown, by the Court of Appeals.

(b) Criteria

Upon completing an investigation and upon agreement of the attorney, Bar Counsel may recommend to the Commission that the attorney be placed on permanent retired status if Bar Counsel concludes that:

(1) the attorney is the subject of a complaint or allegation which if found meritorious, could lead to the attorney being

disciplined or placed on inactive status;

(2) the alleged conduct was predominantly a result of the attorney's ill health or decline;

(3) the alleged conduct does not involve misconduct so serious that, if proven, would likely result in the suspension or disbarment of the attorney or placement of the attorney on inactive status;

(4) the alleged conduct does not reflect adversely on the attorney's honesty or involve conduct that could be the basis for an immediate Petition for Disciplinary or Remedial Action pursuant to Rules 19-737 or 19-738;

(5) the alleged conduct either did not result in actual loss or harm to a client or other person, or, if it did, full restitution has been made;

(6) because of the effect of the attorney's ill health or decline on the attorney's ability to comply fully with the Maryland Attorneys' Rules of Professional Conduct, the attorney should no longer engage in the practice of law; and

(7) the attorney has taken all appropriate actions to wind-up his or her practice or will do so within a time established by the Commission in any approval of permanent retired status.

(c) Action by Commission

If the attorney agrees to permanent retired status, Bar Counsel or the attorney may submit any explanatory materials that either believes relevant and shall submit any further material

that the Commission requests. Upon submission, the Commission may take any of the following actions:

(1) the Commission may approve permanent retired status for the attorney, if satisfied that it is appropriate under the circumstances, in which event the attorney, upon notice of the Commission's written approval and upon the date specified by the Commission, shall take the actions set forth in section (e) of this Rule, and Bar Counsel shall terminate the disciplinary or remedial proceeding; or

(2) the Commission may disapprove permanent retired status for the attorney if not satisfied that it is appropriate under the circumstances and direct Bar Counsel to proceed in another manner consistent with the Rules in this Chapter.

(d) Effect of Disapproval

If permanent retired status is not approved by the Commission, any investigation or proceeding shall resume as if permanent retired status had not been recommended, and the fact that permanent retired status was recommended or that it was not approved may not be entered into the record of any proceeding.

(e) Effect of Permanent Retired Status

An attorney who has been placed on permanent retired status:

(1) shall, upon receipt of the Commission's determination that the attorney be placed on permanent retired status, cease the practice of law in this State and in all other jurisdictions

in which the attorney was admitted on or before the date specified by the Commission;

(2) shall, by such date, notify the Client Protection Fund, in writing, of the Commission's approval of permanent retired status, and shall include with such notice a copy of the Commission's approval;

(3) shall not apply for admission to the bar of this State or any other jurisdiction or for revocation of permanent retired status; and

(4) shall, by such date, comply with the provisions of Rule 19-742 (b).

Committee note: The name of a permanently retired attorney must be removed from the letterhead of any law firm with which the attorney was associated, but if the attorney's last name was part of a firm name that consisted of two or more last names, the firm is not required to remove the last name of the attorney from the name of the firm.

(f) Extension

Upon a showing of good cause and consideration of any objection by Bar Counsel, the Commission may permit an extension of the period to complete one or more of the tasks itemized in section (e) of this Rule.

Source: This Rule is derived from former Rule 16-738 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

DISPOSITIONS BY COURT OF APPEALS

Rule 19-741. DISPOSITION - GENERALLY

(a) Oral Argument

Unless oral argument is waived by the parties, the Court shall set a date for oral argument. Oral argument shall be conducted in accordance with Rule 8-522.

(b) Review by Court of Appeals

(1) Conclusions of Law

The Court of Appeals shall review de novo the circuit court judge's conclusions of law.

(2) Findings of Fact

(A) If No Exceptions are Filed

If no exceptions are filed, the Court may treat the findings of fact as established.

(B) If Exceptions are Filed

If exceptions are filed, the Court of Appeals shall determine whether the findings of fact have been proved by the requisite standard of proof set out in Rule 19-727 (c). The Court may confine its review to the findings of fact challenged by the exceptions. The Court shall give due regard to the opportunity of the hearing judge to assess the credibility of

witnesses.

(c) Disposition

(1) Generally

The Court of Appeals may order (A) disbarment, (B) suspension, (C) a reprimand, (D) placement on inactive status, (E) dismissal of the disciplinary or remedial action, or (F) a remand for further proceedings.

(2) If Suspension Ordered

The court may order a suspension for a fixed period of time or indefinitely. An order for indefinite suspension may provide that the attorney may not seek reinstatement until the expiration of a specified period.

Cross reference: For reinstatement, including reinstatement following a suspension for a fixed period, see Rules 19-751 and 19-752.

(d) Decision

The decision of the Court of Appeals is final. The decision shall be evidenced by an order which the clerk shall certify under the seal of the Court. The order may be accompanied by an opinion.

(e) Effective Date of Order

Unless otherwise stated in the order, an order providing for the disbarment, suspension, or reprimand of an attorney or the placement of an attorney on inactive status shall take effect upon its filing with the Clerk of the Court.

Cross reference: For duties of the Clerk of Court of Appeals upon entry of certain orders, see Rule 19-761.



Source: This Rule is derived from former Rule 16-759 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-742. ORDER OF DISBARMENT OR SUSPENSION

(a) Duties of Clerk

Upon the filing of an order of disbarment or suspension, the Clerk of the Court of Appeals shall (1) notify the attorney in writing by first-class mail, and, if practicable, by electronic mail, and (2) comply with Rule 19-761.

(b) Effect of Order

Except as provided in section (c) of this Rule, after the effective date of an order of disbarment or suspension, an attorney may not:

(1) practice law or offer to practice law in this State, either directly or through any other person;

(2) undertake any new representation of existing clients or any representation of new clients;

(3) solicit or procure any legal business or retainer for an attorney, whether or not for personal gain;

(4) share in any fees for legal services performed by another attorney, but may be compensated for the reasonable value of services rendered prior to the effective date of the order;

(5) use any business card, sign, advertisement, social networking media, website, or other form of communication

suggesting that the attorney is entitled to practice law or maintain, alone or with another, an office for the practice of law; or

Committee note: Examples of social networking media include Facebook, LinkedIn, Myspace, and Twitter.

(6) except for the limited purpose of complying with the requirements of section (c) of this Rule:

(A) occupy, share, or use office space in which an attorney practices law unless under circumstances clearly indicating to clients, prospective clients, and individuals who may visit the office that the attorney is not an attorney and is not permitted to practice law; or

(B) use any stationery, bank account, checks, or labels on which the attorney's name appears as an attorney or in connection with any office for the practice of law.

Cross reference: For the applicability of the provisions of section (b) of this Rule to an attorney who is placed on permanent retired status, see Rule 19-740 (e) (4).

(c) Affirmative Duties of Attorney

Unless the Court orders otherwise, an attorney who has been disbarred or suspended shall take the following actions:

(1) Requirements to be Completed Within 15 Days

Within 15 days after the effective date of the order, the attorney shall:

(A) conclude all client matters that can be concluded within that period;

(B) supply to Bar Counsel or an attorney designated by Bar

Counsel pursuant to section (e) of this Rule (i) the names, addresses, and telephone numbers of all of the attorney's current clients and (ii) identify, by client name, tribunal, and docket reference, all client matters pending in any court or other tribunal or agency; and

(C) mail a letter giving notice of the order and of the effective date of the attorney's disbarment or suspension to (i) all of the attorney's current clients, (ii) counsel for each party and any self-represented party in all pending actions, proceedings, negotiations, or transactions, and (iii) each attorney with whom the attorney is associated in the practice of law.

Committee note: An attorney's current clients include persons who have hired the attorney on retainer. A person may be a current client even if the attorney was not actively performing any legal work for that person on the date of disbarment or suspension.

(2) Requirements to be Completed Promptly and Within 30 Days

As soon as practicable but within 30 days after the effective date of the order, the attorney shall:

(A) take or cause to be taken, without charging any additional fee, any action immediately necessary to protect the interests of current clients which, as a practical matter, cannot otherwise be protected;

Committee note: The intent of subsection (c) (2) (A) of this Rule is to assure that existing clients are not unduly harmed by the attorney's immediate disbarment or suspension by requiring the attorney, during a brief grace period and without any additional fee, to deal with urgent matters necessary to protect the clients' interests, such things as requesting a postponement of

closely impending hearings or trials or filing a paper in a pending case which, if not done prior to the client's practical ability to obtain another attorney, would result in significant harm to the client. See *Attorney Grievance v. Maignan*, 402 Md. 39 (2007). This is intended as a very narrow and time-limited exception to the prohibition against practicing law. Because the need for such action arises solely from the attorney's disbarment or suspension, the Rule prohibits the charging of a fee for those services.

(B) inform current clients, in writing, that the client may obtain another attorney, and that it may be necessary for the client to obtain another attorney depending upon the status of the client's case or legal matter.

(C) deliver to clients with pending matters all papers and other property to which the clients are entitled or notify the clients and any co-counsel of a suitable time and place to obtain the papers and property and call attention to any urgent need to obtain them;

(D) notify the disciplinary authority in each jurisdiction in which the attorney is admitted to practice of the disciplinary sanction imposed by the Court of Appeals; and

(E) unless the attorney is suspended for a fixed period of time not exceeding one year, request the publisher of each telephone directory or law listing to remove each listing or reference that suggests that the attorney is eligible to practice law; request the attorney's name be removed from the law firm's website and letterhead; and remove any reference that the attorney is eligible to practice law from any website or social networking profile, regardless of whether the website or profile

is that of the attorney individually or of a law firm or other group or entity.

(3) Requirements to be Completed Within 30 Days

Within 30 days after the effective date of the order, the attorney shall:

(A) withdraw from all client matters; and

(B) file with Bar Counsel an affidavit that states or is accompanied by:

(i) the manner and extent to which the attorney has complied with the order and this Rule;

(ii) all actions taken by the attorney pursuant to subsection (b) (2) (A) and (B) of this Rule;

(iii) the names of all State and Federal jurisdictions in which and administrative agencies before which the attorney has been admitted to practice;

(iv) the residence and other addresses of the attorney to which future communications may be directed;

(v) the name and address of each insurer that provided malpractice insurance coverage to the attorney during the past five years, the policy number of each policy, and the inclusive dates of coverage; and

(vi) a copy of each letter sent pursuant to subsection (b) (1) (C) of this Rule.

(d) Duties of Bar Counsel

Bar Counsel shall enforce the order and the provisions of

this Rule. Bar Counsel may designate an attorney to monitor compliance by the disbarred or suspended attorney and to receive the lists and copies of letters required by subsections (c) (1) (B) and (c) (2) (B) of this Rule.

(e) Conditions on Reinstatement

(1) Time for Application

In an order that suspends an attorney for an indefinite period, the Court may permit the attorney to apply for reinstatement after a minimum period of time specified in the Order.

(2) Other Conditions to or Upon Reinstatement

In an order of suspension for an indefinite or fixed period entered under this Rule, the Court may require, as a condition precedent to reinstatement or as a condition of probation after reinstatement, one or more of the requirements set forth in Rule 19-752.

Cross reference: For reinstatement, including reinstatement following a suspension for a fixed period, see Rules 19-751 and 19-752.

(f) Responsibility of Affiliated Attorneys

After the effective date of an order that disbars or suspends an attorney or places an attorney on inactive status, no attorney may assist the disbarred or suspended attorney in any activity that constitutes the practice of law or in any activity prohibited under section (a) of this Rule. Upon notice of the order, an attorney associated with the disbarred or suspended

attorney as a partner, or member or shareholder of a law firm, shall take reasonable action to ensure compliance with this Rule. The law firm may give written notice to any client of the disbarred or suspended attorney of that attorney's inability to practice law and of its willingness to represent the client with the client's consent.

(g) Non-admitted Attorney

(1) Duties of Clerk

On the effective date of an order by the Court of Appeals that disbars or suspends a non-admitted attorney, the Clerk of the Court of Appeals shall place the name of that attorney on a list maintained in that Court of non-admitted attorneys who are excluded from exercising in any manner the privilege of practicing law in the State. The Clerk also shall forward a copy of the order to the clerks of all courts in this State, including the U.S. District Court for the District of Maryland, the U.S. Court of Appeals for the 4<sup>th</sup> Circuit, and the U.S. Supreme Court, and to the State Court Administrator and the Board of Law Examiners to be maintained with the docket of out-of-state attorneys who are denied special admission to practice under the Rules Governing Admission to the Bar of Maryland. The Clerk shall give the notice required by Rule 19-707 (e).

(2) Effect of Order

After the effective date of an order entered under this section, the attorney may not practice law in this State and is



disqualified from admission to the practice of law in this State.

(h) Modification of Order

Upon joint stipulation or verified motion filed by the attorney, the Court of Appeals may reduce a period of suspension, waive a requirement or condition imposed by this Rule or by order, or otherwise modify an order entered under this Rule. Relief may be denied without a hearing unless it appears from the stipulation or from clear and convincing evidence submitted with the motion that the respondent is attempting in good faith to comply with the order but that full and exact compliance has become impossible or will result in unreasonable hardship. If necessary to resolve a genuine issue of material fact, the Court may enter an order designating a judge in accordance with Rule 19-722 to hold a hearing in accordance with Rule 19-727.

(i) Sanctions for Violations

(1) Disciplinary or Remedial Action

Upon receiving information from any source that the attorney has violated section (b) or (c) of this Rule or the order of the Court of Appeals, Bar Counsel shall investigate the matter. In addition to any other remedy, Bar Counsel may file a Petition for Disciplinary or Remedial Action pursuant to Rule 19-721 based on the violation.

(2) Injunction

Upon receiving information from any source that the attorney is violating sections (b) or (c) of this Rule, Bar

Counsel may institute or intervene in an action in any court with jurisdiction to enjoin the respondent from further violations.

(3) Contempt

If the attorney violates an order of the Court of Appeals, Bar Counsel may request the initiation of a proceeding for constructive criminal contempt pursuant to Rule 15-205 and may institute a proceeding for constructive civil contempt pursuant to Rule 15-206.

Source: This Rule is derived, in part, from former Rule 16-760 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-743. ORDER OF REPRIMAND

(a) Accompanying Requirements

As part of a reprimand, the Court may require the attorney:

(1) to reimburse a client for any part of fees paid in advance for legal services that were not completed;

(2) to make restitution to a client for any other sum found to be due to the client;

(3) to pay all costs assessed by the order of reprimand;

(4) to issue a public apology to designated persons; and

(5) to take any other corrective action that the Court finds reasonable and appropriate.

(b) Content of Order

Unless accompanied by a reported opinion, an order that reprimands an attorney shall (1) summarize the misconduct for which the reprimand is imposed, (2) include specific reference to any rule or statute violated by the attorney, and (3) state any requirements imposed on the attorney pursuant to section (a) of this Rule. Upon the entry of an order that reprimands an attorney, the Clerk of the Court of Appeals shall give the notice required by Rule 19-707 (e).

Source: This Rule is derived from former Rule 16-760 (b) (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-744. PLACEMENT ON INACTIVE STATUS

(a) Effect of Order

(1) Generally

After the effective date of an order placing an attorney on inactive status, the attorney (A) may not engage in any conduct prohibited to a disbarred or suspended attorney under Rule 19-742 (a), and (B) except as provided in subsection (a) (2) of this Rule, must perform the duties required by Rule 19-742 (c).

(2) If Attorney Unable to Comply with Rule 19-742 (c)

If, due to the nature or severity of the attorney's incapacity, the attorney is unable to perform the duties required by Rule 19-742 (c) and satisfactory arrangements have not been made for the performance of those duties, the Court of Appeals may (A) direct Bar Counsel to seek the appointment of a conservator pursuant to Rule 19-734, and (B) direct that the incapacitated attorney cooperate to the best of the attorney's ability with the conservator or other attorney.

Committee note: Because placement of an attorney on inactive status arises only from a finding of incapacity, as defined in Rule 19-701 (g), there may be a legitimate question of whether the attorney is competent to fulfill the winding up obligations set forth in Rule 19-742 (c). Unless another attorney capable of

performing those duties has agreed to do so, Bar Counsel and the Court should give consideration to whether a conservator may need to be appointed to perform those duties.

(b) Duties of Clerk

Upon the filing of the order, the Clerk of the Court of Appeals shall take the actions specified in Rule 19-742 (a).

(c) Duties of Bar Counsel

Bar Counsel shall perform the duties specified in Rule 19-742 (d).

(d) Conditions on Reinstatement

In an order that places an attorney on inactive status, the Court may permit the attorney to apply for reinstatement after a minimum period of time and upon conditions specified in Rule 19-753.

(e) Other Provisions of Rule 19-742

The provisions of Rule 19-742 (f), (g), (h), and (i) shall apply with respect to an order entered under this Rule.

Source: This Rule is derived in part from former Rule 16-760 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

REINSTATEMENT

Rule 19-751. REINSTATEMENT - SUSPENSION SIX MONTHS OR LESS

(a) Scope of Rule

This Rule applies to an attorney who has been suspended for a fixed period of time not exceeding six months.

(b) Reinstatement Not Automatic

An attorney subject to this Rule is not automatically reinstated upon expiration of the period of suspension. An attorney is not reinstated until the Court of Appeals enters an Order of Reinstatement.

(c) Petition for Reinstatement

(1) Requirement

An attorney who seeks reinstatement shall file a verified petition for reinstatement with the Clerk of the Court of Appeals and serve a copy on Bar Counsel. The attorney shall be the petitioner. Bar Counsel shall be the respondent.

(2) Timing

The petition may not be filed earlier than ten days prior to the end of the period of suspension.

(3) Content

The petition shall state the effective date of the

suspension and the asserted date of its completion, certify that (A) the attorney has complied with Rule 19-742 and all requirements and conditions specified in the suspension order and (B) to the best of the attorney's knowledge, information, and belief, no complaints or disciplinary proceedings are currently pending against the attorney. The petition shall be accompanied by (i) a copy of the Court's order imposing the suspension, (ii) any opinion that accompanied that order, and (iii) any filing fee prescribed by law.

(d) Review by Bar Counsel

Bar Counsel shall promptly review the petition and, within five days after service, shall file with the Clerk of the Court of Appeals and serve on the attorney any objection to the reinstatement. The basis of the objection shall be stated with particularity.

(e) Action by Court of Appeals

(1) If No Timely Objection Filed

If Bar Counsel has not filed a timely objection, the Clerk shall promptly forward to the Chief Judge or a judge of the Court designated by the Chief Judge the petition, a certificate that no objection had been filed, and a proposed Order of Reinstatement. The Chief Judge or the designee may sign and file the order on behalf of the Court.

(2) If Timely Objection Filed

If Bar Counsel files a timely objection, the Clerk shall

refer the matter to the full Court for its consideration. The Court may overrule Bar Counsel's objections and enter an Order of Reinstatement or set the matter for hearing.

(f) Effective Date of Reinstatement Order

An order that reinstates the petitioner may provide that it shall become effective immediately or on a date stated in the order.

(g) Duties of Clerk

(1) Attorney Admitted to Practice

Promptly after the effective date of an order that reinstates a petitioner, the Clerk of the Court of Appeals shall comply with Rule 19-761.

(2) Attorney Not Admitted to Practice

Upon receiving a reinstatement notice authorized by section (e) of this Rule, or on the effective date of an order or notice that reinstates a petitioner not admitted by the Court of Appeals to practice law, the Clerk of the Court of Appeals shall remove the petitioner's name from the list maintained in that Court of non-admitted attorneys who are ineligible to practice law in this State, and shall certify that fact to the Board of Law Examiners and the clerks of all courts in the State.

(h) Motion to Vacate Reinstatement

Bar Counsel may file a motion to vacate an order that reinstates the petitioner if (1) the petitioner has failed to demonstrate substantial compliance with the order, including any



condition of reinstatement imposed under Rule 19-752 (h) or (2) the petition filed under section (a) of this Rule contains a false statement or omits a material fact, the petitioner knew the statement was false or the fact was omitted, and the true facts were not disclosed to Bar Counsel prior to entry of the order. The petitioner may file a verified response within 15 days after service of the motion, unless a different time is ordered. If there is a factual dispute to be resolved, the court may enter an order designating a judge in accordance with Rule 19-722 to hold a hearing. The judge shall allow reasonable time for the parties to prepare for the hearing and may authorize discovery pursuant to Rule 19-726. The applicable provisions of Rule 19-727 shall govern the hearing. The applicable provisions of Rules 19-728 and 19-729, except section (c) of Rule 19-729, shall govern any subsequent proceedings in the Court of Appeals. The Court may reimpose the discipline that was in effect when the order was entered or may impose additional or different discipline.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

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CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

Rule 19-752. REINSTATEMENT - OTHER SUSPENSION; DISBARMENT;  
INACTIVE STATUS; RESIGNATION

(a) Scope of Rule

This Rule applies to an attorney who has been disbarred, suspended indefinitely, suspended for a fixed period longer than six months, or placed on inactive status or who has resigned from the practice of law.

(b) Reinstatement Not Automatic

An attorney subject to this Rule is not automatically reinstated upon expiration of the period of suspension. An attorney is not reinstated until the Court of Appeals enters an Order of Reinstatement.

(c) Petition for Reinstatement

(1) Requirement

An attorney who seeks reinstatement under this Rule shall file a verified petition for reinstatement with the Clerk of the Court of Appeals and serve a copy on Bar Counsel. The attorney shall be the petitioner. Bar Counsel shall be the respondent.

(2) Timing Following Order of Suspension or Disbarment

(A) If the attorney was suspended for a fixed period, the petition may not be filed earlier than 30 days prior to the end

of the period of suspension.

(B) If the attorney was suspended for an indefinite period or disbarred, the petition may not be filed earlier than (i) the time specified in the order of suspension or disbarment.

(3) Content

The petition shall state or be accompanied by the following:

(A) docket references to all prior disciplinary or remedial actions to which the attorney was a party;

(B) a copy of the order that disbarred or suspended the attorney, placed the attorney on inactive status, or accepted the resignation of the attorney and any opinion of the Court that accompanied the order;

(C) that the attorney has complied in all respects with the provisions of Rule 19-742 or, if applicable, Rule 19-744, and with any terms or conditions stated in the disciplinary or remedial order;

(D) a description of the conduct or circumstances leading to the order of disbarment, suspension, placement on inactive status, or acceptance of resignation; and

(E) facts establishing the attorney's subsequent conduct and reformation, present character, present qualifications and competence to practice law, and ability to satisfy the criteria set forth in section (g) of this Rule.

(d) Information for Bar Counsel

(1) Generally

Upon the filing of the petition, the attorney shall separately supply to Bar Counsel, in writing, the following information:

(A) the attorney's current address, e-mail address, if any, and telephone number;

(B) the information specified in subsection (c)(2) or (c)(3) of this Rule, as applicable;

(C) evidence establishing compliance with all applicable requirements set forth in section (g) of this Rule;

(D) a statement of whether the attorney has applied for reinstatement in any other jurisdiction and the current status of each such application; and

(E) any other information that the attorney believes is relevant to determining whether the attorney possesses the character and fitness necessary for reinstatement; and

(2) If Disbarred or Suspended

If the attorney has been disbarred or suspended, the information supplied to Bar Counsel shall include:

(A) the address of each residence of the attorney during the period of discipline, with inclusive dates of each residence;

(B) the name, address, e-mail address, if any, and telephone number of each employer, associate, and partner of the attorney during the period of discipline, together with (i) the inclusive dates of each employment, association, and partnership,

(ii) the positions held, (iii) the names of all immediate supervisors, and (iv) if applicable, the reasons for termination of the employment, association, or partnership;

(C) the case caption, general nature, and disposition of each civil and criminal action pending during the period of discipline to which the attorney was a party or in which the attorney claimed an interest;

(D) a statement of monthly earnings and all other income during the period of discipline, including the source;

(E) copies of the attorney's state and federal income tax returns for the three years preceding the effective date of the order of disbarment or suspension and each year thereafter;

(F) a statement of the attorney's assets and financial obligations;

(G) the names and addresses of all creditors;

(H) a statement identifying all other business or occupational licenses or certificates applied for during the period of discipline and the current status of each application; and

(I) the name and address of each financial institution at which the attorney maintained or was signatory on any account, safe deposit box, deposit, or loan during the period of discipline and written authorization for Bar Counsel to obtain financial records pertaining to such accounts, safe deposit boxes, deposits, or loans.

(3) If Placed on Inactive Status

If the attorney was placed on inactive status, the information supplied to Bar Counsel shall include:

(A) the name, address, and telephone number of each health care provider or addiction care provider and institution that examined or treated the attorney for incapacity during the period of inactive status; and

(B) a written waiver of any physician-patient privilege with respect to each psychiatrist, psychologist, or psychiatric-mental health nursing specialist named subsection (c) (3) (A) of this Rule.

(e) Response to Petition

(1) Generally

Within 30 days after service of the petition, Bar Counsel shall file and serve on the attorney a response. Except as provided in subsection (d) (2) of this Rule, the response shall admit or deny the averments in the petition in accordance with Rule 2-323 (c). The response may include Bar Counsel's recommendations in support of or opposition to the petition and with respect to any conditions to reinstatement.

(2) Consent

If Bar Counsel is satisfied that the attorney has complied fully with the provisions of Rule 19-742 and any requirements or conditions in the order of suspension or disbarment, and there are no known complaints or disciplinary

proceedings pending against the attorney, the response may be in the form of a consent to the reinstatement.

(f) Disposition

(1) Consent by Bar Counsel

If, pursuant to subsection (e) (2) of this Rule, Bar Counsel has filed a consent to reinstatement, the Clerk shall proceed in accordance with Rule 19-751 (e) (1).

(2) Other Cases

In other cases, upon review of the petition and Bar Counsel's response, the Court may (A) without a hearing, dismiss the petition or grant the petition and enter an order of reinstatement with such conditions as the Court deems appropriate, or (B) order further proceedings in accordance with section (g) of this Rule.

(g) Further Proceedings

(1) Order Designating Judge

If the Court orders further proceedings pursuant to subsection (f) (2) (B) of this Rule, it shall enter an order designating a judge of any circuit court to hold a hearing.

(2) Discovery

The judge shall allow reasonable time for Bar Counsel to investigate the petition and, subject to Rule 19-726, to take depositions and complete discovery.

(3) Hearing

The applicable provisions of Rule 19-727 shall govern the

hearing and the findings and conclusions of the judge, except that the attorney shall have the burden of proving the averments of the petition by clear and convincing evidence.

(4) Proceedings in Court of Appeals

The applicable provisions of Rules 19-728 and 19-729 (a), (b), and (d) shall govern subsequent proceedings in the Court of Appeals. The Court may (A) dismiss the petition, (B) order reinstatement, with such conditions as the Court deems appropriate, or (C) remand for further proceedings.

(h) Criteria for Reinstatement

(1) Generally

In determining whether to grant a petition for reinstatement, the Court of Appeals shall consider the nature and circumstances of the attorney's conduct that led to the disciplinary or remedial order and the attorney's (A) subsequent conduct, (B) current character, and (C) current qualifications and competence to practice law.

(2) Specific Criteria

The Court may order reinstatement if the attorney meets each of the following criteria or presents sufficient reasons why reinstatement should be ordered in the absence of satisfaction of one or more of those criteria:

(A) the attorney has complied in all respects with the provisions of Rule 19-742 or, if applicable, 19-744 and with the terms and conditions of prior disciplinary or remedial orders;



(B) the attorney has not engaged in or attempted or offered to engage in the unauthorized practice of law during the period of disbarment, suspension, or inactive status;

(C) if the attorney was placed on inactive status, the incapacity or infirmity, including alcohol or drug abuse no longer exists and is not likely to recur in the future;

(D) if the attorney was disbarred or suspended, the petitioner recognizes the wrongfulness and seriousness of the professional misconduct for which discipline was imposed;

(E) the attorney has not engaged in any professional misconduct or, other than minor traffic or municipal infractions, any unlawful activity since the imposition of discipline;

(F) the attorney currently has the requisite honesty and integrity to practice law;

(G) the attorney has kept informed about recent developments in the law and is competent to practice law; and

(H) the attorney has complied with all financial obligations required by these Rules or by court order, including (i) reimbursement of all amounts due to the attorney's former clients, (ii) payment of restitution which, by court order, is due to the attorney's former clients or any other person, (iii) reimbursement of the Client Protection Fund for all claims that arose out of the attorney's practice of law and satisfaction of all judgments arising out of such claims, and (iv) payment of all costs assessed by court order or otherwise required by law.

(i) Conditions to Reinstatement

An order that reinstates an attorney may include, as a condition precedent to reinstatement or as a condition of probation after reinstatement that the attorney:

(1) take the oath of attorneys required by Code, Business Occupations and Professions Article, §10-212;

(2) pass either the comprehensive Maryland Bar examination or an attorney examination administered by the Board of Law Examiners;

(3) attend a bar review course approved by Bar Counsel and submit to Bar Counsel satisfactory evidence of attendance;

(4) submit to Bar Counsel evidence of successful completion of a professional ethics course at an accredited law school;

(5) submit to Bar Counsel evidence of attendance at the professionalism course required for newly-admitted attorneys;

(6) engage an attorney satisfactory to Bar Counsel to monitor the attorney's legal practice for a period stated in the order of reinstatement;

(7) limit the nature or extent of the attorney's future practice of law in the manner set forth in the order of reinstatement;

(8) participate in a program tailored to individual circumstances that provides the attorney with law office management assistance, attorney assistance or counseling, treatment for substance or gambling abuse, or psychological

counseling;

(9) demonstrate, by a report of a health care professional or other evidence, that the attorney is mentally and physically competent to resume the practice of law;

(10) issue an apology to one or more persons; or

(11) take any other corrective action that the Court deems appropriate.

(j) Effective Date of Reinstatement Order

An order that reinstates the petitioner may provide that it shall become effective immediately or on a date stated in the order.

(k) Duties of Clerk

(1) Attorney Admitted to Practice

Promptly after the effective date of an order that reinstates a petitioner, the Clerk of the Court of Appeals shall comply with Rule 19-761.

(2) Attorney Not Admitted to Practice

Upon receiving a reinstatement notice authorized by section (e) of this Rule, or on the effective date of an order or notice that reinstates a petitioner not admitted by the Court of Appeals to practice law, the Clerk of the Court of Appeals shall remove the petitioner's name from the list maintained in that Court of non-admitted attorneys who are ineligible to practice law in this State, and shall certify that fact to the Board of Law Examiners and the clerks of all courts in the State.

(1) Motion to Vacate Reinstatement

Bar Counsel may file a motion to vacate an order that reinstates the petitioner if (1) the petitioner has failed to demonstrate substantial compliance with the order, including any condition of reinstatement imposed under Rule 19-752 (h) or section (j) of this Rule or (2) the petition filed under section (a) of this Rule contains a false statement or omits a material fact, the petitioner knew the statement was false or the fact was omitted, and the true facts were not disclosed to Bar Counsel prior to entry of the order. The petitioner may file a verified response within 15 days after service of the motion, unless a different time is ordered. If there is a factual dispute to be resolved, the court may enter an order designating a judge in accordance with Rule 19-722 to hold a hearing. The judge shall allow reasonable time for the parties to prepare for the hearing and may authorize discovery pursuant to Rule 19-726. The applicable provisions of Rule 19-727 shall govern the hearing. The applicable provisions of Rules 19-728 and 19-741, except section (c) of Rule 19-741, shall govern any subsequent proceedings in the Court of Appeals. The Court may reimpose the discipline that was in effect when the order was entered or may impose additional or different discipline.

Source: This Rule is derived from former Rule 16-781 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

REGISTER OF ATTORNEYS; NOTICES

Rule 19-761. DUTIES OF CLERK OF COURT OF APPEALS UPON ATTORNEY'S  
SUSPENSION, TERMINATION, OR REINSTATEMENT

(a) Register of Attorneys

Upon the entry of an Order of the Court of Appeals suspending or terminating an attorney's authority to practice law in this State, except an Order pursuant to Rule 19-409, 19-503, or 19-606, the Clerk of the Court of Appeals shall strike the name of the attorney from the register of attorneys maintained by the Clerk. Upon the entry of an Order of the Court of Appeals reinstating the attorney's authority to practice law, the Clerk shall replace the name of the attorney on the register as of the date of or specified in the Order.

(b) Notice

Upon the entry of an order of the Court of Appeals suspending, terminating, or reinstating an attorney's authority to practice law in this State, including a suspension or reinstatement pursuant to an Order of Decertification or Recertification under Rule 19-409 or 19-503 or a suspension or reinstatement under Rule 19-606, the Clerk shall:

- (1) send a copy of the order to the attorney;

(2) post notice of the order on the Judiciary website; and

(3) send notice of the order to:

(A) the Clerk of the Court of Special Appeals;

(B) the Clerk of each Circuit Court;

(C) the Chief Clerk of the District Court;

(D) the Clerk of the United States Supreme Court;

(E) the Clerk of the U.S. Court of Appeals for the Fourth Circuit;

(F) the Clerk of the U.S. District Court for the District of Maryland;

(G) the Register of Wills for each county;

(H) the State Court Administrator;

(I) the trustees of the Client Protection Fund;

(J) the Office of Administrative Hearings; and

(K) unless the suspension, termination, or reinstatement is solely pursuant to Rule 19-409, 19-503, or 19-606:

(i) the National Lawyer Regulatory Data Bank of the American Bar Association; and

(ii) the disciplinary authority of every other jurisdiction in which the Clerk knows the attorney is admitted to practice.

(c) Notice Upon Request

In addition to the persons listed in subsection (b) (3) of this Rule, the Clerk may send notice of the order to other persons who have requested such notice.

(d) Form of Notice

The Clerk may send the notice under subsection (b) (3) of this Rule in electronic or paper form.

Source: This Rule is new.