

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its One Hundred Ninety-Eighth Report to the Court of Appeals, transmitting thereby proposed new Title 9, Chapter 400 (Termination of Parental Rights Under Code, Family Law Article, Title 5, Subtitle 14) and Title 19, Chapter 800 (Attorney Information System); proposed amendments to Title 19, Chapter 100 (State Board of Law Examiners and Character Committee) and to Title 19, Chapter 200 (Admission to the Bar); proposed new Rules 1-205, and 10-405.1; and proposed amendments to current Rules 1-101, 6-433, 6-464, 9-101, 10-104, 10-201, 10-202, 10-205, 10-301, 10-304, 10-402, 10-403, 10-404, 10-405, 14-206, 16-302, 19-409, 19-503, 19-605, and 19-606.

The Committee's One Hundred Ninety-Eighth Report and the proposed Rules changes are set forth below.

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before November 19, 2018 any written comments they may wish to make to:

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Reporter, Rules Committee

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Suzanne Johnson
Acting Clerk
Court of Appeals of Maryland

October 19, 2018

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Clayton Greene, Jr.

The Honorable Sally D. Adkins

The Honorable Robert N. McDonald,

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Joseph M. Getty,
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its One Hundred Ninety-Eighth Report and recommends that the Court adopt the new Rules and amendments to existing Rules transmitted with this Report. The Report comprises eight categories of suggested changes.

Category One consists of amendments to the Bar Admission Rules that are designed principally to implement the Court's decision to adopt the Uniform Bar Examination (UBE) administered by the National Conference of Bar Examiners (NCBE) in substitution for the traditional Maryland Bar Examination, but also to implement other recommendations of the State Board of Law Examiners (SBLE).¹ The proposed changes were crafted in close collaboration with SBLE. Included with **Category One**, for information purposes, are amendments to SBLE Rules that contemporaneously are submitted to the Court by SBLE.

¹ The Rules proposed to be amended are Rules 19-101, 19-102, 19-103, 19-104, 19-105, 19-201, 19-203, 19-204, 19-205, 19-206, 19-207, 19-208, 19-209, 19-201, 19-211, 19-212, 19-213, 19-214, 19-215, 19-216, 19-217, 19-218, 19-219, 19-220, 19-221, and 19-222.

At present, there are four principal requirements for admission to the Maryland Bar by individuals who are not members of the Bar of another State: (1) unless waived, graduation from a law school approved by the American Bar Association, (2) a passing grade on the Maryland Bar Examination administered by SBLE, (3) proof of good character, and (4) taking the statutorily prescribed oath. An attorney who is a member in good standing of the Bar of another State and who has practiced law in that State for at least five of the most recent ten years may be admitted upon successfully completing a special attorney examination administered by SBLE and taking the prescribed oath.

With respect to the first group of applicants, the first, third, and fourth requirements will remain intact, although there is some reorganization of, and conforming textual amendments to, the Rules relating to them. In place of the second requirement - the Maryland Bar Examination - are three new requirements: (1) a qualifying score on the UBE, which will be determined by SBLE, (2) satisfactory completion of a "Maryland Component" that currently is being developed by a special committee appointed by the Court and will be administered on line, and (3) satisfactory completion of the Multistate Professional Responsibility Examination (MPRE) administered by the NCBE. These new requirements are intended to be implemented with the July 2019 Bar Examination, and, to achieve that goal, the Rules changes will need to become effective by March 1, 2019.

The question of whether to require the MPRE was presented to the Court in the Rules Committee's 190th Report in October 2015. The Committee had recommended it, but, in light of objections raised by the Deans of the two State law schools, the Court rejected the Committee's recommendation. Two things have changed. First, the Committee was advised that the Deans now support the requirement as an adjunct to the UBE, and second, because the MPRE is now required in most, if not all, other States using UBE, requiring it in Maryland is necessary to assure the portability that is at the heart of UBE.

The UBE is now administered and accepted in over 30 States. Although, as its name indicates, it is a uniform examination, each State determines for itself what to accept as a qualifying score. An applicant for admission in Maryland may take the UBE in any State where it is given and transfer the score the applicant received, provided that (1) the score is a qualifying score as determined by SBLE, and (2) the score was achieved within a time period established by SBLE.

Two major changes are proposed with respect to the admission of out-of-State attorneys. The required period of active practice in the other State will be reduced from the most recent five years to three years and, in place of the current attorney examination, they will need to successfully complete the Maryland Component and, if they have not already done so, successfully complete the MPRE. The Committee was advised that the time reduction was recommended to assist Maryland attorneys who wish to become admitted in other States, most of which have adopted the three-year requirement but insist on reciprocity.

In order to accommodate these various changes, some of the nomenclature and some of the procedures in the current Rules need to be modified, and, along with aligning internal cross-references, that is what most of the underscored and stricken language accomplish. All of the changes are important, but the Court may wish to pay particular attention to:

- Rule 19-201, listing the requirements for admission;
- Rule 19-202, dealing with the application for admission and introducing the Character Questionnaire dealt with in Rules 19-204 and 19-205;
- Rules 19-206 and 19-207, dealing with the Notice of Intent to take the UBE or Notice of Intent to Transfer a Qualifying UBE Score;
- Rule 19-209, dealing with notice of grades and a review procedure;
- Rule 19-212, dealing with the Maryland Component;
- Rule 19-213, dealing with the MPRE requirement; and
- Rule 19-216, dealing with the admission of out-of-State attorneys.

There is one additional matter the Committee feels important to call to the Court's attention. It concerns Rule 19-204 (d). The Committee recommends moving the current Committee Note providing that "undocumented immigration status, in itself, does not preclude admission to the Bar, provided that the applicant otherwise has demonstrated good moral character and fitness" into the Rule. This is recommended because of a 1996 Federal statute - 8 U.S.C. § 1621 - a copy of which is attached as **Appendix A**.

Subsection (a) of that statute provides that, notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not a

qualified alien under 8 U.S.C. § 1641, a non-immigrant under 8 U.S.C. § 1101 et seq., or an alien who is paroled into the United States under 8 U.S.C. § 1182(d)(5) for less than one year "is not eligible for any State or local public benefit as defined in subsection (c)." Subsection (c) of § 1621 defines "public benefit" as including a "professional license . . . provided by an agency of a State or local government."

Subsection (b) lists several exceptions to subsection (a), none of which would apply to this situation. Subsection (d), however, provides that:

"A State may provide that an alien who is not lawfully in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility."

The impact of § 1621 on the admission of undocumented aliens to practice law has been litigated in California, New York, and Florida. California was the first to deal with the issue. When its Supreme Court first granted review, there was no statute expressly allowing undocumented immigrants to be admitted to practice law. Such a statute was enacted by the California legislature in 2013, while the matter was pending, and the Court held the statute sufficient to permit an undocumented immigrant to be admitted. As a result, it did not have to determine whether the Court itself, pursuant to its inherent authority to establish rules governing the admission of attorneys, could have done so. See *In re Garcia*, 315 P.3d 117 (2014).

When the Florida case arose, as in California, there was no statute that authorized the admission of undocumented immigrants. The applicant relied on the Federal DACA program as authority. The Florida Supreme Court rejected that argument and held that, by virtue of § 1621, the applicant was ineligible. See *Florida Board of Bar Examiners re Question As To Whether Undocumented Immigrants Are Eligible For Admission To The Florida Bar*, 134 So.3d 432 (2014). Subsequently, the Florida legislature enacted a statute, and so undocumented immigrants now may be admitted in that State. It appears that Illinois, Nebraska, and Wyoming have enacted similar kinds of statutes.

The New York case is the closest in point. There was a statute that arguably authorized the admission of undocumented immigrants, but it had been enacted prior to August 1996 and therefore was inapplicable. The issue was whether, in light of the State's allocation of authority to the Judiciary to regulate the granting of licenses to practice law, the Judiciary, acting as the State sovereign entity, could exercise the authority to opt out of the restrictions imposed by § 1621(a). Based on Tenth Amendment and separation of powers principles, the Court held that it could do so. *Matter of Vargas*, 10 N.Y.S.3d 579, 131 A.D. 3d 4 (2015).

The New York decision may not be the best authority, first, because it was a decision of an intermediate appellate court, and second, because, so far, it seems to stand alone with respect to its Tenth Amendment and separation of powers analysis. We do note that on July 3, 2018, the Connecticut courts adopted a *Rule* permitting "an alien authorized to work lawfully in the United States" to be admitted to the Connecticut Bar. In a Commentary note, the courts stated that the primary purpose of that amendment was to clarify that status as a DACA beneficiary meets the qualification for admission. Pennsylvania has under consideration a similar Rule that would allow an alien with DACA status to be admitted.

Without relying on (but not necessarily rejecting) the New York Court's analysis, there is an alternative basis under Maryland law for this Court to adopt that Court's ultimate conclusion and for what Connecticut has done. Section 1621(d) requires the enactment of "a State law" affirmatively providing eligibility. It does not require a State "statute" and does not specify that the "law" must be enacted by a legislature. In Maryland, authority to regulate the practice of law and, in particular, *who* may practice law, is shared between the General Assembly and the Court of Appeals. There are statutes but, predominantly, there are Rules - the very Rules that are a subject of this Report - and it is the Court that exercises the ultimate authority to determine who may be admitted. Under Art. IV, § 18(a) of the Constitution, apart from the Court's inherent authority over the admission and regulation of attorneys, Rules adopted by this Court concerning "practice" in the courts have the "force and effect of law." Although the enactment of a statute may be advisable, the Committee believes that the policy previously approved by the Court expressed in the Committee Note

can and should be expressed in the Rule and would then become a "law" for purposes of § 1621.²

Category Two consists of new Rules 19-801 and 19-802 and amendments to Rules 19-605, 19-606, 19-409, and 19-503, all intended to implement the Attorney Information System (AIS) approved by the Judicial Council at the urging of the Access to Justice Department of the Administrative Office of the Courts.

The nature and purpose of AIS are explained in proposed Rule 19-801 (b) - to provide a centralized database for information collected by certain judicial agencies regarding attorneys and provide a single portal for attorneys to update that information and communicate with those judicial agencies. Part of this is to make reporting and other requirements imposed by the Rules governing the Client Protection Fund (CPF), IOLTA accounts, and pro bono service more compatible so attorneys can discharge their several obligations at one time electronically. To achieve that end, the reporting requirements will be on a fiscal year basis, aligned with the obligation of payment to the CPF, with uniform time frames for the sending of notices and responses. That will require delaying the reports regarding IOLTA accounts and pro bono service due in January 2019 until July 2019. Those reports will cover an 18-month period. The affected agencies have agreed to these changes.

Category Three consists of proposed new Rules 9-401, 9-402, and 9-403 and amendments to Rules 1-101 (i) and 9-101 (a), to implement 2018 Md. Laws, Ch. 4, which the Legislature titled the Rape Survivor Family Protection Act. The statute was enacted as an emergency law and took effect February 13, 2018 upon its approval by the Governor. A copy of the statute is attached as **Appendix B**.

The Act deals with the situation of a child conceived as the result of "nonconsensual sexual conduct" committed by one parent against the other. With certain limitations and conditions, it permits the parent who was the victim of that conduct, or a court-appointed guardian or attorney for the

² In August 2017, the ABA House of Delegates adopted a Resolution urging Congress to amend § 1621(d) to expressly permit a State court with exclusive authority to regulate admission to the Bar, by Rule, order, or other affirmative act, to permit undocumented aliens to obtain a professional license to practice law in that jurisdiction. If that recommendation, with the word "exclusive" in it, is adopted by Congress, it could prove troublesome for States, like Maryland, where jurisdiction to regulate the practice of law is shared by the Court and the General Assembly.

child, to file an action in a circuit court to terminate the parental rights of the parent who perpetrated that conduct. The statute, facially, is gender-neutral, so it is possible for either the mother or the father to be a petitioner or a respondent. The new Rules mostly track the statute but fill in some gaps. The amendments to current Rules are conforming ones.

There are two matters to which we call special attention. One deals with venue. Ordinarily, venue for an action such as this would lie where the petitioner (ordinarily the mother) or child resides, or where the respondent (ordinarily the father) resides, is employed, or carries on a business. See Code, Courts Article, §§ 6-201 and 6-202(5). That does not present a problem if the respondent resides or works in Maryland and the petitioner knows where he/she is located and finds it safe and convenient to file the action in that county or the county where the petitioner resides. The problem presented to the Committee is when the petitioner, for safety reasons, does not want to file in the county where she/he resides because that would make it easier for the respondent to find out where she/he lives.

The Legislature has addressed that problem, at least in part, through the Address Confidentiality Program for victims of domestic violence or human trafficking established by Code, Family Law Article (FL), §§ 4-519 through 4-530 (domestic violence) and Code, State Government Article (SG), §§ 7-301 through 7-312 (human trafficking). That Program allows the Secretary of State to assign an applicant a substitute address which, on request by the party, State agencies must accept. See FL § 4-526 and SG § 308. It is possible that a Program participant actually may reside in County A but have a substitute address in County B. In **Category Eight**, the Committee is recommending new Rule 1-205 that would require the courts to accept such a substitute address for Program participants.

That is only a partial solution, however. The Program applies only to victims of domestic violence or human trafficking, and victim advocates expressed concern that requiring a petitioner-parent who is ineligible for a substitute address to file in the county where she/he resides can present the same or worse danger than what is addressed under the Program. The Committee, in recognition of that concern and in further recognition that venue is not jurisdictional and is waived unless timely raised by a party, recommends that the Rule permit the action to be filed in "a circuit court," which is jurisdictional in nature and does not purport to establish a

venue inconsistent with any statute. The advocates are aware that a legislative fix would be desirable, but, given that the statute is already in effect, the Committee is of the view that, if the petitioner chooses to file in a Circuit Court outside the county of her/his actual residence (or the respondent's residence or employment), the court would have jurisdiction to proceed and would not need to deal with any venue issue unless the respondent timely raises it.

The second issue is essentially one of nomenclature. Rule 1-301 (b) provides that, regardless of the nature of the action, the party bringing a civil action shall be called the plaintiff and the party against whom the action is brought shall be called the defendant. Rule 2-101 provides that a civil action filed in a Circuit Court is commenced by filing a "complaint." The statute, however, defines the parent against whom the termination of parental rights action is brought as the "respondent," and there is some evidence that the choice of that word, in lieu of "defendant," was deliberate. The coding adopted by MDEC requires that, where the defending party is a respondent, the suing party must be designated as a petitioner, and, in that event, the action must be commenced by a petition, not a complaint.

Unfortunately, this is not the only example of ignoring Rules 1-301 (b) and 2-101. A search of the Rules reveals more than a dozen instances in which a civil action in Circuit Court is commenced with a petition rather than a complaint and the parties are referred to as petitioner and respondent. The inconsistency need not be addressed with respect to these particular Rules, but we do call it to the Court's attention.

Category Four consists of proposed new Rule 10-405.1 and amendments to Rules 10-402, 10-403, 10-404, 10-405, and 10-106.1. These changes are intended to implement 2018 Md. Laws, Chapter 749, which was enacted as an emergency law and took effect May 15, 2018, upon approval by the Governor. That law added a new basis for establishing a standby guardianship of the person and/or property of a minor. A copy of Ch. 749 is attached as **Appendix C**.

Standby guardianships were first authorized in 1994. The statute (Code, Estates and Trusts Article (ET), §§ 13-901 through 13-908) permitted a parent to designate and appoint a standby guardian for the parent's child in the event the parent became "incapacitated" or "debilitated," either permanently or for a limited time. The 2018 law added "adverse immigration

action" (AIA) as an additional basis. That term is defined to include (1) an arrest or apprehension by a law enforcement officer for an alleged violation of Federal immigration laws; (2) detention or custody by the Department of Homeland Security (DHS) or any Federal, State, or local government agency acting on the DHS's behalf; (3) departure from the U.S. under an order of removal, deportation, exclusion, voluntary departure, or expedited removal, or a stipulation of voluntary departure; (4) denial, revocation, or delay in the issuance of a visa or transportation letter by the State Department or in the issuance of a parole document or reentry permit by DHS; or (5) denial of admission or entry into the U.S. by DHS.

Under ET § 13-904, a parent, in contemplation of an AIA, can create a standby guardianship by signing a written designation in the presence of two witnesses, to become effective upon evidence that an AIA has occurred. The standby guardian then has 180 days in which to petition the court for an extension of the guardianship, which, unless renewed, expires on the 180th day. The parent may revoke the guardianship either before or after a court appointment.

During the legislative process, an attorney, on behalf of the Immigration Law Section of the Maryland State Bar Association, raised a concern whether this approach could lead to or help enable the trafficking of these vulnerable children, and the Legislature attempted to address that concern. Unlike the situation of an incapacity or debilitation, where the parent, though unable to care for the child, is likely to be alive and in contact with the child and the standby guardian, in the immigration setting, the parent may have been deported and her/his whereabouts unknown. The parent may have no practical ability to monitor the welfare of the child, to communicate with the child, the guardian, or the court, much less revoke any designation she/he signed. The standby guardian also may be facing an AIA, along with other members of the child's family who may be here. The Rules Committee understood the challenges facing standby guardians in this kind of setting and their reluctance to make themselves known to any government agency, including a court, but also believed it was necessary to assure that, in adding a judicial imprimatur to the authority of the standby guardian, it was not unwittingly subjecting children to additional harm.

Most of the recommended changes are simply to take account of the new basis for a standby guardianship, but some are to provide additional information to the court in deciding whether

to continue the guardianship. In Rule 10-403 dealing with the petition, the Committee has incorporated a provision from the other guardianship Rules regarding the statutory disqualification of proposed guardians who have been convicted of certain crimes (subsection (c)(10)), requiring the names and addresses of witnesses to the parent's designation of the standby guardian (subsection (c)(12)), requiring a copy of the parental consent and the child's birth certificate or other evidence of parentage (subsection (d)(3)), requiring information regarding a parent who did not consent to the designation (subsection (d)(2)), and, if more than three months have elapsed since the guardianship became effective, requiring evidence that the child is receiving appropriate health care and schooling (subsection (d)(4)). A proposed amendment to Rule 10-404 requires a hearing, with notice to all interested persons. An amendment to Rule 10-405 incorporates a provision applicable to other guardianships that the Court may require the guardian to complete a training program. Finally, proposed new Rule 10-405.1 allows the Court to require periodic reports from the guardian, and an amendment to Rule 10-106.1 permits the court to appoint an investigator to investigate the circumstances and make an independent report to the Court. Amendments to Rule 10-402 conform provisions in that Rule to comparable provisions in Rule 10-403.

Category Five comprises amendments to Rules 10-104, 10-201, and 16-302. The problem that ultimately led to their development was first brought to the Committee's attention by attorneys for some of the general or acute care hospitals. It concerned individuals (1) who are patients in a general or acute care hospital, (2) whose acute medical needs that brought them to the hospital have been resolved and who no longer need to be in that hospital, but who need continuing medical, nursing, or rehabilitative care of some kind, (3) who, due to their family or financial circumstances, may have limited or uncertain options, and (4) who appear not to be competent to make a rational decision regarding what is available and what is best for them. For obvious reasons, the hospitals have been reluctant simply to discharge those patients, although their remaining there is neither in their best interest nor in the interest of the hospitals. In the absence of a surrogate decision-maker, the hospitals have been filing guardianship petitions and complaining about delays in the courts' addressing those petitions.

The Committee has been working over the course of more than a year with hospital attorneys, patient advocates, judges, State

agencies, and others -- initially to resolve that issue, but also to deal with the broader issue of when and to what extent expedited proceedings short of acute emergencies can safely be used in guardianship cases. The major change is in Rule 10-201, in particular section (b) and new section (f), and the Committee notes to these sections. The amendments to Rules 10-104 and 16-302 are conforming ones.

Category Six comprises amendments to other guardianship Rules (Rules 10-202, 10-205, 10-301, and 10-304). These changes derive from proposals made by the Guardianship/Vulnerable Adult Workgroup of the Domestic Law Committee of the Judicial Council. Most importantly, amendments to Rules 10-205 and 10-304 require the court to hold a hearing on all petitions for guardianships of the person or property.

The amendments to Rules 10-202, 10-205, and 10-301 deal with alleged disabled veterans and were recommended by the Workgroup at the behest of the U.S. Department of Veterans Affairs, which pointed out that veterans who are beneficiaries of that Department may not have been rated as disabled, or, if so rated, may have been rated based on a physical disability, rather than an inability to make their own decisions. Additional amendments to Rule 10-301 make more clear the kinds of documentary support needed when the guardianship is based on detention by a foreign power, imprisonment, or disappearance.

Category Seven consists of amendments to two Rules in Title 6. An amendment to Rule 6-433 adds a Committee note containing a reference to *Shealer v. Straka*, 459 Md. 68 (2018). An amendment to Rule 6-464 implements 2018 Md. Laws, Ch. 233, which allows a fee to be waived by the Register of Wills.

Category Eight consists of two Rules changes that address recent legislation. New Rule 1-205 implements the Address Confidentiality Program authorized in Code, State Government Article, §§ 7-301 through 7-313 and Code, Family Law Article, §§ 4-519 through 4-530. Amendments to Rule 14-206 add a new subsection (a)(5) and Committee note pertaining to Code, Real Property Article, § 7-105.14.

For the guidance of the Court and the public, following each proposed new Rule and amendments to each current Rule is a Reporter's note describing in further detail the reasons for the proposals. We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or

interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:cmp

cc: Suzanne Johnson, Acting Clerk

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS AND

CHARACTER COMMITTEES

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MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS

AND CHARACTER COMMITTEES

AMEND Rule 19-101 by deleting the definitions of "MBE" and "MPT" and by adding definitions of "MPRE," "UBE," and related terms, as follows:

Rule 19-101. DEFINITIONS

In this Chapter and Chapter 200 of this Title, the following definitions apply, except as expressly otherwise provided or as necessary implication requires:

(a) ADA

"ADA" means the Americans with Disabilities Act, 42 U.S.C. §12101, et seq.

(b) Applicant; Petitioner

"Applicant" means an individual who applies for admission to the Bar of Maryland (1) pursuant to Rule 19-202, or (2) as a "petitioner" under Rule 19-216.

(c) Board

"Board" means the Board of Law Examiners of the State of Maryland.

(d) Court

"Court" means the Court of Appeals of Maryland.

(e) Filed

"Filed" means received in the administrative office of the Board during normal business hours.

~~(f) MBE~~

~~"MBE" means the Multi-state Bar Examination published by the NCBE.~~

~~(g) (f) Member of the Bar of a State~~

"Member of the Bar of a State" means an individual who is unconditionally admitted to practice law before the highest court of that ~~State~~ state.

(g) MPRE

"MPRE" means the Multistate Professional Responsibility Examination published and administered by NCBE.

~~(h) MPT~~

~~"MPT" means the Multistate Performance Test published by the NCBE.~~

~~(i) (h) NCBE~~

"NCBE" means the National Conference of Bar Examiners.

~~(j) (i) Oath~~

"Oath" means a declaration or affirmation made under the penalties of perjury that a certain statement of fact is true.

(j) Qualifying MPRE score

"Qualifying MPRE score" means a score achieved on the MPRE that meets or exceeds the minimum passing score in Maryland established by Board rule within the required time period established by Board rule.

(k) Qualifying UBE score

"Qualifying UBE score" means a score achieved on the UBE in a state that administers the UBE that meets or exceeds the minimum passing score in Maryland established by Board rule within the required time period established by Board rule.

~~(k)~~ (l) State

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

~~(l)~~ (m) Transmit

"Transmit" means to convey written material in a manner reasonably calculated to cause the intended recipient to receive it.

(n) UBE

"UBE" means the Uniform Bar Examination published and coordinated by the National Conference of Bar Examiners.

(o) UBE State

"UBE State" means a state participating in the UBE to which or from which a qualifying UBE score may be transferred.

Source: This Rule is derived from former Rule 1 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

On November 16, 2017, the Court of Appeals voted to accept a recommendation to adopt the Uniform Bar Exam ("UBE") made by the "Advisory Committee to Explore the Feasibility of Maryland's Adoption of the Uniform Bar Examination." Amendments to Title 19 of the Rules are proposed in light of the Court's vote.

The UBE allows a law school graduate who successfully completes the exam to port the graduate's exam results to other UBE jurisdictions, provided the graduate's score meets the minimum cutoff established by those jurisdictions. All UBE jurisdictions also require the Multi-State Professional Responsibility Examination (MPRE), and some require a separate, state-specific component before a graduate may become a member of that state's bar.

Currently, 32 states plus the District of Columbia and the Virgin Islands have adopted the UBE, or have agreed to adopt and implement it soon. The MPRE is required by 48 of 50 states at present, as well as the District of Columbia and several commonwealths and territories. Only Maryland, Wisconsin, and Puerto Rico do not require the MPRE for bar admission.

Conforming amendments to the Rules of Title 19, Chapters 100 and 200, as well as deletion of some existing Rules and addition of new Rules, are proposed as necessary for the full implementation of the UBE in Maryland. These Rules are proposed to take effect in Spring 2019, after the administration of the February bar examination, which would be the last administration of the bar examination under the existing scheme. Beginning July 2019, the UBE would be administered.

Proposed changes to Rule 19-101 concern necessary definitions, both in deletion and addition. Definitions of "MBE" and "MPT" are struck as no longer applicable. Definitions of "MPRE" and "UBE" are added, as well as derivative terms.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS AND

CHARACTER COMMITTEES

AMEND Rule 19-102 by deleting a posting requirement pertaining to a certain amendment to the Board's Rules, by requiring that the secretary to the State Board of Law Examiners be an attorney admitted to the Bar of a state, and by conforming references, as follows:

Rule 19-102. STATE BOARD OF LAW EXAMINERS

(a) Appointment

There is a State Board of Law Examiners. The Board shall consist of seven members appointed by the Court. Each member shall be an attorney admitted and in good standing to practice law in Maryland. The terms of members shall be as provided in Code, Business Occupations and Professions Article, §10-202 (c).

(b) Quorum

A majority of the authorized membership of the Board is a quorum.

(c) Authority

(1) Generally

RULE 19-102

The Board shall exercise the authority and perform the duties assigned to it by the Rules in this Chapter and Chapter 200 of this Title, including general supervision over the character and fitness requirements and procedures set forth in those Rules and the operations of the character committees.

(2) Adoption of Rules

The Board may adopt rules to carry out the requirements of this Chapter and Chapter 200 of this Title. The Rules of the Board shall follow Chapter 200 of Title 19.

(d) Amendment of Board Rules - Posting

Any amendment of the Board's rules shall be posted on the Judiciary website at least 45 days before the examination at which it is to become effective, ~~except that an amendment that substantially increases the area of subject-matter knowledge required for any examination shall be posted at least one year before the examination.~~

(e) Professional Assistants

The Board may appoint the professional assistants necessary for the proper conduct of its business. Each professional assistant shall be an attorney admitted and in good standing to practice law in Maryland and shall serve at the pleasure of the Board.

Committee note: Professional assistants primarily assist grading the bar examination. Section (e) does not apply to the secretary or administrative staff.

(f) Compensation of Board Members and Assistants

The members of the Board and assistants shall receive the compensation fixed by the Court.

(g) Secretary to the Board

The Court may appoint a secretary to the Board, to hold office at the pleasure of the Court. The secretary shall be a member of a Bar of a state. The secretary shall have the administrative powers and duties prescribed by the Board and shall serve as the administrative director of the Office of the State Board of Law Examiners.

(h) Fees

The Board shall prescribe the fees, subject to approval by the Court, to be paid by applicants under Rules ~~19-202~~ 19-205, ~~19-204~~ 19-206, ~~19-208~~ 19-207, and 19-210 and by petitioners under Rule ~~19-213~~ 19-216.

Cross reference: See Code, Business Occupations and Professions Article, §10-208 (b) for maximum examination fee allowed by law.

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is new.

Sections (c) through (g) are derived from former Rule 20 of the Rules Governing Admission to the Bar of Maryland (2016).

Section (h) is derived from former Rule 18 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

Proposed changes to Rule 19-102 delete the posting requirement for changes in a Board Rule that substantially increase the area of subject matter knowledge required for an examination. This requirement is obsolete, because the subject matter is determined by the content of the UBE, rather than by a decision of the Board.

The amendments also include the addition of a requirement that the secretary to the State Board of Law Examiners be a member of a Bar of a state. Changes also include conforming amendments to the Rules referenced in section (h), necessitated by the implementation of the UBE. The new requirement of bar admission for the secretary of the Board comes at the request of the Board, after careful consideration of the credentials and qualifications best suited to the position.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS AND

CHARACTER COMMITTEES

AMEND Rule 19-103 by requiring that each member of the Character Committee be a member of the Maryland Bar in good standing and by conforming a reference, as follows:

Rule 19-103. CHARACTER COMMITTEES

The Court shall appoint a Character Committee for each of the seven Appellate Judicial Circuits of the State. Each Character Committee shall consist of not less than five members whose terms shall be five years each, ~~except that in the Sixth Appellate Judicial Circuit the term of each member shall be two years.~~ The terms shall be staggered. Each Character Committee member shall be an attorney admitted and in good standing to practice law in Maryland. The Court shall designate the chair of each Committee and vice chair, if any. For each character questionnaire referred to a Character Committee, the Board shall remit to the Committee a sum to defray some of the expense of the investigation.

Cross reference: See Rule ~~19-203~~ 19-204 for the Character Review Procedure.

Source: This Rule is derived from former Rule 17 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

Proposed changes to Rule 19-103 include the addition of a requirement that each member of the Character Committee be a member of the Maryland Bar in good standing, as well as a conforming amendment to the single cross reference.

The added requirement for service on the Character Committee – membership in the Maryland Bar with good standing – reflects current practice and comes at the request of the Board. The conforming amendment is necessitated by the implementation of the UBE.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS AND

CHARACTER COMMITTEES

AMEND Rule 19-104 by conforming references to the implementation of the Uniform Bar Examination and by adding a cross reference following section (a), as follows:

Rule 19-104. SUBPOENA POWER

(a) Subpoena

(1) Issuance

In any proceeding before the Board or a Character Committee pursuant to Rule ~~19-203~~ 19-204 or Rule ~~19-213~~ 19-216, the Board or Committee, on its own initiative or the motion of an applicant, may cause a subpoena to be issued by a clerk pursuant to Rule 2-510. The subpoena shall issue from the Circuit Court for Anne Arundel County if incident to Board proceedings or from the circuit court in the county in which the Character Committee proceeding is pending. The proceedings shall be docketed in the issuing court and shall be sealed and shielded from public inspection.

(2) Name of Applicant

The subpoena shall not divulge the name of the applicant, except to the extent this requirement is impracticable.

(3) Return

The sheriff's return shall be made as directed in the subpoena.

(4) Dockets and Files

The Character Committee or the Board, as applicable, shall maintain dockets and files of all papers filed in the proceedings.

(5) Action to Quash or Enforce

Any action to quash or enforce a subpoena shall be filed under seal and docketed as a miscellaneous action in the court that issued the subpoena.

Cross reference: See Rule 16-906 (a) (4).

(b) Sanctions

If a person subpoenaed to appear and give testimony or to produce books, documents, or other tangible things fails to do so, the party who requested the subpoena, by motion that does not divulge the name of the applicant, except to the extent that this requirement is impracticable, may request the court to issue an attachment pursuant to Rule 2-510 (j), or to cite the person for contempt pursuant to Title 15, Chapter 200 of the Maryland Rules, or both. Any such motion shall be filed under seal.

(c) Court Costs

All court costs in proceedings under this Rule shall be assessable to and paid by the State.

RULE 19-104

Source: This Rule is derived from former Rule 22 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

Rule 19-104 is proposed to be amended to conform internal references to the implementation of the UBE. A cross reference is also added following section (a).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS AND

CHARACTER COMMITTEES

AMEND Rule 19-105 to clarify an applicant's right to examine certain papers, to conform references, and to make certain style changes, as follows:

Rule 19-105. CONFIDENTIALITY

(a) Proceedings Before Accommodations Review Committee, Character Committee, or Board

Except as provided in sections (b), (c), and (d) of this Rule, the proceedings before the Accommodations Review Committee and its panels, a Character Committee, and the Board, including related papers, evidence, and information, are confidential and shall not be open to public inspection or subject to court process or compulsory disclosure.

(b) Right of Applicant

(1) Right to Attend Hearings and Inspect Papers

An applicant has the right to attend all hearings before a panel of the Accommodations Review Committee, a Character Committee, the Board, and the Court pertaining to his or her application ~~and, except.~~ Except as provided in subsection (b) (2)

of this Rule, and subject to any protective order issued by a circuit court for good cause on motion by the Board, an applicant has the right to be informed of and inspect all papers, evidence, and information received or considered by the panel, Committee, or the Board pertaining to the applicant.

Committee note: The intent of this subsection, with the exceptions noted in subsection (b)(2), is to permit inspection by the applicant of all information received or considered by a Character Committee, the Accommodations Review Committee, or the Board. There may be information, however, such as identifying information regarding a victim that is not germane to any issue before those entities and that should not be revealed. Shielding of such information would have to be approved by a court.

(2) Exclusions

Subsection (b)(1) of this Rule does not apply to (A) papers or evidence received, considered, or prepared by the National Conference of Bar Examiners, a Character Committee, or the Board if the Committee or Board, without a hearing, recommends the applicant's admission; (B) personal memoranda, notes, and work ~~papers~~ product of members or staff of the National Conference of Bar Examiners, a Character Committee, or the Board; (C) correspondence between or among members or staff of the National Conference of Bar Examiners, a Character Committee, or the Board; or (D) an applicant's bar examination grades and answers, except as authorized in Rule ~~19-207 and 19-213~~ 19-209.

(c) When Disclosure Authorized

The Board may disclose:

RULE 19-105

(1) to any person, statistical information that does not reveal the identity of an individual applicant;

(2) to any person, the fact that an applicant has passed the bar examination and the date of the examination;

(3) to any person, if the applicant has consented in writing, any material pertaining to the applicant that the applicant would be entitled to inspect under section (b) of this Rule;

(4) for use in a pending disability or disciplinary proceeding against the applicant as an attorney or judge, a pending proceeding for reinstatement of the applicant as an attorney after suspension or disbarment, or a pending proceeding for original admission of the applicant to the Bar, any material pertaining to an applicant requested by:

(A) a court of this State, another state, or the United States;

(B) Bar Counsel, the Attorney Grievance Commission, or the attorney disciplinary authority in another state;

(C) the authority in another jurisdiction responsible for investigating the character and fitness of an applicant for admission to the bar of that jurisdiction, or

(D) Investigative Counsel, the Commission on Judicial Disabilities, or the judicial disciplinary authority in another jurisdiction;

Committee note: The term "jurisdiction" is used in subsection (4)(C) and (D) because requests occasionally are received from authorities in Canada or other countries.

(5) any material pertaining to an applicant requested by a judicial nominating commission or the Governor of this or any other State state, a committee of the Senate of Maryland, the President of the United States, or a committee of the United States Senate in connection with an application by or nomination of the applicant for judicial office;

(6) to a law school, the names of individuals who graduated from that law school who took a bar examination, whether they passed or failed the examination, and the number of bar examination attempts by each individual;

(7) to the Maryland State Bar Association and any other bona fide bar association in the State of Maryland, the name and address of an individual recommended for bar admission pursuant to Rule ~~19-209~~ 19-211 or 19-216;

~~(8) to each entity selected to give the orientation program required by Rule 19-210 and verify participation in it, the name and address of an individual recommended for bar admission pursuant to Rule 19-209;~~

~~(9)~~ (8) to Bar admissions officials in any state and to the National Conference of Bar Examiners, the following information regarding applicants for admission pursuant to Rule 19-202 or petitioners pursuant to Rule ~~19-213~~ 19-215: the applicant's name

and any aliases, applicant number, birthdate, NCBE number, law school, date that a juris doctor or equivalent degree was conferred, bar examination raw and scaled scores, results and pass/fail status, and the number of bar examination attempts;

~~(10)~~(9) to any member of a Character Committee, the report of any Character Committee or the Board following a hearing on an application; and

~~(11)~~(10) to the Child Support Enforcement Administration, upon its request, the name, Social Security number, and address of an individual who has filed ~~an application~~ a petition for admission pursuant to Rule 19-202 or a petition ~~to take the attorney's examination~~ for admission pursuant to Rule ~~19-213~~ 19-216.

Unless information disclosed pursuant to subsections (c)(4) and (5) of this Rule is disclosed with the written consent of the applicant, an applicant shall receive a copy of the information and may rebut, in writing, any matter contained in it. Upon receipt of a written rebuttal, the Board shall forward a copy to the individual or entity to whom the information was disclosed.

(d) Proceedings and Access to Records in the Court of Appeals

(1) Subject to reasonable regulation by the Court of Appeals, Bar Admission ceremonies shall be open.

(2) Unless the Court otherwise orders in a particular case:

(A) hearings in the Court of Appeals shall be open, and

RULE 19-105

(B) if the Court conducts a hearing regarding a bar applicant, any report by the Accommodations Review Committee, a Character Committee, or the Board filed with the Court, but no other part of the applicant's record, shall be subject to public inspection.

(3) The Court of Appeals may make any of the disclosures that the Board may make pursuant to section (c) of this Rule.

(4) Except as provided in subsections (d)(1), (2), and (3) of this Rule or as otherwise required by law, proceedings before the Court of Appeals and the related papers, evidence, and information are confidential and shall not be open to public inspection or subject to court process or compulsory disclosure.

Source: This Rule is derived from former Rule 19 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

Proposed changes to Rule 19-105 clarify an applicant's right to examine certain papers, conform references within the Rule, and make certain style changes.

An applicant has the right to examine all papers, evidence, and information pertaining to his or her application received or considered by the Accommodations Review Committee and its panels, a Character Committee, or the State Board of Law Examiners. In subsection (b)(1), new language is added that makes explicit that an applicant's right to inspect is subject to any protective order issued by a circuit court for good cause on motion by the Board. This is in addition to the exclusions contained in subsection (b)(2).

A Committee note following subsection (b)(1) states that the intent of the subsection is to permit an applicant to

inspect all information received but that some information, such as a victim's identifying information, is not germane and should not be disclosed.

References are updated throughout the Rule as conforming amendments necessitated by implementation of the UBE and stylistic changes are made.

A second Committee note is also added following subsection (c) (4), which specifies that use of the word "jurisdiction" in the Rule encompasses the requests received occasionally from authorities in Canada and other countries.

Subsection (c) (8) is deleted as inapplicable with the adoption of the UBE.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

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MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-201 by conforming the Rule for implementation of the Uniform Bar Exam and by making stylistic changes, as follows:

Rule 19-201. ELIGIBILITY TO TAKE FOR ADMISSION TO THE MARYLAND GENERAL BAR BY UNIFORM BAR EXAMINATION

(a) ~~Educational~~ General Requirements

Subject to section (b) of this Rule, in order to ~~take the Maryland General Bar Examination~~ be admitted to the Maryland Bar by the UBE, an individual shall have:

(1) ~~shall have~~ completed the pre-legal education necessary to meet the minimum requirements for admission to a law school approved by the American Bar Association; ~~and~~

(2) ~~shall have~~ graduated ~~or be unqualifiedly eligible for graduation~~ with a juris doctor or equivalent degree from a law school (A) located in a state and (B) approved by the American Bar Association; ~~;~~

(3) achieved a qualifying UBE score;

(4) achieved a qualifying MPRE score;

(5) completed the Maryland Law Component; and

(6) established his or her good moral character and fitness for admission to the Bar.

(b) Waiver of Juris Doctor Requirements

The Board may waive the requirements of subsection (a)(2) of this Rule for an applicant who (1) has passed the bar examination of another state, is a member in good standing of the Bar of that state, and the Board finds is qualified by reason of education or experience to take the bar examination; or (2) ~~is admitted to practice~~ has completed legal education in a jurisdiction that is not defined as a state by Rule 19-101 ~~(*)~~(1) and has obtained an additional degree from a law school approved by the American Bar Association that meets the requirements prescribed by the Board Rules.

(c) Minors

If otherwise qualified, an applicant who is under 18 years of age is eligible to take the bar examination but shall not be admitted to the Bar until 18 years of age.

Source: This Rule is derived in part from former Rules 3 and 4 of the Rules Governing Admission to the Bar of Maryland (2016) and is in part new.

REPORTER'S NOTE

Rule 19-201 is proposed to be amended in order to implement the UBE. Stylistic changes are made, as well.

Rule 19-201 currently addresses eligibility to take the Maryland bar examination. With the transition to the UBE, the

concept of eligibility shifts from those things necessary to take the exam to those things necessary for admission to the Maryland Bar.

In section (a), pre-legal education and a juris doctor (or the equivalent) are still required, but added to those requirements is a qualifying UBE score, a qualifying MPRE score, and a completed Maryland Law Component.

An individual also must establish his or her good moral character and fitness for admission. This is currently required for candidates, but with the restructuring of the Title 19, Chapter 200 Rules, language is added here.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-202 by conforming certain requirements, terminology, and references to implement the Uniform Bar Exam; by deleting current sections (a) through (e); by adding a new section (a); by re-lettering remaining sections; and by adding new references to a Committee note following section (b), as follows:

Rule 19-202. APPLICATION FOR ADMISSION

~~(a) By Application~~

~~An individual who meets the requirements of Rule 19-201 or had the requirement of Rule 19-201 (a) (2) waived pursuant to Rule 19-201 (b) may apply for admission to the Bar of this State by filing with the Board an application for admission and the prescribed fee.~~

~~(b) Form of Application~~

~~The application shall be on a form prescribed by the Board and shall be under oath. The form shall elicit the information the Board considers appropriate concerning the applicant's character, education, and eligibility to become an applicant. The application shall require the applicant to provide the applicant's Social~~

~~Security number and shall include an authorization to release confidential information pertaining to the applicant's character and fitness for the practice of law to a Character Committee, the Board, and the Court. The application shall be accompanied by satisfactory evidence that the applicant meets the pre-legal education requirements of Rule 19-201 and a statement under oath that the applicant is eligible to take the examination. No later than the first day of September following an examination in July or the fifteenth day of March following an examination in February, the applicant shall cause to be sent to the Office of the State Board of Law Examiners an official transcript that reflects the date of the award to the applicant of a qualifying law degree under Rule 19-201, unless the official transcript already is on file with the Office.~~

~~(c) Time for Filing~~

~~(1) Without Intent to Take Particular Examination~~

~~At any time after the completion of pre-legal studies, an individual may file an application to determine whether there are any existing impediments, including reasons pertaining to the individual's character and the sufficiency of pre-legal education, to the applicant's qualifications for admission.~~

~~(2) With Intent to Take Particular Examination.~~

~~(A) Generally~~

Rule 19-202

~~An applicant who intends to take the examination in July shall file the application no later than the preceding May 20. An applicant who intends to take the examination in February shall file the application no later than the preceding December 20.~~

~~Cross reference: See Rule 19-204 (Notice of Intent to Take a Scheduled General Bar Examination).~~

~~(B) Acceptance of Late Application~~

~~Upon written request of the applicant and for good cause shown, the Board may accept an application filed after the applicable deadline prescribed in subsection (c) (2) (A) of this Rule. If the Board rejects the application for lack of good cause for the untimeliness, the applicant may file an exception with the Court within five business days after notice of the rejection is transmitted.~~

~~(d) Preliminary Determination of Eligibility~~

~~On receipt of an application, the Board shall determine whether the applicant has met the pre-legal education requirements set forth in Rule 19-201 (a) and in Code, Business Occupations and Professions Article, § 10-207. If the Board concludes that the requirements have been met, it shall forward the application to a Character Committee. If the Board concludes that the requirements have not been met, it shall promptly notify the applicant in writing.~~

~~(e) Updated Application~~

Rule 19-202

~~If an application has been pending for more than three years since the date of the applicant's most recent application or updated application, the applicant shall file with the Board an updated application contemporaneously with filing any Notice of Intent to Take a Scheduled General Bar Examination. The updated application shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.~~

(a) Contents of Application

An individual who seeks admission to the Bar of Maryland pursuant to Rule 19-201 shall apply for admission. The application for admission shall consist of a completed Character Questionnaire filed pursuant to Rule 19-205 and either (1) a Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206 or (2) a Notice of Intent to Transfer a Qualifying UBE Score pursuant to Rule 19-207.

~~(f)~~ (b) Withdrawal of Application

At any time, an applicant may withdraw an application by filing with the Board written notice of withdrawal. No fees will be refunded.

Committee note: Withdrawal of an application terminates all aspects of the admission process. Compare to Rules 19-206(e) and 19-210(e), pertaining to withdrawal of a Notice of Intent.

~~(g)~~ (c) Subsequent Application

An applicant who reapplies for admission after an earlier application has been withdrawn ~~or rejected~~ pursuant to subsection

Rule 19-202

(b) of this Rule or Rule ~~19-203~~ 19-204 or has been rejected pursuant to Rule 19-204 must retake and pass the ~~bar examination~~ UBE in Maryland or transfer a then-qualifying UBE score, even if the applicant passed the bar examination in Maryland or transferred a qualifying UBE score when the earlier application was pending. If the applicant failed the examination when the earlier application was pending, ~~the~~ each failure shall be counted under Rule ~~19-208~~ 19-210.

Source: This Rule is derived in part from former Rules 2 and 6(d) of the Rules Governing Admission to the Bar of Maryland (2016). ~~Section (b) is derived in part from former Rule 6 (d). and is in part new.~~

REPORTER'S NOTE

Rule 19-202 is proposed to be amended in order to implement the UBE. The Rule addresses applications for admission to the Maryland Bar. With the transition to the UBE, requirements and terminology change, and internal references are updated to accommodate the changes made throughout Title 19, Chapter 200.

In Rule 19-202, current sections (a) through (e) are proposed to be deleted as inapplicable. A new section (a) is added, which addresses the contents of an application.

A Committee note following section (b) is updated with the addition of references to Rules 19-206(e) and 19-210(e), which concern the withdrawal of Notice of Intent.

References are updated within the Rule, and additional conforming amendments are made in section (c), "Subsequent Application."

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-206 by re-numbering it as Rule 19-203; by conforming certain requirements, terminology, and references to implement the Uniform Bar Exam; by adding a new section (a); and by deleting current sections (c) and (d), as follows:

Rule ~~19-206~~ 19-203. ~~GENERAL~~ BAR EXAMINATION

(a) Generally - UBE

The bar examination in Maryland shall consist of the UBE.

~~(a)~~(b) Scheduling

The Board shall schedule a ~~written general bar examination~~ UBE in Maryland twice annually, once in February and once in July. The examination shall be scheduled on two successive days. The total duration of the examination shall be not more than 12 hours nor less than nine hours, unless extended at the applicant's request pursuant to Rules ~~19-204~~ 19-206 or ~~19-205~~ 19-210. At least 30 days before a scheduled examination, the Board shall post on the Judiciary website notice of the dates, times, and place or places of the examination.

~~(b)~~(c) Purpose of Examination

The purpose of the ~~general~~ bar examination is to enable applicants to demonstrate their capacity to achieve mastery of foundational legal doctrines, proficiency in fundamental legal skills, and competence in applying both to solve legal problems consistent with the highest ethical standards. It is the policy of the Court that no quota of successful applicants be set but that each applicant be judged for fitness to be a member of the Bar as demonstrated by the examination answers.

~~(c) Format and Scope of Examination~~

~~The Board shall prepare the examination and may adopt the MBE and the MPT as part of it. The examination shall include as essay test, but the essay test shall include at least one question dealing in whole or in part with professional conduct.~~

(d) Grading Qualifying Score

~~(1) The Board shall grade the essay components of the bar examination and by Board rule, establish the passing grade for the examination. The Board, by Board Rule, may provide that an applicant may adopt in Maryland an MBE score that the applicant achieves in another state in an administration of the MBE that is concurrent with Maryland's administration of the Written Test to that applicant.~~

~~(2) At any time before notifying applicants of the results, the Board, in its discretion and in the interest of fairness, may~~

~~lower, but not raise, the passing grade it has established for any particular administration of the examination.~~

By Board Rule, the Board shall establish the qualifying UBE score.

(e) Voiding of Examination Results for Ineligibility

If an applicant who is determined by the Board not to be eligible under Rule 19-201 takes an examination, the applicant's Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland shall be deemed invalid and the applicant's examination results shall be voided. An examination result that is voided for ineligibility shall not be a valid UBE score for purposes of transfer to another jurisdiction. No fees shall be refunded. The Board shall notify the applicant that the examination results have been voided and the reason for the voiding.

Source: This Rule is derived in part from former Rule ~~7~~ of the ~~Rules Governing Admission to the Bar of Maryland (2016)~~. ~~Section (e) is derived from former Rule 6 (e)~~ 19-206 (2018) and is in part new.

REPORTER'S NOTE

Rule 19-206 is proposed to be amended in order to implement the UBE. This includes re-numbering it as Rule 19-203. Necessary conforming amendments are made throughout the Rule, as well.

A new section (a) is proposed which simply states that the bar examination in Maryland consists of the UBE. Existing

Rule 19-203

sections are re-lettered, and current sections (c) and (d) are deleted as no longer applicable.

In place of the previous section on bar exam grading, new section (d) addresses a "qualifying score" - a necessary requirement under the UBE. By Board Rule, the Board establishes what constitutes a qualifying UBE score.

New language is added to section (e) on the voiding of examination results for ineligibility. The language is a necessary conforming amendment, attributable to the portability of the scores from one UBE state to another.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-203 by re-numbering it as Rule 19-204, by making stylistic changes throughout, by conforming the Rule for implementation of the Uniform Bar Exam, by adding certain language related to immigration status to section (d), and by deleting a Committee note following section (d), as follows:

Rule ~~19-203~~ 19-204. CHARACTER REVIEW

(a) Investigation and Report of Character Committee

(1) On receipt of ~~an application~~ a completed character questionnaire forwarded by the Board pursuant to Rule ~~19-202~~ 19-205 (d), the Character Committee, in accordance with procedural guidelines established by Board Rule, shall (A) ~~through one of its members, personally~~ interview the applicant (B) ~~verify~~ consider the facts stated in the character questionnaire, contact and the submissions made by the applicant's references, and make any further investigation it finds necessary or desirable, which may include verification of facts asserted by the applicant or the applicant's references, (C) evaluate the applicant's character and fitness for the practice of law, and (D) transmit to the Board a

report of its investigation and a recommendation as to the approval or denial of the application for admission.

(2) If the Committee concludes that there may be grounds for recommending denial of the application, it shall notify the applicant in writing and schedule a hearing. The hearing shall be recorded verbatim ~~by shorthand, stenotype, mechanical or electronic audio recording methods, electronic word or text processing methods, or any combination of these methods.~~ The applicant shall have the right to testify, to present other testimony and evidence, and to be represented by an attorney. The Committee shall prepare a report and recommendation setting forth findings of fact on which the recommendation is based and a statement supporting the conclusion. A transcript of the hearing shall be transmitted by the Committee to the Board along with the Committee's report. The Committee shall transmit a copy of its report to the applicant, and a copy of the hearing transcript shall be furnished to the applicant upon payment of reasonable costs.

(b) Hearing by Board

If the Board concludes after review of the Character Committee's report and the transcript that there may be grounds for recommending denial of the application, it shall promptly afford the applicant the opportunity for a hearing on the record made before the Committee. In its discretion, the Board~~7~~ may permit additional evidence to be submitted. If the recommendation

of the Board differs from the recommendation of the Character Committee, the Board shall prepare a report and recommendation setting forth findings of fact on which the recommendation is based and a statement supporting the conclusion and shall transmit a copy of its report and recommendation to the applicant and the Committee. If the Board decides to recommend denial of the application in its report to the Court, the Board shall first give the applicant an opportunity to withdraw the application pursuant to Rule 19-202 (b). If the applicant withdraws the application, the Board shall retain the records. If the applicant elects not to withdraw the application, the Board shall transmit to the Court a report of its proceedings and a recommendation as to the approval or denial of the application together with all papers relating to the ~~matter~~ application.

(c) Review by Court

(1) If the Court, after reviewing the report of the Character Committee and any report of the Board, believes there may be grounds to deny admission, the Court shall order the applicant to appear for a hearing and show cause why the application should not be denied.

(2) If the Board recommends approval of the application contrary to an adverse recommendation by the Character Committee, within 30 days after the filing of the Board's report, the Committee may file with the Court exceptions to the Board's

recommendation. The Committee shall transmit copies of its exceptions to the applicant and the Board.

(3) Proceedings in the Court under section (c) of this Rule shall be on the record made before the Character Committee and the Board. If the Court denies the application, the Board shall retain the records.

(d) Burden of Proof

The applicant bears the burden of proving to the Character Committee, the Board, and the Court the applicant's good moral character and fitness for the practice of law. Failure or refusal to answer fully and candidly any question in the application or any relevant question asked by a member of the Character Committee, the Board, or the Court is sufficient cause for a finding that the applicant has not met this burden. Undocumented immigration status, in itself, does not preclude admission to the Bar, provided that the applicant otherwise has demonstrated good moral character and fitness.

~~Committee note: Undocumented immigration status, in itself, does not preclude admission to the Bar, provided that the applicant otherwise has demonstrated good moral character and fitness.~~

(e) Continuing Review

All applicants remain subject to further Character Committee and Board review and report until admitted to the Bar. The applicant shall be under a continuing obligation to report

to the Board any material change in information previously
furnished.

Source: This Rule is derived from former Rule ~~5 of the Rules
Governing Admission to the Bar of Maryland (2016)~~ 19-203 (2018).

REPORTER'S NOTE

Rule 19-203 is proposed to be amended in part to implement the UBE. The Rule addresses the important issue of character review prior to admission to the Maryland Bar.

Proposed changes to Rule 19-203 re-number it as Rule 19-204. Necessary conforming amendments and stylistic changes are also made throughout.

Among the stylistic changes, proposed changes to subsection (a)(1)(B) clarify that the Character Committee does not have the duty to verify each fact stated by an applicant, but may include verification of facts asserted by the applicant or the applicant's references as a part of any further investigation the Character Committee deems necessary or desirable.

A Committee note following section (d) related to immigration status and admission to the bar is proposed to be deleted, with the language shifted into the text of the Rule.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

ADD new Rule 19-205, as follows:

Rule 19-205. CHARACTER QUESTIONNAIRE

(a) Who May File

An individual who meets the requirements of Rule 19-201(a) (1) may commence an application for admission to the Bar of this State by filing with the Board a completed Character Questionnaire and the prescribed fee.

Cross reference: See Rule 19-206 (Notice of Intent to Take the UBE in Maryland) and Rule 19-207 (Notice of Intent to Transfer a Qualifying UBE Score).

(b) Form of Questionnaire

(1) Generally

The character questionnaire shall be on a form prescribed by the Board and shall be answered under oath. The questionnaire shall elicit the information the Board considers appropriate concerning the applicant's character, education, and eligibility to become an applicant and (A) require the applicant to provide the applicant's Social Security number, and (B) include an authorization to release confidential information pertaining to

the applicant's character and fitness for the practice of law to a Character Committee, the Board, and the Court.

(2) Pre-legal education

The character questionnaire shall be accompanied by satisfactory evidence that the applicant meets the pre-legal education requirements of Rule 19-201 (a) (1).

(c) Time for Filing

The character questionnaire shall be filed prior to or contemporaneously with any Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206 or any Notice of Intent to Transfer a Qualifying UBE Score pursuant to Rule 19-207.

(d) Preliminary Determination of Eligibility

On receipt of a character questionnaire, the Board shall determine whether the applicant is eligible to file a character questionnaire pursuant to section (a) of this Rule. If the Board concludes that the requirements have been met, it shall forward the character questionnaire to a Character Committee. If the Board concludes that the requirements have not been met, it shall promptly notify the applicant in writing.

(e) Updated Character Questionnaire

If a character questionnaire has been pending for more than three years since the date of the applicant's most recent character questionnaire or updated character questionnaire, the applicant shall file with the Board an updated character questionnaire

contemporaneously with filing any Notice of Intent to Take the UBE in Maryland or any Notice to Transfer a Qualifying UBE Score. The updated character questionnaire shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

Source: This Rule is new in part and derived from former Rule 19-202 (2018) in part.

REPORTER'S NOTE

New Rule 19-205 is proposed to be added and existing Rule 19-205 re-numbered as Rule 19-208 in order to implement the UBE. Rule 19-205 concerns the character questionnaire completed by applicants who seek, or intend to seek, admission to the Maryland Bar through a qualifying UBE score.

Section (a) states who may file a character questionnaire. This is an individual who meets the requirements of Rule 19-201(a) (1).

Section (b) addresses the form of the questionnaire, which is prescribed by the Board and must be completed under oath.

An important distinction between character review under the current bar exam and under the UBE is that a character questionnaire may be filed prior to a Notice of Intent under the UBE under section (c). This is in addition to contemporaneous filing with the Notice, which is permitted currently and will continue to be permitted under the UBE.

Under section (d), the Board will make a preliminary determination of eligibility once a character questionnaire is received. And finally, pursuant to section (e), if a character questionnaire is pending for more than three years, an updated character questionnaire must be filed contemporaneously with an Notice of Intent or Notice to Transfer.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-204 by re-numbering it as Rule 19-206, by making stylistic changes, by conforming the Rule for implementation of the Uniform Bar Exam, and by adding a new section (c) pertaining to verification of legal education, as follows:

Rule ~~19-204~~ 19-206. NOTICE OF INTENT TO TAKE A ~~SCHEDULED GENERAL BAR EXAMINATION~~ THE UBE IN MARYLAND

(a) Filing

An applicant may file a Notice of Intent to Take a ~~Scheduled Bar Examination~~ the UBE in Maryland if the applicant:

~~(1) the applicant is eligible under Rule 19-201 to take the bar examination,~~

~~(2) the applicant contemporaneously files or has previously filed an application for admission pursuant to Rule 19-202, and~~

~~(3) the application has not been withdrawn or rejected pursuant to Rule 19-203.~~

~~The notice of intent shall be under oath, filed on the form prescribed by the Board and accompanied by the prescribed fee.~~

(1) meets the pre-legal educational requirements of Rule 19-201 (a) (1),

Rule 19-206

(2) unless the requirements of Rule 19-201 (a) (2) have been waived pursuant to Rule 19-201 (b), meets the legal education requirements of Rule 19-201 (a) (2), or will meet those requirements before the first day of the UBE in Maryland, and

(3) contemporaneously files, or has previously filed, a completed character questionnaire pursuant to Rule 19-205 that has not been withdrawn pursuant to Rule 19-202 (b), denied pursuant to Rule 19-203, or rejected pursuant to Rule 19-204.

(b) Request for Test Accommodation

An applicant who seeks a test accommodation under the ADA for the bar examination shall indicate that request on the Notice of Intent to Take ~~a Scheduled General Bar Examination~~ the UBE in Maryland, and shall file with the Board an "Accommodation Request" on a form prescribed by the Board, together with the supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline stated in section (c) of this Rule for filing the Notice of Intent to Take ~~a Scheduled General Bar Examination~~ the UBE in Maryland. The Board may reject an accommodation request that is (1) substantially incomplete or (2) filed untimely. The Board shall notify the applicant in writing of the basis of the rejection and shall provide the applicant an opportunity to correct any deficiencies in the accommodation request before the filing deadline for the current

examination or, if the current deadline has passed, before the filing deadline for the next administration of the examination.

Committee note: An applicant who may need a test accommodation is encouraged to file an Accommodation Request as early as possible.

Cross reference: See Rule 19-205 for the procedure to appeal a denial of a request for a test accommodation.

(c) Verification of Legal Education

Unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), the applicant shall aver under oath that the applicant has met or will meet those requirements prior to the first day of the applicant taking the UBE in Maryland. No later than the first day of September following an examination taken in July or the fifteenth day of March following an examination taken in February, the applicant shall cause the Board to receive an official transcript that reflects the date of the award to the applicant of a qualifying law degree under Rule 19-201, unless the official transcript already is on file with the Board's administrative office.

~~(e)~~(d) Time for Filing

An applicant who intends to take the examination in July shall file the Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland no later than the preceding May 20. An applicant who intends to take the examination in February shall file the Notice of Intent to Take a ~~Scheduled General Bar~~

~~Examination~~ the UBE in Maryland no later than the preceding December 20. Upon written request of an applicant and for good cause shown, the Board may accept a Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland filed after that deadline. If the Board rejects the Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland for lack of good cause for the untimeliness, the Board shall transmit written notice of the rejection to the applicant. The applicant may file an exception with the Court within five business days after notice of the rejection is transmitted.

~~(d)~~(e) Withdrawal of Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland or Absence from Examination

If an applicant withdraws the Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland or fails to attend and take the examination, the examination fee shall not be refunded. The Board may apply the examination fee to a subsequent examination if the applicant establishes good cause for the withdrawal or failure to attend.

Source: This Rule is derived from former Rule ~~6~~ of the ~~Rules Governing Admission to the Bar of Maryland~~ (2016) 19-204 (2018).

REPORTER'S NOTE

Rule 19-204 is proposed to be amended in order to implement the UBE. The Rule addresses Notice of Intent to Take the UBE in Maryland, including filing notice, requesting test accommodations, verifying an applicant's legal education, and filing timely.

Changes to Rule 19-204 include re-numbering it as Rule 19-206. Necessary conforming amendments and stylistic changes are also made throughout.

Additionally, a new section (c) is added that requires an applicant to provide suitable verification of his or her legal education. This requirement is transferred from current Rule 19-202.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

ADD new Rule 19-207, as follows:

Rule 19-207. NOTICE OF INTENT TO TRANSFER A QUALIFYING UBE SCORE

(a) Filing

Beginning on July 1, 2019, an applicant may file a Notice of Intent to Transfer a Qualifying UBE Score if the applicant:

(1) meets the pre-legal education requirements of Rule 19-201 (a)(1) to become admitted to the Maryland Bar,

(2) unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), meets the legal education requirements of Rule 19-201 (a)(2),

(3) contemporaneously files or has previously filed a completed character questionnaire pursuant to Rule 19-205 that has not been withdrawn pursuant to Rule 19-202 (b) or denied pursuant to Rule 19-204, and

(4) has achieved a qualifying UBE score in another UBE State.

The Notice of Intent shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

(b) Verification of Legal Education

Rule 19-207

Prior to or contemporaneously with filing the Notice of Intent to Transfer a Qualifying UBE Score, the applicant shall cause to be sent to the Board an official transcript that reflects the date of the award to the applicant of a qualifying law degree under Rule 19-201 (a), unless the official transcript already is on file with the Board or the applicant has received a waiver under Rule 19-201 (b).

Cross reference to Board Rules for qualifying UBE score.

Source: This Rule is new.

REPORTER'S NOTE

New Rule 19-207 is proposed to be added, and existing Rule 19-207 re-numbered as Rule 19-209, in order to implement the UBE. Rule 19-207 concerns the Notice of Intent to Transfer a Qualifying UBE Score, which has no analog among the existing Rules of Title 19, Chapter 200.

Through a Notice of Intent to Transfer a Qualifying UBE Score, an applicant with a sufficient UBE score earned through testing in another jurisdiction may port the score to Maryland for use in admission here.

Section (a) defines who may file a Notice of Intent to Transfer a Qualifying UBE Score, including requirements for eligibility. Section (b) requires an applicant to provide sufficient evidence of his or her legal education.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-205 by re-numbering it as Rule 19-208, as follows:

Rule ~~19-205~~ 19-208. APPEAL OF DENIAL OF ADA TEST ACCOMMODATION REQUEST

(a) Accommodations Review Committee

(1) Creation and Composition

There is an Accommodations Review Committee that shall consist of nine members appointed by the Court of Appeals. Six members shall be attorneys admitted to practice in Maryland who are not members of the Board. Three members shall be non-attorneys. Each non-attorney member shall be a licensed psychologist or physician who, during the member's term, does not serve the Board as a consultant or in any capacity other than as a member of the Committee. The Court shall designate one attorney as Chair of the Committee and one attorney as Vice Chair. 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.

(2) Term

Subject to subsection (a)(4) of this Rule, the term of each member is five years. A member may serve more than one term.

(3) Reimbursement; Compensation

A member is entitled to reimbursement for expenses reasonably incurred in the performance of official duties in accordance with standard State travel regulations. In addition, the Court may provide compensation for the members.

(4) Removal

The Court of Appeals may remove a member of the Accommodations Review Committee at any time.

(b) Procedure for Appeal

(1) Notice of Appeal

An applicant whose request for a test accommodation pursuant to the ADA is denied in whole or in part by the Board may note an appeal to the Accommodations Review Committee by filing a Notice of Appeal with the Board.

Committee note: It is likely that an appeal may not be resolved before the date of the scheduled bar examination that the applicant has petitioned to take. No applicant "has the right to take a particular bar examination at a particular time, nor to be admitted to the bar at any particular time." *Application of Kimmer*, 392 Md. 251, 272 (2006). After an appeal has been resolved, the applicant may file a timely petition to take a later scheduled bar examination with the accommodation, if any, granted as a result of the appeal process.

(2) Transmittal of Record

Upon receiving a notice of appeal, the Board promptly shall
(A) transmit to the Chair of the Accommodations Review Committee

a copy of the applicant's request for a test accommodation, all documentation submitted in support of the request, the report of each expert retained by the Board to analyze the applicant's request, and the Board's letter denying the request and (B) transmit to the applicant notice of the transmittal and a copy of each report of an expert retained by the Board.

(3) Hearing

The Chair of the Accommodations Review Committee shall appoint a panel of the Committee, consisting of two attorneys and one non-attorney, to hold a hearing at which the applicant and the Board have the right to present witnesses and documentary evidence and be represented by an attorney. In the interest of justice, the panel may decline to require strict application of the Rules in Title 5, other than those relating to the competency of witnesses. Lawful privileges shall be respected. The hearing shall be recorded verbatim by shorthand, stenotype, mechanical, or electronic audio recording methods, electronic word or text processing methods, or any combination of those methods.

(4) Report

The panel shall (A) file with the Board a report containing its recommendation, the reasons for the recommendation, and findings of fact upon which the recommendation is based, (B) transmit a copy of its report to the applicant, and (C) provide a copy of the report to the Chair of the Committee.

(c) Exceptions

Within 30 days after the report of the panel is filed with the Board, the applicant or the Board may file with the Chair of the Committee exceptions to the recommendation and shall transmit a copy of the exceptions to the other party. Upon receiving the exceptions, the Chair shall cause to be prepared a transcript of the proceedings and transmit to the Court of Appeals the record of the proceedings, which shall include the transcript and the exceptions. The Chair shall notify the applicant and the Board of the transmittal to the Court and provide to each party a copy of the transcript.

(d) Proceedings in the Court of Appeals

Proceedings in the Court of Appeals shall be on the record made before the panel. The Court shall require the party who filed exceptions to show cause why the exceptions should not be denied.

(e) If No Exceptions Filed

If no exceptions pursuant to section (c) of this Rule are timely filed, no transcript of the proceedings before the panel shall be prepared, the panel shall transmit its record to the Board, and the Board shall provide the test accommodation, if any, recommended by the panel.

Source: This Rule is derived from former Rule ~~6.1~~ of the ~~Rules Governing Admission to the Bar of Maryland (2016)~~ 19-205 (2018).

REPORTER'S NOTE

Rule 19-205 is proposed to be re-numbered to Rule 19-208 as part of the changes necessary for implementation of the UBE. No other changes are made to the Rule.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-207 by re-numbering it as Rule 19-209, by making stylistic changes, and by conforming the Rule for implementation of the Uniform Bar Exam, as follows:

Rule ~~19-207~~ 19-209. NOTICE OF BAR EXAMINATION GRADES AND REVIEW PROCEDURE

(a) Notice of Grades; Alteration

Subject to Rule 19-203(e), the Board shall transmit written notice of examination results to each applicant ~~taking the bar examination~~ who took the UBE in Maryland. The Board shall determine the form and method of delivery of the notice of results. ~~Successful applicants shall be notified only that they have passed. Unsuccessful applicants~~ Applicants, whether successful or unsuccessful, shall be given their grades in the detail the Board considers appropriate. Thereafter, the Board may not alter any applicant's grades except when necessary to correct a clerical error.

(b) Review Procedure

The Board, by Rule, shall establish a procedure by which unsuccessful applicants may obtain their written examination materials and request review of their MBE scores.

Source: This Rule is derived from former Rule ~~8 of the Rules Governing Admission to the Bar of Maryland (2016)~~ 19-207 (2018).

REPORTER'S NOTE

Rule 19-207 is proposed to be amended in order to implement the UBE. The Rule addresses notice of bar examination grades and the exam performance review procedure.

UBE scores are portable from one UBE jurisdiction to another, subject to the minimum score established by each jurisdiction. Because of this, applicants must be informed of their performance on the test in Maryland, whether successful in or not, in order for applicants to determine their potential eligibility for admission to other bars. Conforming amendments and stylistic changes in section (a) provide for this.

Changes to Rule 19-207 also include re-numbering it as Rule 19-209.

Rule 19-210 - Deletion

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

DELETE current Rule 19-210, as follows:

~~Rule 19-210. REQUIRED ORIENTATION PROGRAM~~

~~(a) Approval of Program~~

~~The Court of Appeals shall approve an orientation program for effectively informing applicants of certain core requirements, established by Rules of the Court or other law, for engaging in the practice of law in Maryland.~~

~~(b) Contents of Program~~

~~The program shall include information regarding (1) reporting requirements established by Rules of the Court, (2) obligations to the Client Protection Fund and the Disciplinary Fund established by Rule or statute, (3) Rules governing attorney trust accounts and the handling of client funds and papers, and (4) the Rules of Professional Conduct regarding competence, scope of representation, diligence, communications with clients, fees, confidentiality, conflicts of interest, declining representation, meritorious claims, candor toward tribunals, and law firms.~~

~~(c) Timing~~

Rule 19-210 - Deletion

~~The program shall be given at the times and for the periods directed by the Court.~~

~~(d) Duration; Materials; Participation from Remote Location~~

~~The program shall not exceed three hours in duration. It may include the provision of written materials distributed in a manner determined by the Court but, to the extent practicable, it shall be given in electronic form, so that an applicant may participate from a remote location, subject to appropriate verification of the applicant's actual participation.~~

~~(e) Participation Requirement~~

~~An applicant may not be admitted to the Bar unless (1) prior to admission, the applicant has produced evidence satisfactory to the Board that the applicant satisfactorily participated in the program, or (2) the applicant has been excused from that requirement by Order of the Court of Appeals.~~

~~Committee note: The purpose of the orientation program is to assure that newly admitted attorneys are familiar with core requirements for practicing law in Maryland, the violation of which may result in their authority to practice law being suspended or revoked. The program is not intended to take the place of broader programs on professionalism offered by law schools, bar associations, and other entities, in which the Court of Appeals strongly encourages all attorneys to participate.~~

~~Source: This Rule is derived from former Rule 11 of the Rules Governing Admission to the Bar of Maryland (2016).~~

Rule 19-210 - Deletion

REPORTER'S NOTE

Current Rule 19-210 is proposed to be deleted as no longer applicable with the implementation of the UBE.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-208 by re-numbering it as Rule 19-210, by making stylistic changes, by conforming the Rule for implementation of the Uniform Bar Exam, and by adding a Committee note following section (d), as follows:

Rule ~~19-208~~ 19-210. RE-EXAMINATION AFTER FAILURE

(a) Notice of Intent to Take ~~Maryland General Bar Examination~~
Another Scheduled UBE in Maryland

An unsuccessful applicant may file a another Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland to take another scheduled examination. The Notice of Intent to Take a ~~Scheduled General Bar Examination~~ shall be on the form prescribed by the Board and shall be accompanied by the required examination fee.

(b) Request for Test Accommodation

An applicant who seeks a test accommodation under the ADA for the bar examination shall indicate that request on the Notice of Intent to Take a ~~Scheduled General Bar Examination~~ and shall file an Accommodation Request pursuant to Rule ~~19-204~~ 19-206 (b).

Committee note: An applicant who may need a test accommodation is encouraged to file an Accommodation Request as early as possible.

Cross reference: See Rule ~~19-205~~ 19-208 for the procedure to appeal a denial of a request for a test accommodation.

(c) Time for Filing

(1) Generally

An applicant who intends to take the July examination shall file ~~the~~ a Notice of Intent to Take ~~a Scheduled General Bar Examination~~ the UBE in Maryland, together with the prescribed fee, no later than the preceding May 20. An applicant who intends to take the examination in February shall file the Notice of Intent ~~to Take a Scheduled General Bar Examination~~, together with the prescribed fee, no later than the preceding December 20.

(2) Late filing

Upon written request of an applicant and for good cause shown, the Board may accept a Notice of Intent ~~to Take a Scheduled General Bar Examination~~ filed after that deadline. If the Board rejects the Notice of Intent ~~to Take a Scheduled General Bar Examination~~ for lack of good cause for the untimeliness, the Board shall transmit written notice of the rejection to the applicant. The applicant may file an exception with the Court within five business days after notice of the rejection is transmitted.

(d) Three or More Failures in Maryland - Re-examination in Maryland Conditional

In this section, "bar examination in Maryland" includes the UBE in Maryland and a Maryland General Bar Examination given prior to June 30, 2019. If an applicant ~~fails~~ has failed three or more bar examinations in Maryland, the Board may condition retaking of the bar examination in Maryland on the successful completion of specified additional study.

Committee note: Prior failures in Maryland do not preclude the transfer of a qualifying UBE score to Maryland pursuant to Rule 19-207.

(e) Withdrawal of Notice of Intent to Take ~~a Scheduled General Bar Examination~~ the UBE in Maryland or Absence from Examination

If an applicant withdraws the Notice of Intent to Take a ~~Scheduled General Bar Examination~~ UBE in Maryland or fails to attend and take the examination, the examination fee shall not be refunded. The Board may apply the examination fee to a subsequent examination if the applicant establishes good cause for the withdrawal or failure to attend.

Source: This Rule is derived in part from former Rule ~~9~~ of the Rules Governing Admission to the Bar of Maryland (2016) 19-208 (2018) and is in part new.

REPORTER'S NOTE

Rule 19-208 is proposed to be amended in order to implement the UBE. The Rule addresses re-examination after failure on a bar exam.

Changes to Rule 19-208 include re-numbering it as Rule 19-210. Necessary conforming amendments and stylistic changes are also made throughout.

Additionally, a new Committee note is added following section (d). The note clarifies that prior failures on the bar examination in Maryland do not preclude an applicant from transferring a qualifying UBE score to Maryland from another jurisdiction.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-209 by re-numbering it as Rule 19-211, by making stylistic changes, by conforming the Rule for implementation of the Uniform Bar Exam, and by adding a new section (b) pertaining to the transfer of a qualifying UBE score, as follows:

Rule ~~19-209~~ 19-211. REPORT TO COURT - ORDER

(a) ~~Report and Recommendations as to Applicants~~ Passing the UBE in Maryland

(1) Report and Recommendations

As soon as practicable after each examination, the Board, shall file with the Court a report containing ~~(1)~~ (A) the names of the applicants who successfully completed the bar examination and ~~(2)~~ (B) the Board's recommendation for admission. The Board's recommendation with respect to each applicant shall be conditioned on the outcome of any character proceedings relating to that applicant and satisfaction of ~~the requirement of Rule 19-210~~ all other requirements of admission.

~~(b)~~ (2) Order of Ratification

Rule 19-211

On receipt of the Board's report, the Court shall enter an order fixing a date at least 30 days after the filing of the report for ratification of the Board's recommendations. The order shall include the names of all applicants who are recommended for admission, including those who are conditionally recommended. The order shall state generally that all recommendations are conditioned on character approval and satisfaction of the ~~requirement of Rule 19-210~~ requirements of Rules 19-212 and 19-213, but shall not identify those applicants as to whom proceedings are still pending. The order shall be posted on the Judiciary website no later than 5 days after the date of the order and remain on the website until ratification.

~~(e)~~ (3) Exceptions

Before ratification of the Board's report, any person may file with the Court exceptions relating to any relevant matter. For good cause shown, the Court may permit the filing of exceptions after ratification of the Board's report and before the applicant's admission to the Bar. The Court shall give notice of the filing of exceptions to ~~(1) the applicant, (2) the Board, and (3) the Character Committee that passed on the applicant's application. A hearing on the exceptions shall be held to allow the person filing exceptions, the applicant, the Board, and, if an exception involves an issue of character, the Character Committee to present evidence in support of or in opposition to the exceptions and be heard.~~

~~The Court may hold the hearing or may~~ and shall refer the exceptions to the Board, ~~the Character Committee, or an examiner for hearing. The Board, Character Committee, or examiner hearing the exceptions shall file with the Court, as soon as practicable after the hearing, a report of the proceedings. The Court may decide the exceptions without further hearing~~ for proceedings pursuant to Rule 19-204.

~~(d)~~ (4) Ratification of Board's Report

On expiration of the time fixed in the order entered pursuant to ~~section (b)~~ subsection (a) (2) of this Rule, the Board's report and recommendations shall be ratified subject to the conditions stated in the recommendations and to any exceptions noted under ~~section (c)~~ subsection (a) (3) of this Rule.

(b) Applicants Transferring a Qualifying UBE Score

(1) Report and Recommendations

As soon as practicable after the first of each month, the Board shall file with the Court a report containing (A) the names of the applicants who transferred to Maryland a qualifying UBE score during the prior month and (B) the Board's recommendation for admission. The Board's recommendation with respect to each applicant shall be conditioned on the outcome of any character proceedings relating to that applicant and satisfaction of all other requirements for admission.

(2) Order of Ratification

Rule 19-211

On receipt of the Board's report, the Court shall enter an order fixing a date at least 30 days after the filing of the report for ratification of the Board's recommendations. The order shall include the names of all applicants who are recommended for admission, including those who are conditionally recommended. The order shall state generally that all recommendations are conditioned on character approval and satisfaction of the requirements of Rules 19-212 and 19-213, but shall not identify those applicants as to whom proceedings are still pending. The order shall be posted on the Judiciary website no later than 5 days after the date of the order and remain on the website until ratification.

(3) Exceptions

Before ratification of the Board's report, any person may file with the Court exceptions relating to any relevant matter. For good cause shown, the Court may permit the filing of exceptions after ratification of the Board's report and before the applicant's admission to the Bar. The Court shall give notice of the filing of exceptions to the applicant and shall refer the exceptions to the Board for proceedings pursuant to Rule 19-204.

(4) Ratification of Board's Report

On expiration of the time fixed in the order entered pursuant to subsection (b) (2) of this Rule, the Board's report and recommendations shall be ratified subject to the conditions stated

in the recommendations and to any exceptions noted under subsection (b) (3) of this Rule.

Source: ~~This Section (a) of this Rule~~ is derived from former Rule 10 of the Rules Governing Admission to the Bar of Maryland (2016). Section (b) is new.

REPORTER'S NOTE

Rule 19-209 is proposed to be amended in order to implement the UBE. The Rule addresses reports to the Court of Appeals by the Board of Law Examiners and the Court's Orders of Ratification upon receipt of the reports.

Changes to Rule 19-209 include re-numbering it as Rule 19-211. Necessary conforming amendments and stylistic changes are also made throughout.

Because a qualifying UBE score may be transferred at any time, admissions to the Maryland Bar may occur throughout the year. New section (b) provides for monthly reports from the Board to the Court of those applicants who have transferred qualifying UBE scores and who the Board is recommending for admission. This recommendation may be conditional for some applicants, pending the outcome of the character review process and satisfaction of all other requirements for admission. A Court order ratifying the Board's report will be entered no sooner than 30 days after receipt of the report. The provisions contained in section (b) parallel those contained in section (a).

The process for excepting to a report is the same for both reports of applicants who completed the bar examination in Maryland and reports of applicants who transferred a qualifying UBE score (subsections (a) (3) and new (b) (3)). Ratification of both types of Board reports, addressed in subsections (a) (4) and (b) (4), are parallel as well.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

DELETE current Rule 19-212, as follows:

~~Rule 19-212. ELIGIBILITY OF OUT-OF-STATE ATTORNEYS FOR ADMISSION BY ATTORNEY EXAMINATION~~

~~(a) Generally~~

~~An individual is eligible for admission to the Bar of this State under this Rule if the individual:~~

~~(1) is a member in good standing of the Bar of a state;~~

~~(2) has passed a written bar examination in a state or is admitted to a state bar by diploma privilege after graduating from a law school approved by the American Bar Association;~~

~~(3) has the professional experience required by this Rule;~~

~~(4) successfully completes the attorney examination prescribed by Rule 19-213; and~~

~~(5) possesses the good moral character and fitness necessary for the practice of law.~~

~~(b) Required Professional Experience~~

~~The professional experience required for admission under this Rule shall be on a full time basis as (1) a practitioner of law as provided in section (c) of this Rule; (2) a teacher of law at a law school approved by the American Bar Association;~~

~~(3) a judge of a court of record in a state; or (4) a combination thereof.~~

~~(c) Practitioner of Law~~

~~(1) Subject to subsections (c) (2) and (3) of this Rule, a practitioner of law is an individual who has regularly engaged in the authorized practice of law:~~

~~(A) in a state;~~

~~(B) as the principal means of earning a livelihood; and~~

~~(C) whose professional experience and responsibilities have been sufficient to satisfy the Board that the individual should be admitted under this Rule and Rule 19-213.~~

~~(2) As evidence of the requisite professional experience, for purposes of subsection (c) (1) (C) of this Rule, the Board may consider, among other things:~~

~~(A) the extent of the individual's experience in the practice of law;~~

~~(B) the individual's professional duties and responsibilities, the extent of contacts with and responsibility to clients or other beneficiaries of the individual's professional skills, the extent of professional contacts with practicing attorneys and judges, and the individual's professional reputation among those attorneys and judges; and~~

~~(C) any professional articles or treatises that the individual has written.~~

~~(3) The Board may consider as the equivalent of practice of law in a state practice outside the United States if the Board concludes that the nature of the practice makes it the functional equivalent of practice within a state.~~

~~(d) Duration of Professional Experience~~

~~(1) An individual shall have the professional experience required by section (b) of this Rule for (A) a total of ten years, or (B) at least five of the ten years immediately preceding the filing of a petition pursuant to Rule 19-213.~~

~~(c) Exceptional Cases. In exceptional cases, the Board may treat an individual's actual experience, although not meeting the literal requirements of subsection (c) (1) or section (d) of this Rule, as the equivalent of the professional experience otherwise required by this Rule.~~

~~Source: This Rule is derived from sections (a) through (c) of former Rule 13 of the Rules Governing Admission to the Bar of Maryland (2016).~~

REPORTER'S NOTE

Current Rule 19-212 is proposed to be deleted as no longer applicable with the implementation of the UBE.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

ADD new Rule 19-212, as follows:

Rule 19-212 MARYLAND LAW COMPONENT

(a) Participation Required

An applicant who achieves a qualifying score on the UBE in Maryland, transfers a qualifying UBE score to Maryland, or petitions for admission without examination may not be admitted to the Bar unless, prior to admission, the Board receives satisfactory evidence that the applicant has completed the Maryland Law Component described in this Rule.

Committee note: The Maryland Law Component is not part of the bar examination but must be completed as a condition of admission to the Bar. Its purpose is to assure that newly admitted attorneys are familiar with key distinctions of Maryland law and procedure not tested in the components of the UBE and with core requirements for practicing law in Maryland, the violation of which may result in their authority to practice law being suspended.

(b) Preparation and Content

The Board shall supervise the preparation of the Maryland Law Component. The Component shall include (1) information regarding (A) substantive distinctions of Maryland law and procedure in subject areas to be designated by Board Rule, (B) reporting requirements established by the

Maryland Rules, (C) obligations to the Client Protection Fund and Disciplinary Fund established by the Maryland Rules or by statute, and (D) Rules governing attorney trust accounts and the handling of client funds and papers, and (2) questions to assure that the applicant has read and understands that information.

(c) Format

The Maryland Law Component may include written materials but shall be in electronic format so that an applicant may participate from a remote location, subject to appropriate verification of the applicant's actual and personal participation.

(d) Approval by Court of Appeals

The Board shall submit the general format of the Maryland Law Component to the Court of Appeals for its consideration and approval.

Committee Note: It is not intended that the actual questions be submitted to the Court, but only the basic structure and outline of the Component.

(e) When Available

Subject to technical limitations, the Maryland Law Component shall be available for completion by applicants at any time after filing a Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206, a Notice of Intent to Transfer a Qualifying UBE Score pursuant to Rule 19-207, or

a Petition for Admission Without Examination pursuant to Rule 19-216.

Source: This Rule is new.

REPORTER'S NOTE

Rule 19-212 is proposed to be added in order to implement the UBE.

Section (a) of Rule 19-212 requires all applicants for admission to Maryland Bar - whether by examination, transferred score, or petition without examination - to complete the Maryland Law Component described in the Rule.

The Committee note following section (a) remarks on an important distinction between the UBE and the required Maryland Law Component: the Maryland Law Component is not part of the bar examination, even though it must be completed as a condition of admission. The purpose of the Maryland Law Component is to ensure familiarity with key distinctions that occur in Maryland law, as the UBE does not test these distinctions.

Section (b) provides for Board supervision of the preparation of the Maryland Law Component. Section (c) states that the format will be electronic in order to allow for remote participation.

The general format of the Maryland Law Component is made subject to the Court of Appeals' approval under section (d), which is followed by a Committee note clarifying that specific questions are not submitted to the Court for approval.

Finally, section (e) specifies that the Maryland Law Component will be available for completion by an applicant at any time after an applicant files a Notice of Intent to take the UBE in Maryland, a Notice of Intent to Transfer a Qualifying Score, or a Petition for Admission Without Examination.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

ADD new Rule 19-213, as follows:

Rule 19-213. QUALIFYING MPRE SCORE REQUIRED

By Board Rule, the Board shall establish the conditions constituting a qualifying MPRE score. An individual who applies for admission pursuant to Rule 19-202 or who petitions for admission pursuant to Rule 19-216 may not be admitted to the Bar unless, prior to admission, the Board receives satisfactory evidence that the applicant has achieved a qualifying MPRE score.

Committee note: The MPRE is not part of the bar examination but must be completed as a condition of admission to the Bar.

Source: This Rule is new.

REPORTER'S NOTE

New Rule 19-213 is proposed to be added in order to implement the UBE. The Rule addresses the qualifying MPRE score required for admission to the Maryland Bar. Under the provisions of Rule 19-213, the Board establishes what constitutes a qualifying MPRE score, via Board Rule.

A Committee note follows the text of Rule 19-213, stating that the MPRE is not part of the bar examination but is instead a necessary condition for admission to the Bar.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-211 by re-numbering it as Rule 19-214, by making stylistic changes, by conforming the Rule for implementation of the Uniform Bar Exam, and by adding a new section (b) pertaining to administration of the oath of admission, as follows:

Rule ~~19-211~~ 19-214. ORDER OF ADMISSION; TIME LIMITATION

(a) Order of Admission

When the Court has determined that an applicant or petitioner is qualified to practice law and is of good moral character, it shall enter an order directing that the applicant be admitted to the Bar on taking the oath required by law.

(b) Administration of Oath

The oath shall be administered in open court, using the language specified in Code, Business Occupations and Professions Article, § 10-212. If administered in Maryland, the oath shall be administered by a Judge of the Court of Appeals or by the Clerk of that Court. If administered outside of Maryland, the oath shall be administered by a judge or clerk of a court of record who is

authorized to administer oaths in the court where the administration occurs.

Cross reference: See Code, Business Occupations and Professions Article, § 10-212, requiring that the oath be taken in open court.

~~(b)~~ (c) Time Limitation for Taking Oath - Generally

An applicant ~~who has passed the Maryland General Bar Examination~~ or petitioner may not take the oath of admission to the Bar later than 24 months after the date that the Court of Appeals ratified the Board's report pursuant to Rule 19-211 or Rule 19-216 ~~for that examination~~ that includes the applicant or petitioner.

~~(c)~~ (d) Extension

For good cause, the Board may extend the time for taking the oath, but the applicant's or petitioner's failure to take action to satisfy admission requirements does not constitute good cause.

~~(d)~~ (e) Consequence of Failure to Take Oath Timely

(1) Applicant seeking admission under Rule 19-201

An applicant who seeks admission under Rule 19-201 but fails to take the oath within the required time period and wishes to be admitted shall reapply for admission and retake the bar examination or transfer a qualifying UBE score and re-complete the Maryland Law Component, unless excused by the Court.

(2) Petitioner seeking admission under Rule 19-215

Rule 19-214

A petitioner who seeks admission under Rule 19-215 but fails to take the oath within the required time period and wishes to be admitted shall reapply for admission and re-complete the Maryland Law Component, unless excused by the Court.

Cross reference: See Code, Business Occupations and Professions Article, §10-212, for form of oath.

Source: This Rule is derived from former Rule 12 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

Rule 19-211 is proposed to be amended in order to implement the UBE. The Rule addresses the Court of Appeals' orders for admission.

Changes to Rule 19-211 include re-numbering it as Rule 19-214. Necessary conforming amendments and stylistic changes are also made.

In addition, a new section (b) is added that requires an applicant to be administered the oath of admission in open court. The open court oath administration need not occur in Maryland but must be performed by a judge or clerk of a court of record who is authorized to administer oaths in that particular court. A cross reference to Code, Business Occupations and Professions Article, § 10-212 follows, which is the source of the "open court" requirement.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-212 by re-numbering it as Rule 19-215, by conforming the Rule for implementation of the Uniform Bar Exam, and by deleting subsection (a)(4) requiring an attorney examination for out-of-state attorneys, as follows:

Rule ~~19-212~~ 19-215. ELIGIBILITY OF OUT-OF-STATE ATTORNEY FOR ADMISSION WITHOUT EXAMINATION

(a) Generally

Beginning on July 1, 2019, an individual is eligible for admission to the Bar of this State under this Rule if the individual:

(1) is a member in good standing of the Bar of a state;

(2) has passed a written bar examination in a state or is admitted to a state bar by diploma privilege after graduating from a law school accredited by the American Bar Association;

(3) has the professional experience required by this Rule; and

~~(4) successfully completes the attorney examination prescribed by Rule 19-213; and~~

~~(5)~~(4) possesses the good moral character and fitness necessary for the practice of law.

(b) Required Professional Experience

Rule 19-215

The professional experience required for admission under this Rule shall be on a full time basis as (1) a practitioner of law as provided in section (c) of this Rule; (2) a teacher of law at a law school accredited by the American Bar Association; (3) a judge of a court of record in a state; or (4) a combination thereof.

(c) Practitioner of Law

(1) Subject to subsections (c)(2) and (3) of this Rule, a practitioner of law is an individual who has regularly engaged in the authorized practice of law:

(A) in a state;

(B) as the principal means of earning a livelihood; and

(C) whose professional experience and responsibilities have been sufficient to satisfy the Board that the individual should be admitted under this Rule and Rule 19-213.

(2) As evidence of the requisite professional experience, for purposes of subsection (c)(1)(C) of this Rule, the Board may consider, among other things:

(A) the extent of the individual's experience in the practice of law;

(B) the individual's professional duties and responsibilities, the extent of contacts with and responsibility to clients or other beneficiaries of the individual's professional skills, the extent of professional contacts with practicing

attorneys and judges, and the individual's professional reputation among those attorneys and judges; and

(C) any professional articles or treatises that the individual has written.

(3) The Board may consider as the equivalent of practice of law in a state practice outside the United States if the Board concludes that the nature of the practice makes it the functional equivalent of practice within a state.

(d) Duration of Professional Experience

~~(1)~~ An individual shall have the professional experience required by section (b) of this Rule for ~~(A)~~ (1) a total of ten years, or ~~(B)~~ (2) at least ~~five~~ three of the ~~ten~~ five years immediately preceding the filing of a petition pursuant to Rule 19-216.

(e) Exceptional Cases

In exceptional cases, the Board may treat an individual's actual experience, although not meeting the literal requirements of subsection (c)(1) of this Rule, as the equivalent of the professional experience otherwise required by this Rule.

Source: This Rule is derived from sections (a) through (e) of former Rule 13 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

Rule 19-212 is proposed to be amended in part to implement the UBE. The Rule addresses the eligibility of out-of-state attorneys for admission to the Maryland Bar without taking the bar examination.

Changes to Rule 19-212 include re-numbering it as Rule 19-215. Conforming amendments are also made.

Simultaneously with the implementation of the UBE, the requirement that out-of-state attorneys successfully complete the attorney examination for admission to the Maryland Bar, which is currently specified in subsection (a)(4), is eliminated.

This change was requested by the Board after careful consideration of several issues, including implementation of the UBE and reciprocity. Attorneys who have either passed a written bar examination in another state or been admitted to a state bar by diploma privilege, and who have professional experience, have demonstrated a knowledge of the law that may be analogous in many ways to the knowledge tested by the UBE.

Under proposed Rule 19-212, attorneys petitioning for admission without examination are required to satisfy the Maryland Law Component, in order to ensure knowledge of key Maryland distinctions.

Amendments to subsection (d)(2) of Rule 19-215 revise the number of years of professional experience required for admission under that subsection from 5 of the last 10 years immediately preceding the applicant's petition to 3 of the last 5 years. This revision is made in order to avoid a 'donut hole'.

Transferred UBE scores will be accepted dating from an exam administration given within the 3 years preceding the filing of a Notice of Intent to Transfer a Qualifying Score. Leaving the professional experience requirement of subsection (d)(2) as written would create a gap during which time an attorney would neither be eligible to transfer a UBE score nor eligible to petition for admission without examination. Those attorneys would effectively be forced to take a second bar examination during that two-year gap. The proposed amendments close that gap.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-213 by re-numbering it as Rule 19-216; by conforming the Rule for implementation of the Uniform Bar Exam, including the deletion of sections (b), (c), (h), (i), (j), and (l) and the addition of new sections (f), (g), and (h); and by making stylistic changes, as follows:

Rule ~~19-213~~ 19-216. ADMISSION OF OUT-OF-STATE ATTORNEY ~~BY ATTORNEY EXAMINATION~~ WITHOUT EXAMINATION - PROCEDURE

(a) Petition

(1) Beginning on July 1, 2019, An an individual eligible pursuant to Rule ~~19-212~~ 19-215 may file with the Board a petition under oath on a form prescribed by the Board~~7~~. The petition shall be accompanied by (A) the fees required by the Board and the costs assessed for the character and fitness investigation and report by the National Conference of Bar Examiners~~7~~, and (B) the supporting documents and information required by the Board as to the petitioner's professional experience and character and fitness to practice law in Maryland.

(2) The petitioner shall list (A) each state in which the petitioner has been admitted to the Bar and whether each admission was by examination, by diploma privilege or on motion; and (B) the

Rule 19-216

additional facts showing that the petitioner meets the requirements of section (a) (3) of Rule ~~19-212~~ 19-215 or should be qualified under section (e) of Rule ~~19-212~~ 19-215.

~~(3) The petitioner shall file with the petition the supporting documents and information required by the Board as to the petitioner's professional experience and character and fitness to practice law.~~

(4) The petitioner shall be under a continuing obligation to report to the Board any material change in information previously furnished.

~~(b) Request for Test Accommodation~~

~~A petitioner who seeks a test accommodation under the ADA for the attorney examination shall file with the Board an "Accommodation Request" on a form prescribed by the Board, together with any supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline stated in section (d) of this Rule for filing a petition to take a scheduled attorney examination.~~

~~Committee note: A petitioner who may need a test accommodation is encouraged to file an Accommodation Request as early as possible.~~

~~Cross reference: See Rule 19-205 for the procedure to appeal a denial of a request for a test accommodation.~~

~~(c) Time for Filing~~

~~An applicant who intends to take the attorney examination in July shall file the petition no later than the preceding May 20. An applicant who intends to take the attorney examination in February shall file the petition no later than the preceding December 20. On written request of the petitioner and for good cause shown, the Board may accept a petition filed after the deadline. If the Board rejects the petition for lack of good cause for the untimeliness, the petitioner may file an exception with the Court within five business days after notice of the rejection is transmitted.~~

~~Cross reference: See Board Rule 2.~~

~~(d)~~ (b) Preliminary Determination of Eligibility

Upon receipt of a petition, required supporting documentation, and all applicable fees, the Board shall determine whether, on the face of the petition, the petitioner is qualified to apply for admission pursuant to Rules ~~19-212~~ 19-215 and ~~19-213~~ 19-216.

~~(i)~~ (1) If the petitioner is qualified, the Board shall deposit the fees, ~~seat the petitioner for the attorney exam,~~ and begin the character investigation.

~~(ii)~~ (2) If the Board determines that, on the face of the petition, the petitioner is not qualified, it shall promptly transmit written notice to the Petitioner of the basis for the determination. If the petitioner takes exception to the Board's

preliminary determination or seeks determination as an exceptional case pursuant to ~~Rule 19-212(e)~~ 19-215 (e), the petitioner shall transmit written notice to the Board of the exception within five business days ~~of~~ after the date the Board transmits notice of the preliminary determination. Upon receipt of an exception, the Board shall deposit the fees, ~~seat the petitioner for the attorney examination,~~ and begin the character investigation.

~~(e)~~ (c) Return of Fees; ~~Deferral of Examination Fee~~

If the Board determines on the face of the petition that the petitioner is not qualified ~~to sit for the attorney's examination~~ under Rule 19-215 and the petitioner does not file any exception to the preliminary determination of eligibility, all fees shall be returned undeposited. If, in other circumstances, a petitioner withdraws the petition, no fees shall be refunded. ~~If a petitioner fails to attend and take the attorney examination with or without prior notice, the Board may apply the examination fee to a subsequent examination if the petitioner shows good cause for the withdrawal or failure to attend.~~

~~(f)~~ (d) Standard for Admission and Burden of Proof

(1) The petitioner bears the burden of proving to the Board and the Court that the petitioner is qualified on the basis of professional experience and possesses the good moral character and fitness necessary to practice law in ~~this State~~ Maryland.

(2) If the petitioner does not meet the burden of proof, the Board shall recommend denial of the petition. Failure or refusal to answer fully and candidly any relevant question in the NCBE character questionnaire or asked by the Board, either orally or in writing, or to provide relevant documentation is sufficient cause for the Board to recommend denial of the petition.

~~(g)~~ (e) Action by Board on Petition

The Board shall ~~investigate~~ consider the matters set forth in the petition, in any supporting documents and information, and in the NCBE's Character Report.

(1) If ~~the petitioner has passed the attorney examination and~~ the Board finds that the petitioner has met the burden of proof, it shall transmit written notice to the petitioner of its decision to recommend approval of the petition.

(2) If the Board concludes that there may be grounds for recommending denial of the petition, the Board shall transmit written notice to the petitioner and shall afford the petitioner an opportunity for a hearing. The hearing shall not be held until after the National Conference of Bar Examiners completes its investigation of the petitioner's character and fitness to practice law and reports to the Board. The petitioner may be represented by an attorney at the hearing.

(3) Promptly after the Board makes its final decision to recommend approval or denial of the petition, the Board shall

transmit written notice of its decision to the petitioner. If the Board decides to recommend denial of the petition in its report to the Court, the Board first shall give the petitioner an opportunity to withdraw the petition. If the petitioner withdraws the petition, the Board shall retain the records. If the petitioner elects not to withdraw the petition, the Board shall transmit to the Court a report of its proceedings and a recommendation as to the approval or denial of the petition together with the transcript of the hearing and all papers relating to the matter.

(4) Review by Court

If the Court, after reviewing the report of the Board, believes there may be grounds to deny admission, the Court shall order the petitioner to appear for a hearing and show cause why the petition should not be denied. Proceedings in the Court under this subsection shall be on the record made before the Board. If the Court denies the petition, the Board shall retain the records.

~~(h) Exceptions~~

~~Within 30 days after the Board transmit written notice of its adverse decision to the petitioner, the petitioner may file with the Court exceptions to the Board's decision. The petitioner shall mail or deliver to the Board a copy of the exceptions. The Court may hear the exceptions or may appoint an examiner to hear the evidence and shall afford the Board an opportunity to be heard on the exceptions.~~

~~(i) Attorney Examination~~

~~In order to be admitted to the Maryland Bar, the petitioner shall pass an attorney examination prescribed by the Board. The Board, by rule, shall define the subject matter of the examination, prepare the examination, and establish the passing grade. The Board shall administer the attorney examination on a date and at a time coinciding with the administration of the general bar examination pursuant to Rule 19-206 and shall post on the Judiciary's website at least 30 days in advance notice of the date and time of the examination. The Board shall grade the examination and shall transmit written notice of examination results to each petitioner. The Board, by Rule, shall determine the form and method of delivery of the notice of results. Successful petitioners shall be notified only that they have passed. Unsuccessful petitioners shall be given their grades in the detail the Board considers appropriate. Thereafter, the Board may not alter any petitioner's grades except to correct a clerical error. Review by unsuccessful petitioners shall be in accordance with the provisions of Rule 19-207 (b).~~

~~(j) Re-Examination~~

~~In the event of failure on the first attorney examination, a petitioner may file a petition to retake the examination, but a petitioner may not be admitted under this Rule after failing~~

~~four attorney examinations. A petition for re-examination shall be accompanied by the required fees. Failure to pass the attorney examination shall not preclude any individual from applying and being admitted under the rules pertaining to the general bar examination.~~

~~(k)~~ (f) Report to Court - Order

~~The Board shall file a report and recommendations pursuant to Rule 19-209. Proceedings on the report, including the disposition of any exceptions filed, shall be as prescribed in that Rule. If the Court determines that the petitioner has met all the requirements of this Rule, it shall enter an order directing that the petitioner be admitted to the Bar of Maryland on taking the oath required by law.~~

(1) Report and Recommendations

As soon as practicable after the first of each month, the Board shall file with the Court a report containing (A) the names of the petitioners who filed a petition under section (a) of this Rule, whom the Board found preliminarily qualified under subsection (b)(1) of this Rule or who filed exceptions under subsection (b)(2) of this Rule during the prior month and (B) the Board's recommendation regarding the petitioner's admission. The Board's recommendation with respect to each petitioner shall be conditioned on the outcome of the Board's actions under section

(e) of this Rule relating to that petitioner and satisfaction of the requirements of Rules 19-212 and 19-213.

(2) Order of Ratification

On receipt of the Board's report, the Court shall enter an order fixing a date at least 30 days after the filing of the report for ratification of the Board's recommendations. The order shall include the names of all petitioners who are recommended for admission, including those who are conditionally recommended. The order shall state generally that all recommendations are conditioned on outcome of the Board's actions under subsection (e) of this Rule relating to that petitioner and satisfaction of the requirements of Rules 19-212 and 19-213, but shall not identify those petitioners as to whom proceedings are still pending. The order shall be posted on the Judiciary website no later than 5 days after the date of the order and remain on the website until ratification.

(3) Exceptions

Until the date of ratification of the Board's report, any person may file with the Court exceptions relating to any relevant matter. For good cause shown, the Court may permit the filing of exceptions after ratification of the Board's report and before the petitioner's admission to the Bar. The Court shall give notice of the filing of exceptions to the petitioner and shall refer the exceptions to the Board for proceedings under section (e) of this

Rule. The Board shall report to the Court on proceedings on exceptions filed under this subsection together with the report of proceedings under section (e) of this Rule.

(4) Ratification of Board's Report

On expiration of the time fixed in the order entered pursuant to subsection (f) (2) of this Rule, the Board's report and recommendations shall be ratified subject to the conditions stated in the recommendations and to any exceptions noted under subsection (f) (3) of this Rule.

(g) Maryland Law Component

A petitioner under this Rule shall comply with Rule 19-212.

(h) Multistate Professional Responsibility Exam

A petitioner under this Rule shall comply with Rule 19-213.

~~(l) Required Orientation Program~~

~~A petitioner recommended for admission pursuant to section (j) of this Rule shall comply with Rule 19-210.~~

~~(m)~~ (i) Time Limitation for Admission to the Bar

A petitioner under this Rule is subject to the time limitation of Rule ~~19-211~~ 19-214.

Cross reference: See Code, Business Occupations and Professions Article, §10-212, for the form of oath.

Source: This Rule is derived from ~~sections (f) through (q) of former Rule 13 of the Rules Governing Admission to the Bar of Maryland (2016)~~ 19-213 (2018).

REPORTER'S NOTE

Rule 19-213 is proposed to be amended in order to implement the UBE. The Rule addresses admission of out-of-state attorneys without examination.

Changes to Rule 19-213 include re-numbering it as Rule 19-216. Necessary conforming amendments and stylistic changes are also made throughout.

As part of the conforming amendments, existing sections (b), (c), (h), (i), (j), and (l) are deleted as inapplicable, and new sections (f), (g), and (h) are added.

New section (f) addresses the Board's reports and recommendations to the Court. The section follows the same scheme for reports proposed in Rule 19-211.

New sections (g) and (h) incorporate requirements for the Maryland Law Component and the Multistate Professional Responsibility Exam by reference to Rules 19-212 and 19-213.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-214 by re-numbering it as Rule 19-217, as follows:

Rule ~~19-214~~ 19-217. SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEYS PRO HAC VICE

(a) Motion for Special Admission

(1) Generally

A member of the Bar of this State who (A) is an attorney of record in an action pending (i) in any court of this State, or (ii) before an administrative agency of this State or any of its political subdivisions, or (B) is representing a client in an arbitration taking place in this State that involves the application of Maryland law, may move that an attorney who is a member in good standing of the Bar of another state be admitted to practice in this State for the limited purpose of appearing and participating in the action as co-counsel with the movant.

Committee note: "Special admission" is a term equivalent to "admission pro hac vice." It should not be confused with "special authorization" permitted by Rules 19-218 and 19-219.

(2) Where Filed

(A) If the action is pending in a court, the motion shall be filed in that court.

(B) If the action is pending before an administrative agency, the motion shall be filed in the circuit court for the county in which the principal office of the agency is located or in any other circuit court in which an action for judicial review of the decision of the agency may be filed.

(C) If the matter is pending before an arbitrator or arbitration panel, the motion shall be filed in the circuit court for the county in which the arbitration hearing is to be held or in any other circuit court in which an action to review an arbitral award entered by the arbitrator or panel may be filed.

(3) Other Requirements

The motion shall be in writing and shall include the movant's certification that copies of the motion have been served on the agency or the arbitrator or arbitration panel, and all parties of record.

Cross reference: See Appendix 19-A following Title 19, Chapter 200 of these Rules for Forms 19-A.1 and 19-A.2, providing the form of a motion and order for the Special Admission of an out-of-state attorney.

(b) Certification by Out-of-State Attorney

The attorney whose special admission is moved shall certify in writing the number of times the attorney has been specially admitted during the twelve months immediately preceding the filing

of the motion. The certification may be filed as a separate paper or may be included in the motion under an appropriate heading.

(c) Order

The court by order may admit specially or deny the special admission of an attorney. In either case, the clerk shall forward a copy of the order to the State Court Administrator, who shall maintain a docket of all attorneys granted or denied special admission. When the order grants or denies the special admission of an attorney in an action pending before an administrative agency, the clerk also shall forward a copy of the order to the agency.

(d) Limitations on Out-of-State Attorney's Practice

An attorney specially admitted pursuant to this Rule may act only as co-counsel for a party represented by an attorney of record in the action who is admitted to practice in this State. The specially admitted attorney may participate in the court or administrative proceedings only when accompanied by the Maryland attorney, unless the latter's presence is waived by the judge or administrative hearing officer presiding over the action. An attorney specially admitted is subject to the Maryland Attorneys' Rules of Professional Conduct during the pendency of the action or arbitration.

Cross reference: See Code, Business Occupations and Professions Article, §10-215.

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Committee note: This Rule is not intended to permit extensive or systematic practice by attorneys not admitted in Maryland. Because specialized expertise or other special circumstances may be important in a particular case, however, the Committee has not recommended a numerical limitation on the number of special admissions to be allowed any out-of-state attorney.

Source: This Rule is derived from former Rule ~~14 of the Rules Governing Admission to the Bar of Maryland (2016)~~ 19-214 (2018).

REPORTER'S NOTE

Rule 19-214 is proposed to be re-numbered to Rule 19-217 as part of the changes necessary for implementation of the UBE. No other changes are made to the Rule.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-215 by re-numbering it as Rule 19-218 and by conforming the Rule for implementation of the Uniform Bar Exam, as follows:

Rule ~~19-215~~ 19-218. SPECIAL AUTHORIZATION FOR OUT-OF-STATE ATTORNEYS AFFILIATED WITH PROGRAMS PROVIDING LEGAL SERVICES TO LOW-INCOME INDIVIDUALS

(a) Definition

As used in this Rule, "legal services program" means a program operated by (1) an entity that provides civil legal services to low-income individuals in Maryland who meet the financial eligibility requirements of the Maryland Legal Services Corporation and is on a list of such programs provided by the Corporation to the State Court Administrator and posted on the Judiciary website pursuant to Rule 19-505; (2) the Maryland Office of the Public Defender; (3) a clinic offering pro bono legal services and operating in a courthouse facility; or (4) a local pro bono committee or bar association affiliated project that provides pro bono legal services.

(b) Eligibility

Rule 19-218

Pursuant to this Rule, a member of the Bar of another state who is employed by or associated with a legal services program may practice in this State pursuant to that program if (1) the individual is a graduate of a law school meeting the requirements of Rule 19-201 (a) (2) and (2) the individual will practice under the supervision of a member of the Bar of this State.

Cross reference: For the definition of "State," see Rule 19-101 ~~(k)~~(1).

(c) Proof of Eligibility

To obtain authorization to practice under this Rule, the out-of-state attorney shall file with the Clerk of the Court of Appeals a written request accompanied by (1) evidence of graduation from a law school as defined in Rule 19-201 (a) (2), (2) a certificate of the highest court of another state certifying that the attorney is a member in good standing of the Bar of that state, and (3) a statement signed by the Executive Director of the legal services program that includes (A) a certification that the attorney is currently employed by or associated with the program, (B) a statement as to whether the attorney is receiving any compensation other than reimbursement of reasonable and necessary expenses, and (C) an agreement that, within ten days after cessation of the attorney's employment or association, the Executive Director will file the Notice required by section (e) of this Rule.

(d) Certificate of Authorization to Practice

Upon the filing of the proof of eligibility required by this Rule, the Clerk of the Court of Appeals shall issue a certificate under the seal of the Court certifying that the attorney is authorized to practice under this Rule, subject to the automatic termination provision of section (e) of this Rule. The certificate shall state (1) the effective date, (2) whether the attorney (A) is authorized to receive compensation for the practice of law under this Rule or (B) is authorized to practice exclusively as a pro bono attorney pursuant to Rule 19-504, and (3) any expiration date of the special authorization to practice. If the attorney is receiving compensation for the practice of law under this Rule, the expiration date shall be no later than two years after the effective date, unless the court extends that date for good cause shown. If the attorney is receiving no compensation other than reimbursement of reasonable and necessary expenses, no expiration date shall be stated.

Cross reference: An attorney who intends to practice law in Maryland for compensation for more than two years should apply for admission to the Maryland Bar.

(e) Automatic Termination

Authorization to practice under this Rule is automatically terminated if the attorney ceases to be employed by or associated with the legal services program. Within ten days after cessation of the attorney's employment or association, the Executive

Director of the legal services program shall file with the Clerk of the Court of Appeals notice of the termination of authorization.

(f) Disciplinary Proceedings in Another Jurisdiction

Promptly upon the filing of a disciplinary proceeding in another jurisdiction, an attorney authorized to practice under this Rule shall notify the Executive Director of the legal services program of the disciplinary matter. An attorney authorized to practice under this Rule 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 and the Clerk of the Court of Appeals promptly of the discipline, resignation, or inactive status.

(g) Revocation or Suspension

At any time, the Court, in its discretion, may revoke or suspend an attorney's authorization to practice under this Rule by written notice to the attorney. By amendment or deletion of this Rule, the Court may modify, suspend, or revoke the special authorizations of all out-of-state attorneys issued pursuant to this Rule.

(h) Special Authorization not Admission

Out-of-state attorneys authorized to practice under this Rule are not, and shall not represent themselves to be, members of

Rule 19-218

the Bar of this State, except in connection with practice that is authorized under this Rule. They are required to make payments to the Client Protection Fund of the Bar of Maryland and the Disciplinary Fund, except that an attorney who is receiving no compensation other than reimbursement of reasonable and necessary expenses is not required to make the payments.

(i) Rules of Professional Conduct

An attorney authorized to practice under this Rule is subject to the Maryland Attorneys' Rules of Professional Conduct.

(j) Reports

Upon request by the Administrative Office of the Courts, an attorney authorized to practice under this Rule 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 ~~15 of the Rules Governing Admission to the Bar of Maryland (2016)~~ 19-215 (2018).

REPORTER'S NOTE

Rule 19-215 is proposed to be re-numbered to Rule 19-218 as part of the changes necessary for implementation of the UBE. A necessary conforming amendment is also made.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-216 by re-numbering it as Rule 19-208, by making a stylistic change, and by conforming the Rule for implementation of the Uniform Bar Exam, as follows:

Rule ~~19-216~~ 19-219. SPECIAL AUTHORIZATION FOR MILITARY SPOUSE ATTORNEYS

(a) Definition

As used in this Rule, a "military spouse attorney" means an ~~(1)~~ attorney who (1) is admitted to practice in another state but not admitted in this State, (2) is married to an active duty service member of the United States Armed Forces and (3) resides in the State of Maryland due to the service member's military orders for a permanent change of station to Maryland or a state contiguous to Maryland.

Cross reference: For the definition of "State," see Rule 19-101 ~~(k)~~ (l).

(b) Eligibility

Subject to the conditions of this Rule, a military spouse attorney may practice in this State if the individual:

(1) is a graduate of a law school meeting the requirements of Rule 19-201(a) (2);

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(2) is a member in good standing of the Bar of another state;

(3) will practice under the direct supervision of a member of the Bar of this State;

(4) has not taken and failed a bar examination administered in Maryland;

(5) has not had an application for admission to the Maryland Bar or the Bar of any state denied on character or fitness grounds;

(6) certifies that the individual will comply with the requirements of Rule 19-605; and

(7) certifies that the individual has read and is familiar with the Maryland Rules of civil and criminal procedure, the Maryland Rules of Evidence, and the Maryland Attorneys' Rules of Professional Conduct, as well as the Maryland laws and Rules relating to any particular area of law in which the individual intends to practice.

Cross reference: See Rule 19-305.1 (5.1) for the responsibilities of a supervising attorney.

(c) Proof of Eligibility

To obtain authorization to practice under this Rule, the military spouse attorney shall file with the Clerk of the Court of Appeals a written request accompanied by:

(1) evidence of graduation from a law school meeting the requirements of Rule 19-201(a)(2);

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(2) a list of states where the military spouse attorney is admitted to practice, together with a certificate of the highest court of each such state certifying that the attorney is a member in good standing of the Bar of that state;

(3) a copy of the service member's military orders reflecting a permanent change of station to a military installation in Maryland or a state contiguous to Maryland;

(4) a certificate from or on behalf of the Department of Defense or a unit thereof acceptable to the Clerk of the Court of Appeals attesting that the military spouse attorney is the spouse of the service member;

(5) a statement signed by the military spouse attorney certifying that the military spouse attorney:

(A) resides in Maryland;

(B) has not taken and failed ~~the Maryland bar examination or attorney examination~~ a bar examination administered in Maryland;

(C) has not had an application for admission to the Maryland Bar or the Bar of any state denied on character or fitness grounds;

(D) will comply with the requirements of Rule 19-605; and

(E) has read and is familiar with the Maryland Rules of civil and criminal procedure, the Maryland Rules of Evidence, and the Maryland Attorneys' Rules of Professional Conduct, as well as the Maryland law and Rules relating to any particular area of law in which the individual intends to practice; and

(6) a statement signed by the supervising attorney that includes a certification that (A) the military spouse attorney is or will be employed by or associated with the supervising attorney's law firm or the agency or organization that employs the supervising attorney, and (B) an agreement that within ten days after cessation of the military spouse attorney's employment or association, the supervising attorney will file the notice required by section (e) of this Rule and that the supervising attorney will be prepared, if necessary, to assume responsibility for open client matters that the individual no longer will be authorized to handle.

(d) Certificate of Authorization to Practice

Upon the filing of the proof of eligibility required by this Rule, the Clerk of the Court of Appeals shall issue a certificate under the seal of the Court certifying that the attorney is authorized to practice under this Rule for a period not to exceed two years, subject to the automatic termination provisions of section (e) of this Rule. The certificate shall state the effective date and the expiration date of the special authorization to practice.

(e) Automatic Termination

(1) Cessation of Employment

Authorization to practice under this Rule is automatically terminated upon the earlier of (A) the expiration of two years

from the issuance of the certificate of authorization, or (B) the expiration of ten days after the cessation of the military spouse attorney's employment by or association with the supervising attorney's law firm or the agency or organization that employs the supervising attorney unless, within the ten day period, the military spouse attorney files with the Clerk of the Court of Appeals a statement signed by another supervising attorney who is a member of the Bar of this State in compliance with subsection (c)(6) of this Rule. Within ten days after cessation of the military spouse attorney's employment or association, the supervising attorney shall file with the Clerk of the Court of Appeals notice of the termination of authorization.

(2) Change in Status

A military spouse attorney's authorization to practice law under this Rule automatically terminates 30 days after (A) the service member spouse is no longer a member of the United States Armed Forces, (B) the service member and the military spouse attorney are divorced or their marriage is annulled, or (C) the service member receives a permanent transfer outside Maryland or a state contiguous to Maryland, except that a service member's assignment to an unaccompanied or remote assignment does not automatically terminate the military spouse attorney's authorization, provided that the military spouse attorney continues to reside in Maryland. The military spouse attorney

promptly shall notify the Clerk of the Court of Appeals of any change in status that pursuant to this subsection terminates the military spouse attorney's authorization to practice in Maryland.

Committee note: A military spouse attorney who intends to practice law in Maryland for more than two years should apply for admission to the Maryland Bar. The bar examination process may be commenced and completed while the military spouse attorney is practicing under this Rule.

(f) Disciplinary Proceedings in Another Jurisdiction

Promptly upon the filing of a disciplinary proceeding in another jurisdiction, a military spouse attorney shall notify the supervising attorney of the disciplinary matter. A military spouse 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 and the Clerk of the Court of Appeals promptly of the discipline, resignation, or inactive status.

(g) Revocation or Suspension

At any time, the Court, in its discretion, may revoke or suspend a military spouse attorney's authorization to practice under this Rule by written notice to the attorney. By amendment or deletion of this Rule, the Court may modify, suspend, or revoke the special authorizations of all military spouse attorneys issued pursuant to this Rule.

(h) Special Authorization Not Admission

Military spouse attorneys authorized to practice under this Rule are not, and shall not represent themselves to be, members of the Bar of this State.

(i) Rules of Professional Conduct; Required Payments

A military spouse attorney authorized to practice under this Rule is subject to the Maryland Attorneys' Rules of Professional Conduct and is required to make payments to the Client Protection Fund of the Bar of Maryland and the Disciplinary Fund.

(j) Reports

Upon request by the Administrative Office of the Courts, a military spouse attorney authorized to practice under this Rule 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 ~~15.1 of the Rules Governing Admission to the Bar of Maryland (2016)~~ 19-216 (2018).

REPORTER'S NOTE

Rule 19-216 is proposed to be re-numbered to Rule 19-219 as part of the changes necessary for implementation of the UBE. Necessary conforming amendments and a stylistic change are also made.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-217 by re-numbering it as Rule 19-220 and by conforming an internal reference, as follows:

Rule ~~19-217~~ 19-220. LEGAL ASSISTANCE BY LAW STUDENTS

(a) Definitions

As used in this Rule, the following terms have the following meanings:

(1) Law School

"Law school" means a law school that meets the requirements of Rule 19-201(a) (2).

(2) Clinical Program

"Clinical program" means a law school program for credit in which a student obtains experience in the operation of the legal system by engaging in the practice of law that (A) is under the direction of a faculty member of the school and (B) has been approved by the Section Council of the Section of Legal Education and Admission to the Bar of the Maryland State Bar Association, Inc.

(3) Externship

"Externship" means a field placement for credit in a government or not-for-profit organization in which a law student obtains experience in the operation of the legal system by engaging in the practice of law, that (A) is under the direction of a faculty member of a law school, (B) is in compliance with the applicable American Bar Association standard for study outside the classroom, (C) has been approved by the Section Council of the Section of Legal Education and Admission to the Bar of Maryland State Bar Association, Inc., and (D) is not part of a clinical program of a law school.

(4) Supervising Attorney

"Supervising attorney" means (A) an attorney who is a member in good standing of the Bar of this State, or (B) an attorney who has been authorized to practice pursuant to Rule ~~19-215~~ 19-218 and who certifies in writing to the Clerk of the Court of Appeals that the attorney has read and is familiar with the Maryland Attorneys' Rules of Professional Conduct, as well as the Maryland law and Rules relating to any particular area of law in which the individual intends to practice. Service as a supervising attorney for a clinical program or externship must be approved by the dean of the law school in which the law student is enrolled or by the dean's designee.

Cross reference: See Rule 19-305.1 (5.1) for the responsibilities of a supervising attorney.

(b) Eligibility

A law student enrolled in a clinical program or externship is eligible to engage in the practice of law as provided in this Rule if the student:

(1) is enrolled in a law school;

(2) has read and is familiar with the Maryland Attorneys' Rules of Professional Conduct and the relevant Maryland Rules of Procedure; and

(3) has been certified in accordance with section (c) of this Rule.

(c) Certification

(1) Contents and Filing

The dean of the law school shall file the certification of a student with the Clerk of the Court of Appeals. The certification shall state that the student is in good academic standing and has successfully completed legal studies in the law school amounting to the equivalent of at least one-third of the total credit hours required to complete the law school program. It also shall state its effective date and expiration date, which shall be no later than one year after the effective date.

(2) Withdrawal or Suspension

The dean may withdraw the certification at any time by mailing a notice to that effect to the Clerk of the Court of Appeals. The certification shall be suspended automatically upon

the issuance of an unfavorable report of the Character Committee made in connection with the student's application for admission to the Bar. Upon any reversal of the unfavorable report, the certification shall be reinstated.

(d) Practice

In connection with a clinical program or externship, a law student for whom a certification is in effect may appear in any trial court or the Court of Special Appeals, or before any administrative agency, and may otherwise engage in the practice of law in Maryland, provided that the supervising attorney (1) is satisfied that the student is competent to perform the duties assigned, (2) assumes responsibility for the quality of the student's work, (3) directs and assists the student to the extent necessary, in the supervising attorney's professional judgment, to ensure that the student's participation is effective on behalf of the client the student represents, and (4) accompanies the student when the student appears in court or before an administrative agency. The law student shall neither ask for nor receive personal compensation of any kind for service rendered under this Rule, but may receive academic credit pursuant to the clinical program or externship.

Source: This Rule is derived from former Rule ~~16 of the Rules Governing Admission to the Bar of Maryland (2016)~~ 19-217 (2018).

REPORTER'S NOTE

Rule 19-217 is proposed to be re-numbered to Rule 19-220 as part of the changes necessary for implementation of the UBE. Except for conforming an internal reference to a renumbered Rule, no other changes to the text of the Rule are made.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-218 by re-numbering it as Rule 19-221 and by conforming references, as follows:

Rule ~~19-218~~ 19-221. ADDITIONAL CONDITIONS PRECEDENT TO THE PRACTICE OF LAW

Maryland Rule 19-605 (Obligations of Attorneys) and Maryland Rule 19-705 (Disciplinary Fund) require individuals admitted to the Maryland Bar, as a condition precedent to the practice of law in this State, to pay an annual assessment to the Client Protection Fund of the Bar of Maryland and the Attorney Grievance Commission Disciplinary Fund. Except as otherwise provided in Rule ~~19-215~~ 19-218 (h), out-of-state attorneys specially authorized to practice pursuant to Rule ~~19-215~~ 19-218 and military spouse attorneys specially authorized to practice pursuant to Rule ~~19-216~~ 19-219 also shall pay the annual assessments required by Rules 19-605 and 19-705.

Source: This Rule is ~~new but is~~ derived from the ~~cross reference to~~ former Rule 12 of the Rules Governing Admission to the Bar of Maryland (2016) 19-218 (2018).

REPORTER'S NOTE

Rule 19-218 is proposed to be re-numbered to Rule 19-221 as part of the changes necessary for implementation of the UBE. Conforming amendments are also made to references.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-219 by re-numbering it as Rule 19-222, as follows:

Rule ~~19-219~~ 19-222. SUSPENSION OR REVOCATION OF ADMISSION

If an attorney admitted to the Bar of this State is discovered to have been ineligible for admission under circumstances that do not warrant disbarment or other disciplinary proceedings, the Court of Appeals, upon a recommendation by the Board and after notice and opportunity to be heard, may suspend or revoke the attorney's admission. In the case of a suspension, the Court shall specify in its order the duration of the suspension and the conditions upon which the suspension may be lifted.

Source: This Rule is derived from former Rule ~~21 of the Rules Governing Admission to the Bar of Maryland (2016)~~ 19-219 (2018).

REPORTER'S NOTE

Rule 19-219 is proposed to be re-numbered to Rule 19-222 as part of the changes necessary for implementation of the UBE. No other changes are made to the Rule.

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MARYLAND RULES OF PROCEDURE
RULES OF THE BOARD

Board Rule 1. ~~APPLICATION FEES~~

(a) Application and Examination Fees

~~(a)(1) General Uniform Bar Examination~~

~~(1)(A) An application filed pursuant to Rule 19-202 shall be accompanied by a fee in the amount of: \$225 if filed by the preceding January 15 for a July examination or by the preceding September 15 for a February examination, otherwise, \$275. A character questionnaire filed pursuant to Rule 19-205 shall be accompanied by a fee in the amount of \$350.~~

~~(2)(B) An updated application character questionnaire filed pursuant to Rule 19-202 19-205 (e) shall be accompanied by a fee of \$70 \$100.~~

~~(3)(C) A Notice of Intent to Take a Scheduled Maryland General Bar Examination the UBE in Maryland pursuant to Rule 19-204 19-206 or Rule 19-208 19-210 shall be accompanied by a fee of \$250 \$400.~~

(D) A Notice of Intent to Transfer a Qualifying UBE Score pursuant to Md. Rule 19-207 shall be accompanied by a fee of \$400.

(2) Admission Without Examination

A petition filed pursuant to Rule 19-215 shall be accompanied by a fee of \$700 and a separate check, money order, or

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credit card authorization payable to the National Conference of Bar Examiners in the amount required to cover the cost of the character and fitness investigation and report.

(b) ~~Out-of-State Attorney Examination~~ Other Fees

(1) ~~A petition filed pursuant to Rule 19-213 shall be accompanied by a fee of \$700 and a separate check, money order, or credit card authorization payable to the National Conference of Bar Examiners in the amount required to cover the cost of the character and fitness investigation and report. A request for copies of examination answers pursuant to Rule 19-209 shall be accompanied by a fee in the amount of \$20.~~

(2) ~~A petition for re-examination filed pursuant to Rule 19-213 shall be accompanied by a fee of \$250. A request for a copy of a Bar application filed pursuant to Rule 19-105(b) shall be accompanied by a fee in the amount of \$20.~~

MARYLAND RULES OF PROCEDURE
RULES OF THE BOARD

Board Rule 2. FILING LATE FOR GOOD CAUSE

An applicant's written request for acceptance of ~~an application,~~ a Notice of Intent, ~~or petition~~ filed late for good cause pursuant to Rule ~~19-202 (e) (2) (B),~~ Rule ~~19-204~~ 19-206, or Rule ~~19-213 (d)~~ 19-210, shall include a statement indicating:

(a) whether the applicant's failure to timely file was due to facts and circumstances beyond the applicant's control, and stating those facts and circumstances;

(b) whether the applicant presently has a bar application pending in any other state;

(c) whether the applicant presently is a member of the Bar of any other state; and

(d) the specific nature of the hardship that would result if the applicant's request is denied.

MARYLAND RULES OF PROCEDURE
RULES OF THE BOARD

Board Rule 3. TEST ACCOMMODATIONS PURSUANT TO THE AMERICANS WITH DISABILITIES ACT

(a) Policy

In accordance with the ADA, the Board shall provide test accommodations to an individual taking the ~~Maryland General Bar~~ bar examination or the attorney examination or the Maryland Law Component, to the extent that such accommodations are reasonable, consistent with the nature and purpose of the examination and necessitated by the applicant's disability.

(b) Requesting Test Accommodations

An individual shall apply for admission to the Bar of Maryland prior to or contemporaneously with requesting test accommodations. In order to request test accommodations, an individual shall file a completed Applicant's Accommodations Request Form along with the specified supporting documentation. The Applicant's Accommodations Request Form shall be filed not later than the deadline for filing a Notice of Intent to Take a ~~Scheduled General Bar Examination~~ the UBE in Maryland ~~or a petition to retake the attorney examination~~ pursuant to Rules ~~19-204, 19-208~~ 19-206 or ~~19-213~~ 19-210.

(c) Review by Board

(1) Initial Review for Timeliness and Sufficiency

Board Rule 3

The Board's staff shall conduct an initial review of a request for test accommodations. The Board's staff shall reject a request that is untimely unless applicant establishes that the untimeliness is substantially justified. The Board's staff shall reject a request ~~if the request~~ that fails to adequately specify the test accommodations required, or if the supporting documentation is substantially incomplete or is otherwise substantially deficient. If the request is rejected, the Board's staff shall advise the applicant in writing of the deficiencies in the request and supporting documents and shall provide the applicant an opportunity to correct any deficiencies in the accommodation request before the filing deadline for the current examination or, if the current deadline has passed, before the filing deadline for the next administration of the examination.

(2) Board Determination

If there is uncertainty about whether the requested test accommodation is warranted pursuant to the ADA, the applicant's request and all supporting documentation may be referred to a qualified expert retained by the Board to review and analyze whether the applicant has documented a disability and requested a reasonable accommodation. Thereafter, a designated member of the Board shall determine whether test accommodations should be granted after examining the applicant's request and the report of the Board's expert. The Board's staff shall advise the applicant

Board Rule 3

in writing whether the request for test accommodations is granted or denied in whole or in part.

(d) Appeal to the Accommodations Review Committee

If the Board denies a request for test accommodations in whole or in part, the applicant may file an appeal with the Accommodations Review Committee pursuant to Rule ~~19-205~~ 19-208.

MARYLAND RULES OF PROCEDURE

RULES OF THE BOARD

Board Rule 4. ~~EXAMINATION~~ MARYLAND LAW COMPONENT - SUBJECT MATTER

Pursuant to Rule 19-212 (b) (1) (A), the Maryland Law Component shall address substantive distinctions of Maryland law and procedure in the following subject areas:

- (a) criminal law;
- (b) criminal procedure;
- (c) evidence;
- (d) family law;
- (e) Maryland civil procedure;
- (f) professional responsibility;
- (g) torts; and,
- (h) trust and estates.

Note: This rule is new. The Maryland Law Component Committee is still in the process of finalizing the subject matter content of the Maryland Law Component and may delete "trust and estates" and/or add "Maryland constitutional law."

MARYLAND RULES OF PROCEDURE

RULES OF THE BOARD

Board Rule 5. EXAMINATION FORMAT, QUALIFYING UBE SCORE,
SCORING, AND PASSING STANDARD AND GRADING

(a) Authority

Pursuant to ~~section (c) of Rule 19-206~~ 19-203, the State Board of Law Examiners ~~adopts the Multistate Bar Examination and the Multistate Performance Test as part of the Maryland Bar Examination~~ shall administer the Uniform Bar Examination, published by the National Conference of Bar Examiners (NCBE). The subject matter, format, and specifications of the UBE are determined by the NCBE. The UBE currently consists of the Multistate Bar Examination (MBE), the Multistate Essay Examination (MEE) and the Multistate Performance Tests (MPT). ~~Pursuant to section (d) of Rule 19-206, the Board establishes the policies and standards set forth in the following sections of this Board Rule to govern the format, scoring, and passing standard for the Maryland Bar Examination~~

~~(b) Multistate Bar Examination (MBE)~~ Qualifying UBE Score

Pursuant to Rule 19-203 (d), the Board determines that a qualifying UBE score is a scaled score of 266 earned by an applicant on an administration of the UBE given in Maryland or in an administration of the UBE given in another UBE State

within the 3 years preceding the filing of a Notice of Intent to Transfer a Qualifying UBE Score pursuant to Rule 19-207. The 3-year period shall be deemed to commence on August 1 next following a July administration of the UBE and on March 1 next following a February administration of the UBE.

~~(1) One part of the Maryland Bar Examination is the Multistate Bar Examination (MBE). The MBE is published and scored by the National Conference of Bar Examiners (NCBE) and its agents.~~

~~(2) The MBE is a multiple choice test. An applicant's MBE raw score is the number of questions answered correctly. MBE raw scores are scaled to adjust for possible differences in average question difficulty across administrations of the examination. As a result of scaling, a given MBE scale score indicates about the same level of performance regardless of the particular administration of the examination on which it is earned.~~

~~(c) Written Test: Board's Essay Test and the Multistate Performance Test (MPT) Grading~~

~~(1) The other part of the Maryland General Bar Examination is the Written Test, which comprises the Board's Essay Test and one MPT question. The Board shall prepare and grade the Board's Essay test. The MPT is published by the NCBE and graded by the Board. The MBE is a multiple-choice test published and scored~~

by the National Conference of Bar Examiners (NCBE) and its agents.

~~(2) The Board's Essay test shall consist entirely of questions requiring essay answers. Questions shall not be labeled by subject matter. Single questions may involve two or more subject matters from the list in Board Rule 4. The MEE and MPT are essay tests published by the NCBE and graded by the Board. Scaling of Raw MEE scores and raw MPT scores to the MBE is performed by NCBE.~~

~~(3) The format and specifications for the MPT are determined by the NCBE. Calculation of an applicant's total UBE score is performed by NCBE.~~

~~(4) The raw score for the Written Test shall be calculated as follows:~~

~~Written Test raw score = Sum of Board's Essay test raw scores + (MPT raw score x 1.5)~~

~~(5) The Written Test raw score shall be converted to the same scale of measurement as that used on the MBE to adjust for possible differences in average question difficulty across administrations of the examination.~~

~~(d) Combining MBE and Written Test Scores to Calculate Total Examination Score No Regrade or Appeal~~

After the NCBE calculates an applicant's UBE score, the Board shall not regrade or otherwise reconsider any MPT or MEE

answer. Except as provided in Rule 19-209 (a), an applicant's examination results shall not be subject to appeal.

~~(1) For purposes of calculating an applicant's total scale score, both the MBE and Written scale scores shall be rounded to the nearest whole number.~~

~~(2) The Written Test shall be weighted twice as heavily as the MBE in the computation of the total scale score. The following formula shall be used to compute an applicant's total scale score on the Maryland Bar Examination:~~

~~Total Test Scale Score = (Written Scale Score x 2) + MBE Scale Score~~

~~(c) Passing Standard~~

~~In order to pass the Maryland Bar Examination, an applicant shall achieve a total scale score, as defined in subsection (d) (2), of 406 or higher.~~

~~(f) No Carryover of MBE Score or Written Score from Prior Examinations~~

~~For purposes of the Board's calculation of the total scale score and determination of the applicant's pass/fail status, an applicant shall achieve both the MBE and Written Test scale scores on the same administration of the Bar Examination.~~

~~(g) Recognition of MBE Score Achieved Concurrently in Another State~~

Board Rule 5

~~The Board shall accept an MBE score which an applicant achieves in another state in an administration of the MBE which is concurrent with Maryland's administration of the Written Test to the applicant. For purposes of the Board's calculation of the total scale score and determination of the applicant's pass/fail status, the concurrent MBE score shall be treated exactly as though it were achieved in Maryland.~~

~~(h) Adjustment of Passing Standard~~

~~For any particular administration of the Maryland General Bar examination, the Board may, in the interest of fairness, lower (but not raise) the passing score standard at any time before notices of the examination results are transmitted.~~

Board Rule 6 - Deletion

MARYLAND RULES OF PROCEDURE

RULES OF THE BOARD

~~Board Rule 6. OUT-OF-STATE ATTORNEY EXAMINATION~~

~~(a) Subject Matter~~

~~The out-of-state attorney examination shall be prepared and graded by the Board and shall consist entirely of questions requiring essay answers. It shall relate to:~~

~~(1) Maryland Rules of Procedure governing practice and procedure in civil cases and criminal causes in all the Courts of the State of Maryland, including the Appendix of forms,~~

~~(2) the Maryland Attorneys' Rules of Professional Conduct, as set forth in Title 19, Chapter 300 of the Maryland Rules,~~

~~(3) the provisions of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, and~~

~~(4) the provisions of the Criminal Procedure Article of the Annotated Code of Maryland.~~

~~(b) Time Duration~~

~~The attorney examination shall be conducted contemporaneously with a part of the essay day of each regularly scheduled general bar examination. A total of three hours writing time shall be allowed for the entire test. The point score allotted for each question shall be noted on the examination sheet.~~

Board Rule 6 - Deletion

~~—(c) Requirement for Passing~~

~~In order to pass the examination, a petitioner shall attain a score of at least 70% of the total point score allotted to the entire test.~~

MARYLAND RULES OF PROCEDURE

RULES OF THE BOARD

Board Rule 6. MULTISTATE PROFESSIONAL RESPONSIBILITY EXAM (MPRE)

(a) Authority

Pursuant to Rule 19-213, the Board hereby determines that a qualifying MPRE score is a scaled score of 85 earned on an administration of the MPRE that occurred:

(1) for applicants taking the UBE in Maryland - not earlier than 37 months prior to the administration of the UBE the applicant passes;

(2) for applicants transferring a qualifying UBE to Maryland - not earlier than 37 months prior to the date the applicant files the Notice of Intent to Transfer a Qualifying UBE Score, pursuant to Rule 19-207; and

(3) for applicants petitioning for admission without examination pursuant to Maryland Rules 19-215 and 19-216 - at any time, so long as the score report satisfies the requirements of subsection (b) below of this Rule.

Nothing in this rule shall prevent an applicant or petitioner from earning a qualifying MPRE score after applying or petitioning for admission in Maryland; however, failure to earn a qualifying MPRE score prior to the expiration of the 24-month

Board Rule 6

deadline set forth in Rule 19-214(b) shall not constitute good cause for an extension of that deadline pursuant to Rule 19-214(c).

(b) How Score to be Reported

Each individual who applies for admission pursuant to Rule 19-202 or who petitions for admission pursuant to Rule 19-216 shall cause the Board to receive from the NCBE a valid score report demonstrating that the applicant or petitioner achieved a qualifying MPRE score.

MARYLAND RULES OF PROCEDURE

RULES OF THE BOARD

Board Rule 7. ELIGIBILITY TO TAKE FOR ADMISSION TO THE MARYLAND GENERAL BAR BY UNIFORM BAR EXAMINATION PURSUANT TO RULE 19-201(b) (2)

In order for an additional degree from an ABA-approved law school to qualify under Rule 19-201(b):

(a) the applicant, in the course of meeting the requirements of the award of the degree from the applicant's law school, shall complete a minimum of 26 credit hours from among the ~~bar examination~~ subjects listed in Board Rule 4 and federal civil procedure tested on the UBE and;

(b) the applicant shall furnish the following documents and certifications in a form required by the Board:

(1) a certification from the dean, assistant dean or acting dean of an ABA-approved law school that the applicant's foreign legal education, together with the applicant's approved law school degree, is the equivalent of that required for an LL.B. or a J.D. Degree in that law school;

(2) a certification from the dean, assistant dean or acting dean of an ABA-approved law school that the applicant has successfully completed a minimum of 26 credit hours ~~from among the bar examination~~ subjects listed in Board Rule 4 and federal civil procedure tested on the UBE; and

Board Rule 7

(3) all documents considered for admission of the applicant to the degree program of an ABA-approved law school must be submitted by the law school and translated into the English language.

MARYLAND RULES OF PROCEDURE

RULES OF THE BOARD

Board Rule 8. REQUESTING REVIEW OF WRITTEN EXAMINATION MATERIALS
AND REVIEW OF MBE SCORES

On written request filed within 60 days after the date notice of the examination results is transmitted, an unsuccessful applicant may (1) review in person in the Board's office, and upon payment of the required fee obtain copies of, the applicant's MEE answers and question book, MPT answer and question books, and the NCBE's MEE and MPT point sheets; and (2) upon submitting to the Board's office a request form and check payable to the NCBE in the required amount, the Board will obtain confirmation of the applicant's MBE score. No further review of the MBE shall be permitted.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 800 - ATTORNEY INFORMATION SYSTEM

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MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 800 - Attorney Information System

ADD new Rule 19-801, as follows:

Rule 19-801. NATURE AND FUNCTIONS OF ATTORNEY INFORMATION SYSTEM
(AIS)

(a) Definitions

In the Rules in this Chapter, "AIS" means the Attorney Information System, and "constituent agency" means the Court of Appeals, the Client Protection Fund, the State Board of Law Examiners, and the Administrative Office of the Courts.

(b) Generally

(1) AIS is an electronic database maintained by the Judicial Information Systems, a unit within the Administrative Office of the Courts, that (A) centralizes certain information regarding attorneys collected by the constituent agencies pursuant to other Rules or statutes, and (B) provides a single portal for attorneys to update required information, communicate with the constituent agencies on matters regarding their status, file certain mandated reports, and pay certain mandated fees.

(2) AIS is intended to make communications with the constituent agencies and compliance with obligations imposed on attorneys, judges, and magistrates easier and more efficient.

(c) Notices, Invoices, and Communications pursuant to Rules 19-409, 19-503, 19-605, and 19-606

Except as provided in subsection (c)(2) of this Rule:

(1) All notices, invoices, and other communications required to be sent to attorneys pursuant to Rules 19-409 (IOLTA), 19-503 (Pro Bono), 19-605 (Client Protection Fund), and 19-606 (Client Protection Fund) may be sent electronically.

(2) One initial notice of the requirements of this Rule and Rule 19-802 may be given by publication or in paper form.

(d) Availability of Attorney Information

Subject to confidentiality requirements imposed by the Maryland Rules or by statute, attorney information in the AIS database is available to the constituent agencies. The State Court Administrator shall develop and promulgate protocols necessary to assure that information that has been collected by a constituent agency and that, by law, is confidential, is not improperly shared with any other constituent agency not otherwise entitled to have access to it.

Source: This Rule is new.

REPORTER'S NOTE

New Chapter 800 of Title 19 of the Rules is proposed in order to fully implement the Judiciary's transition to the Attorney Information System ("AIS"). AIS is an electronic database that centralizes information about attorneys collected by constituent agencies. It provides a single portal for attorneys to update required information, communicate with agencies regarding their status, file mandated reports, and pay mandated fees. AIS is intended to make communications with agencies and compliance with obligations imposed on attorneys, judges, and magistrates easier and more efficient.

Rule 19-801(a) defines terms used in Chapter 800. These terms include "AIS" and "constituent agency." Section (b) describes the nature and function of AIS.

Proposed section (c) authorizes required notices, invoices, and other communications addressed to attorneys to be sent electronically. Section (d) states that attorney information collected and stored in AIS is subject to confidentiality requirements as imposed by Rule or statute.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 800 - ATTORNEY INFORMATION SYSTEM

ADD new Rule 19-802, as follows:

Rule 19-802. REGISTRATION

(a) Required

The following individuals shall register with AIS:

(1) attorneys admitted to the Maryland bar or otherwise permitted to practice law in Maryland, including attorneys whose status is:

- (A) active, inactive, or retired;
- (B) suspended pursuant to Rule 19-606 or 19-741;
- (C) subject to a temporary suspension order or decertification order entered under Rule 19-409 or 19-503;
- (D) a judge, magistrate, or examiner;
- (E) a judicial law clerk; or
- (F) an attorney authorized to practice law in Maryland pursuant to 19-215 (legal services program) or 19-216 (military spouse).

(b) Manner of Registration

Registration shall be made in the manner specified by the Administrative Office of the Courts and shall include the information required by the Administrative Office of the Courts, as posted on the Judiciary Website.

(c) When Registration Required

(1) Subject to subsection (c)(2) of this Rule, attorneys required to register shall do so on or before June 1, 2019.

(2) Attorneys who are admitted to the Maryland bar or who otherwise become subject to registration after that date shall register as part of the admission process or process authorizing their practice in Maryland.

(d) Obligation to Keep Information Current

Attorneys shall update their AIS account within 30 days after becoming aware of a change in the information. AIS and constituent agencies have the right to rely on the latest information in AIS for billing and disciplinary purposes and for other correspondence or communication.

Source: This Rule is new.

REPORTER'S NOTE

New Chapter 800 of Title 19 of the Rules is proposed in order to fully implement the Judiciary's transition to the Attorney Information System ("AIS"). Proposed Rule 19-802 addresses registration. Section (a) lists categories of attorneys that are required to register with AIS. This includes active, inactive, and retired attorneys; judges, magistrates, and law

clerks; and certain suspended or decertified attorneys, among others.

Section (b) states that the manner of registration, and the information required to register, is determined by the Administrative Office of the Courts and shall be posted on the Judiciary's website.

Proposed subsection (c)(1) imposes a registration deadline of June 1, 2019, for those required to register. Under subsection (c)(2), attorneys admitted to the Maryland bar after June 1, 2019, or attorneys who otherwise become subject to registration, are required to register as part of the admission process or process authorizing their practice in Maryland.

Finally, section (d) obligates attorneys to update their AIS account within 30 days of becoming aware of a change of information. Agencies that use AIS have the right to rely on the latest information in AIS for billing and disciplinary purposes, and for other correspondence and communication.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

AMEND Rule 19-605 to accommodate implementation of the Attorney Information System, to modify the dates when certain notices and responses are due, and to make certain style changes, as follows:

Rule 19-605. Obligation of Attorneys

(a) Conditions Precedent to Practice

(1) Generally

Except as otherwise provided in subsection (a)(2) of this Rule or Rule 19-215(h), each attorney admitted to practice ~~before the Court of Appeals~~ law in Maryland or issued a certificate of special authorization under Rule 19-215 or Rule 19-216, as a condition precedent to the practice of law in ~~this State~~ Maryland, shall (A) provide to the treasurer of the Fund the attorney's social security number if the social security number has not already been provided to the Board of Law Examiners, (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) no later than September 10 of each year, pay ~~annually~~ to the treasurer of the Fund the sum, ~~and all applicable~~

~~late charges, set by the Court of Appeals, and in the event of delinquent payment of that sum, pay all applicable late charges, as set by the trustees. Late charges set by the trustees are subject to the approval of the Court of Appeals.~~

(2) ~~Exception~~ Exceptions

~~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.~~

An attorney is exempt from payment of the mandatory assessment but may contribute voluntarily to the Fund if:

(A) the attorney is a federal or Maryland judge, including a senior judge, or full-time magistrate and is not permitted to practice law otherwise in Maryland;

(B) the attorney is a full-time federal or Maryland administrative law judge or hearing examiner and is not permitted to practice law otherwise in Maryland;

(C) the attorney is on inactive/retired status pursuant to subsection (b) (2) of this Rule; or

(D) the attorney is a full-time judicial law clerk and is not permitted to practice law otherwise in Maryland.

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)~~ (3) Method of Payment

Payments of amounts due the Fund shall be (A) by check or money order, or (B) ~~by any additional method approved by the trustees~~ transmitted electronically. Firms, agencies, and other entities with more than one attorney may submit payment for all attorneys by one check or money order, provided that a list of all attorneys for whom payment is made shall be included.

Committee note: AIS currently is unable to accept a single credit card payment applicable to the payment obligations of multiple attorneys.

~~(b) Change of Address~~

~~Each attorney shall give written notice to the trustees of every change in the attorney's 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.~~

(b) Attorneys on Inactive/Retired Status

(1) The trustees of the Fund may approve attorneys, other than attorneys on permanent retired status pursuant to Rule 19-740, for inactive/retired status, and, by regulation, may provide a uniform deadline date for seeking approval of inactive/retired status.

(2) 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, an affiliated bar foundation, or the Maryland Legal Services Corporation.

(c) Invoice for Assessment or Contribution

On or before July 10 of each year, from information supplied by the Fund, AIS shall generate and send electronically to each attorney who is responsible for an assessment for the next ensuing fiscal year or who has volunteered to contribute to the Fund, an invoice for the amount due, along with notice that (1) payment thereof is due within 60 days, and (2) payment may be made electronically or by check or money order payable to the Fund.

(d) Notice of Payment

AIS shall notify the Fund of all electronic payments received and the Fund shall record in AIS all checks and money orders received.

Source: This Rule is derived in part from former Rule 16-811.5 (2016), and is in part new.

REPORTER'S NOTE

Amendments to Rule 19-605 are proposed in order to fully implement the Judiciary's transition to the Attorney Information System ("AIS"). Stylistic changes clarify language in, or applicability of, Rule 19-605. Subsection (a)(1) is amended to apply to attorneys admitted to practice "law in Maryland," rather than to attorneys admitted to practice "before the Court of Appeals," as the language read previously. In subsection (a)(1) and throughout the Rule, the phrase "this State" is also replaced with "Maryland."

Amendments to section (a) and the addition of section (c) establish or modify dates when certain notices, fees, and responses are due. Under the proposed changes, the Client Protection Fund ("CPF") fee is due "no later than September 10 of each year," rather than "annually," as before. Invoices for the fee and for voluntary contributions to the Fund are generated "on or before July 10 of each year."

Exceptions to payment of the CPF fee are set forth in subsection (a)(2). The former language of the subsection is deleted, and new language is added to incorporate exemptions previously found both in the Rule and in CPF regulations. Those attorneys exempt from fee payment include, consistent with previous practice, federal or Maryland judges or magistrates who are not permitted to practice law otherwise in Maryland and judicial law clerks subject to the same limitations, among others.

Proposed revisions to subsection (a)(3) provide for electronic payment of the CPF fee, in addition to payment by check or money order. Attorneys have, in fact, been able to pay the fee electronically through AIS for the past 2 payment cycles.

Current section (b) of Rule 19-605 is proposed to be deleted and a new section (b) added. The new language addresses CPF's processing of attorney requests for retired or inactive status.

The text also specifies when retired or inactive attorneys may engage in the practice of law without payment of the CPF fee.

Section (d) requires data accessibility between AIS and CPF, in that CPF must be able to determine, using AIS, which attorneys have paid their CPF fees electronically, and CPF must be able to update AIS manually with information related to check and money order payments.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 600 - CLIENT PROTECTION FUND

AMEND Rule 19-606 to accommodate implementation of the Attorney Information System and to make certain style changes, as follows:

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.~~

(a) Notice of Default

(1) Generally

As soon as practicable after February 10 of each year, the Fund shall send electronically a Notice of Default to each attorney who has (1) failed to pay in full (A) the amount due as stated in the invoice, (B) any penalty for late payment, or (C) any charge for a dishonored check or money order, or (2) failed

to supply to the Fund a required social security number or federal tax identification number or statement that there is no such number.

(2) Form and Content

The Notice of Default shall (1) be on a form created by the State Court Administrator and approved by the Court of Appeals, (2) identify the nature of the default and the amount, if any, owed to the Fund, and (3) warn that failure to cure the default will result in the entry of an order by the Court of Appeals prohibiting the attorney from practicing law in Maryland.

~~(d)~~ (b) 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.~~

(1) Proposed Order

As soon as practicable after February 10 of each year but no later than March 10, the Fund shall transmit to the Court of Appeals a proposed Temporary Suspension Order stating the names and Fund account numbers of those attorneys who failed to cure the default stated in the Notice of Default. The Fund shall furnish to the Court such additional information from its records as the Court directs.

(2) Entry of Order

If satisfied that the Fund has given the required Notice of Default, the Court of Appeals shall enter a Temporary Suspension Order prohibiting the attorneys who are in default from practicing law in Maryland. The Court shall send electronically a copy of the Order to (A) each suspended attorney named in the Order, (B) the clerks of the Court of Special

Appeals, each circuit court, the District Court of Maryland, the United States Supreme Court, the U.S. Court of Appeals for the Fourth Circuit, and the U.S. District Court for the District of Maryland and post notice of the Order on the Judiciary website.

(3) Effect of Order

~~(A)~~ An attorney who has been served with a copy of the Temporary Suspension Order and has not been restored to good standing may not practice law in Maryland 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 an 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)~~(c) 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 in default;

(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)~~ subsections (c) (1) (A) and (B) of this Rule.

(2) Duty of Court

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

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

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

REPORTER'S NOTE

Amendments to Rule 19-606 are proposed in order to implement fully the Judiciary's transition to the Attorney Information System ("AIS"). While the existing text of sections (a), (b), (c), and much of (d) is proposed to be deleted, new language

addresses the same enforcement concepts as before, while recognizing and incorporating the Judiciary's use of AIS. The changes also seek to harmonize the dates and deadlines among attorney obligations for CPF payment and reporting; pro bono reporting; and IOLTA reporting.

Proposed section (a) addresses notice of default. As soon as practicable after February 10, an electronic default notice will be sent for any outstanding amounts due or for failure to supply a social security number, federal tax identification number, or statement that there is no such number. Under subsection (a)(2), the notice of default must state explicitly what obligation (or obligations) is outstanding and warn that failure to cure the default will result in the attorney losing the ability to practice law in Maryland.

New section (b) specifies the procedure for entry of temporary suspensions based on default. As soon as practicable after February 10 and no later than March 10, CPF transmits to the Court of Appeals a proposed Temporary Suspension Order. The Order contains the names and CPF account numbers of attorneys with outstanding obligations. If the Court is satisfied that CPF provided the required notice of default, the Court will enter the Order prohibiting the defaulting attorneys from practicing law. An electronic copy of the order is sent to each suspended attorney and to certain specified entities.

The effect of the Temporary Suspension Order remains the same as previously; a suspended attorney may not practice law in Maryland and must meet the requirements of Rule 19-742 (c) and (d). Termination of the Order also remains unchanged.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 400 - ATTORNEY TRUST ACCOUNTS

AMEND Rule 19-409 to accommodate the implementation of the Attorney Information System, to modify the dates when certain notices and responses are due, and to make certain style changes, as follows:

Rule 19-409. Interest on Funds

(a) Definition

In this Rule, (1) "AIS" means the Attorney Information System created in Rule 19-801, (2) "AOC" means the Administrative Office of the Courts, and (3) "Client Protection Fund" means the Client Protection Fund of the Bar of Maryland.

~~(a)~~(b) 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)(c) 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 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 Administrative Office of the Courts~~

~~On or before January 1 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~~

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

(2) On or before July 10 of each year, AOC shall send electronically to each attorney on active status a notice requiring the attorney to complete an IOLTA Compliance Report on or before September 10 of that year. The report shall require disclosure of the name, address, location, and account number of each IOLTA account maintained by the attorney as of July 10 of each year.

(3) If all IOLTA eligible trust funds of all attorneys in a law firm are deposited in shared law firm IOLTA accounts, the firm shall designate an attorney to be its "IOLTA Reporting Attorney." The Reporting Attorney shall report on all law firm IOLTA accounts by submitting one report listing the specific account information for the firm with the Reporting Attorney's signature. Each attorney at the law firm other than the firm's IOLTA Reporting Attorney shall submit a report that includes the attorney's name, law firm address and phone number, and the name of the IOLTA Reporting Attorney. The report need not include account information.

(4) On or before September 10 of each year, the attorney, through AIS, shall file electronically a completed IOLTA Compliance Report with AOC.

(5) Enforcement

(A) Notice of Default

As soon as practicable after ~~May 1~~ February 10 of each year, AOC ~~the Administrative Office of the Courts~~ shall electronically notify each defaulting attorney of the attorney's failure to file a the required ~~report~~ Report. The notice shall (i) state that the attorney has not filed the required IOLTA Compliance Report ~~for that year~~ and (ii) state that continued failure to file the Report may result in an order by the Court of Appeals prohibiting the attorney from practicing law in ~~the State Maryland,~~ and (iii) ~~be sent by first-class mail. The mailing of the notice shall constitute service.~~

(B) Additional Discretionary Notice

In addition to the ~~mailed~~ electronic notice, ~~the Administrative Office of the Courts~~ AOC may give additional notice in other ways to defaulting attorneys ~~by any of the means enumerated in Rule 19-606(e).~~ This discretion shall be liberally construed with respect to notices given in 2019.

(C) List of Defaulting Attorneys

As soon as practicable after ~~July 1~~ February 10 of each year but no later than ~~August 1~~ March 10, ~~the Administrative Office of the Courts~~ AOC shall:

(i) prepare, certify, and, ~~file with~~ transmit to the Court of Appeals a list that includes the name and, unless the attorney has elected to keep the address confidential, the address of each attorney engaged in the practice of law who has

failed to file the IOLTA Compliance Report for ~~that~~ the preceding reporting period year;

~~(D) Certification of Default; Order of Decertification~~

~~The Administrative Office of the Courts shall submit~~

(ii) include with the list a proposed Decertification Order stating the ~~names~~ name and, unless the attorney has elected to keep the address confidential, the ~~addresses~~ address of these attorneys each attorney who ~~have~~ has failed to file ~~their~~ the IOLTA Compliance Report; and

(iii) At ~~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.

(D) Decertification Order

If satisfied that ~~the Administrative Office of the Courts~~ AOC has given the required notice to ~~each~~ the attorney attorneys named in the proposed decertification order, the Court of Appeals shall enter a decertification order prohibiting each of them from practicing law in ~~the State~~ Maryland until such time as a Recertification Order applicable to a listed attorney is entered pursuant to subsection (c) (4) (F) of this Rule. If the Court concludes that an attorney was not given the required notice, it shall delete that attorney's name from the proposed Order.

(E) ~~Mailing~~ Transmittal of Decertification Order

~~The Administrative Office of the Courts AOC shall mail by first class mail transmit 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; Reinstatement ~~Restoration to Good Standing~~

If ~~an~~ a decertified attorney thereafter files the outstanding IOLTA Compliance Report, ~~the Administrative Office of the Courts AOC shall request~~ inform the Court of Appeals and request the Court to enter an order that recertifies the attorney and ~~restores the attorney to good standing~~ terminates the decertification. Upon the entry of that order, ~~the Administrative Office of the Courts AOC promptly shall furnish transmit~~ 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 Recertification Order ~~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, AOC~~ promptly shall submit to the Maryland Legal Services Corporation the data from ~~electronically submitted~~ the IOLTA Compliance Reports ~~and, upon request, shall forward the paper Compliance Reports.~~

(I) Confidentiality

Except as provided in ~~subsection~~ subsections (b) (5) (H) (c) (4) (H) and (c) (4) (I) 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. Neither AIS nor ~~the Administrative Office of the Courts AOC~~ shall ~~not~~ release ~~the~~ those Reports to any person ~~or agency,~~ except as provided in this Rule or upon order of the Court of Appeals. Non-identifying information and data contained in an attorney's IOLTA Compliance Report are not confidential.

Cross reference: See Code, Business Occupations and Professions Article, § 10-103.

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

REPORTER'S NOTE

Amendments to Rule 19-409 are proposed in order to implement fully the Judiciary's transition to the Attorney Information System ("AIS"). The changes also seek to harmonize the dates and deadlines among attorney obligations for CPF payment and reporting; pro bono reporting; and IOLTA reporting.

Proposed section (a) provides definitions for "AIS," "AOC," and "Client Protection Fund." Current sections are re-lettered, and both stylistic and substantive changes are made.

Former section (a) becomes section (b) but otherwise is unchanged. Portions of text from section (c), which addresses an attorney's duty to report IOLTA participation, are proposed to be deleted and new text added that acknowledges and incorporates the use of AIS both by attorneys and constituent agencies. Notices to attorneys regarding reporting are proposed to be sent electronically on or before July 10 of each year. New text also formalizes a process, currently used in practice, whereby a firm may designate an "IOLTA Reporting Attorney" to report all law firm IOLTA accounts if they are deposited in shared law firm accounts. All other attorneys at the law firm must still submit a report with certain information, but that report need not include account details. IOLTA reports must be filed electronically, through AIS, on or before September 10 of each year.

Two significant changes are proposed to subsection (c) (5) regarding enforcement. First, attorneys will be notified of any default as soon as practicable after February 10 of each year. Second, attorney will be notified of the default electronically.

Amendment to subsection (c) (5) also specify that as soon as practicable after February 10 and no later than March 10, AOC transmits to the Court of Appeals a proposed decertification order that includes the attorneys who have failed to file the required IOLTA report. If the Court is satisfied that AOC provided the required notice of default, the Court will enter a decertification order that prohibits each defaulting attorney from practicing law. An electronic copy of the order is sent to each decertified attorney. The process for recertification remains largely unchanged, save style changes.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 500 - PRO BONO LEGAL SERVICES

AMEND Rule 19-503 to accommodate the implementation of the Attorney Information System (AIS), to modify dates when certain notices and responses are due, and to make certain style changes, as follows:

Rule 19-503. Reporting Pro Bono Legal Service

(a) Definitions

In this Rule, (1) "AIS" means the Attorney Information System, (2) "AOC" means the Administrative Office of the Courts, and (3) "fiscal year" means the 12-month period commencing on July 1 and ending the following June 30.

~~(a)~~ (b) 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, by September 10 of each year and~~ in accordance with this Rule, shall file 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.~~

(1) On or before July 10 of each year, AOC shall send electronically to each attorney registered with AIS a Pro Bono Legal Service Report approved by the State Court Administrator. The first notice to be sent under this Rule shall be emailed to attorneys on or before July 10, 2019 and shall require attorneys to report information with respect to pro bono legal service during the period January 1, 2018 through June 30, 2019. Thereafter, the Report shall include information with respect to pro bono legal service during the preceding fiscal year.

(2) On or before September 10, 2019, the attorney, through AIS, shall file electronically a completed Pro Bono Legal Service Report with AOC.

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 administrator for the Attorney Information System 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 Services 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)(c) Enforcement~~

(1) Notice of Default

As soon as practicable after ~~May 1~~ February 10 of each year, ~~the Administrative Office of the Courts~~ AOC shall electronically notify each defaulting attorney of the attorney's failure to file ~~a report~~ the Pro Bono Legal Service Report for the preceding fiscal year. The notice shall (A) state that the attorney has not filed the Report ~~Pro Bono Legal Service Report for the previous calendar year~~, and (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 Maryland, ~~and (C) be sent by first class mail.~~ ~~The mailing of the notice shall constitute service.~~

(2) Additional Discretionary Notice ~~of Default~~

In addition to the ~~mailed~~ electronic notice, ~~the Administrative Office of the Courts~~ AOC may give additional

notice in other ways to defaulting attorneys ~~by any of the means enumerated in Rule 19-206(e).~~

(3) List of Defaulting Attorneys

As soon as practicable after ~~July 1~~ February 10 of each year but no later than ~~August 1~~ March 10, the ~~Administrative Office of the Courts~~ AOC shall:

(A) prepare, certify and, ~~file with~~ transmit to the Court of Appeals a list that includes the name and, unless the attorney has elected to keep the address confidential, the address of each attorney engaged in the practice of law who has failed to file the Pro Bono Legal Service Report for that the preceding reporting period year;

~~(4) Certification of Default; Order of Decertification~~

(B) ~~the Administrative Office of the Courts shall submit~~ include with the list a proposed Decertification Order stating the ~~names~~ name and, unless the attorney has elected to keep the address confidential, the addresses address of those each attorneys attorney who have has failed to file their the Pro Bono Legal Service Report for the specified calendar year; and

(C) ~~At~~ 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.

(4) Decertification Order

If satisfied that ~~the Administrative Office of the Courts~~ AOC has given the required notice to ~~each~~ the attorney attorneys named ~~on~~ in the proposed Decertification Order, the Court of Appeals shall enter a Decertification Order prohibiting each of them from practicing law in ~~the State~~ Maryland until such time as a Recertification Order applicable to a listed attorney is entered pursuant to subsection (c) (6) of this Rule. If the Court concludes that an attorney was not given the required notice, it shall delete that attorney's name from the proposed Order.

(5) ~~Mailing~~ Transmittal of Decertification Order

~~The Administrative Office of the Courts~~ AOC shall ~~mail~~ transmit 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~~
Reinstatement

(A) Notice to Court of Appeals

If a decertified attorney thereafter files the outstanding Pro Bono Legal Service Report, ~~the Administrative Office of the Courts~~ AOC shall ~~request~~ inform the Court of Appeals and request the Court to enter an order that recertifies the attorney and ~~restores the attorney to good standing~~ terminates the decertification.

(B) Confirmation of Recertification

Upon entry of that order, ~~the Administrative Office of the Courts~~ AOC promptly shall ~~furnish~~ transmit 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 entry of each Decertification Order and each ~~recertification order that recertifies an attorney and restores the attorney top good standing~~ Recertification Order entered pursuant to this Rule, the Clerk of the Court of Appeals shall comply with Rule 19-761.

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

~~The Administrative Office of the Courts~~ AOC promptly 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)~~(e) Confidentiality

Pro Bono Legal Service Reports are confidential and are not subject to inspection or disclosure under Code, General Provisions Article, § 4-301. Neither AIS nor ~~the Administrative~~

~~Office of the Courts~~ AOC shall ~~not~~ release ~~the~~ those Reports to any person, ~~or agency~~ except as provided in this Rule or upon order of the Court of Appeals. Non-identifying 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).

REPORTER'S NOTE

Amendments to Rule 19-503 are proposed in order to implement fully the Judiciary's transition to the Attorney Information System ("AIS"). The changes also seek to harmonize the dates and deadlines among attorney obligations for CPF payment and reporting; pro bono reporting; and IOLTA reporting.

Proposed section (a) provides definitions for "AIS," "AOC," and "fiscal year." Current sections are re-lettered, and both stylistic and substantive changes are made.

Former section (a) becomes section (b) and new text requires that an attorney admitted to practice in Maryland file a Pro Bono Legal Service Report by September 10 of each year. Notices to attorneys regarding reporting are proposed to be sent electronically on or before July 10 of each year.

Two significant changes are proposed to section (c) regarding enforcement. First, attorneys will be notified of any default as soon as practicable after February 10 of each year. Second, attorney will be notified of the default electronically.

Amendments to subsection (c)(3) also specify that as soon as practicable after February 10 and no later than March 10, AOC transmits to the Court of Appeals a proposed decertification order that includes the attorneys who have failed to file the required Pro Bono Legal Service Report. If the Court is satisfied that AOC provided the required notice of default, the Court shall enter a decertification order that prohibits each

Rule 19-503

defaulting attorney from practicing law. An electronic copy of the order is sent to each decertified attorney. The process for recertification remains largely unchanged, except for style changes.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 400 - TERMINATION OF PARENTAL RIGHTS UNDER CODE,

FAMILY LAW ARTICLE, TITLE 5, SUBTITLE 14

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MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 400 - TERMINATION OF PARENTAL RIGHTS UNDER CODE,
FAMILY LAW ARTICLE, TITLE 5, SUBTITLE 14

ADD new Rule 9-401, as follows:

Rule 9-401. APPLICABILITY; DEFINITIONS

(a) Applicability

The Rules in this Chapter apply to termination of parental rights proceedings under Code, Family Law Article, Title 5, Subtitle 14.

(b) Definitions

The following definitions apply in the Rules in this Chapter:

(1) Statutory Definitions

The definitions in Code, Family Law Article, § 5-1401 apply to the Rules in this Chapter.

(2) Nominal Respondent

"Nominal Respondent" means the parent against whom the nonconsensual act is alleged to have been committed and who has been named as a respondent party pursuant to Rule 9-402 (d) (2).

(3) Respondent

"Respondent" does not include a nominal respondent.

Source: This Rule is new.

REPORTER'S NOTE

New Rule 9-401, and the other Rules included in new Chapter 400, are proposed in light of Code, Family Law Article, Title 5, Subtitle 14, Child Conceived without Consent, which became effective on February 13, 2018.

In Rule 9-401, section (a) provides for the applicability of new Chapter 400 to actions brought under the new statute.

Subsection (b)(1) specifies that the definitions in Code, Family Law Article, § 5-1401 apply to the Rules in Chapter 400. Subsections (b)(2) and (3) distinguish a "nominal respondent," added pursuant to Rule 9-402 (d)(2), from the "respondent," as defined in Code, Family Law Article, § 5-1401 (c). See the Committee note following Rule 9-402 (d) and the Reporter's Note to that section.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 400 -TERMINATION OF PARENTAL RIGHTS UNDER CODE,

FAMILY LAW ARTICLE, TITLE 5, SUBTITLE 14

ADD new Rule 9-402, as follows:

Rule 9-402. ACTION

(a) Who May File Action

(1) An action under this Chapter may be filed by:

(A) the parent of a child who was conceived as the result of nonconsensual sexual conduct committed against the parent by the other parent;

Cross reference: See Rule 2-202 if a parent is a minor or individual under disability.

(B) a court-appointed guardian for the child; or

(C) a court-appointed attorney for the child.

(2) A guardian or attorney may be one appointed for the child by a court in another proceeding or in an action filed by a parent under the Rules in this Chapter.

Committee note: Code, Family Law Article, § 5-1402 (c) provides that a termination of parental rights under that section terminates completely the parent's right to custody of, access to, and visitation with the child. The action therefore is one "involving child custody or child access" for purposes of allowing the court to appoint an attorney for the child pursuant to Rule 9-205.1.

(b) Where Action Filed

The action shall be brought in a circuit court.

Cross reference: See Code, Family Law Article § 4-519, et seq., and State Government Article, § 7-301, et seq.

(c) Time for Filing Action

(1) If filed by a parent, the action shall be filed within seven years after the later of:

(A) the date of the child's birth; or

(B) the date on which the parent first knew or should have known the other parent's identity.

(2) If filed by the child's court-appointed guardian or court-appointed attorney, the action shall be filed before the child becomes an adult.

(d) Parties

(1) If the action is filed by a parent, that parent shall be the petitioner and the other parent shall be the respondent.

(2) If the action is filed by the child's court-appointed guardian or attorney, the parent who is alleged to have committed the nonconsensual sexual conduct shall be the respondent, and the other parent shall be joined as a petitioner or as a nominal respondent.

Committee note: Code, Family Law Article, § 5-1403 (c) requires that, when the action is filed by a court-appointed guardian or attorney for the child, the "other parent" shall be joined as "a party" but that the action may not proceed if that "other parent" objects before commencement of "a trial under this subtitle." If that parent intends to object, his/her status is more akin to that of a respondent seeking dismissal of the action. The term "nominal respondent" is used in subsection

(d) (2) of the Rule to distinguish the "other parent" from the respondent parent who is alleged to have committed the nonconsensual sexual conduct.

The choice of joining the other parent as a petitioner or as a nominal respondent may be influenced by whether the guardian or attorney is aware of that parent's position when filing the action. Hopefully, the guardian or attorney will have communicated with the parent before filing the action, but, if not, the Committee has attempted to deal with the problem by requiring the guardian or attorney to give notice to the parent of that right in the petition.

(e) Confidentiality

On motion or on the court's own initiative, the court, for good cause shown, may order that court records in an action under this Chapter be sealed or shielded in a manner that protects the privacy of the parents and the child.

(f) Petition

(1) The petition shall allege:

(A) that the respondent committed an act of nonconsensual sexual conduct against the petitioner that resulted in the conception of the child;

(B) whether the respondent was convicted of that act and, if so, the date of the conviction and the court that entered the judgment of conviction;

(C) whether the parties were married when the child was conceived, and, if so, whether they were separated pursuant to a protective order at the time and have remained separate and apart since that time;

(D) whether any other actions involving the child, or involving the respondent and the other parent, have been filed, and, if so, for each such action, (i) the court in which the action was filed, (ii) the case number, (iii) the relief sought, (iv) whether the action remains pending, and (v) if the action is not pending, the disposition and date of any judgment;

(E) the date of the child's birth;

(F) if the petition was filed by a parent and more than seven years have elapsed since the child was born, the date when the parent first knew or should have known the respondent's identity;

(G) if the petition is filed by a guardian or attorney for the child, a statement advising the parent who was subjected to the nonconsensual act that (i) that parent has a right to object to the action, (ii) any objection must be filed in writing prior to commencement of trial, (iii) if such an objection is timely filed, the action must be dismissed, and (iv) if the parent is indigent and not represented by an attorney and desires the assistance of an attorney, the court will refer the parent to a qualified grantee of the Maryland Legal Services Corporation for the assignment of an attorney or appoint an attorney for the parent.

(2) The petition shall include (A) a clear statement of all relief requested, including termination of the respondent's

parental rights, and if applicable, the change of name sought for the child, and (B) a notice to the respondent that the court will hold a scheduling conference within 60 days after service of the petition.

(g) Service

The petition shall be served pursuant to Rule 2-121. If a motion for alternative service pursuant to that Rule is filed, the court shall rule on it within 15 days after the filing of the motion.

(h) Respondent's Affidavit of Indigence

The respondent shall file an affidavit of indigence, if applicable, with the respondent's answer to the petition. Failure to file an affidavit of indigence with the answer does not waive the right to counsel for an indigent respondent.

Source: This Rule is new.

REPORTER'S NOTE

New Rule 9-402 is proposed to be added in light of Code, Family Law Article, Title 5, Subtitle 14, Child Conceived without Consent.

Section (a) specifies the parties that may file an action to terminate parental rights. Addressing the possibility that a parent may be a minor or an individual under disability, a cross reference to Rule 2-202 (Capacity) follows subsection (a)(1)(A). Subsection (a)(2) explains that a guardian or attorney for the child may be appointed either in another action, or in the action to terminate parental rights. A Committee note following section (a) clarifies that the court may appoint an attorney for the child pursuant to Rule 9-205.1.

Section (b) states that an action must be brought in a circuit court. A cross reference to Code, Family Law Article § 4-519, et seq., and Code, State Government Article, § 7-301, et seq., follows the section.

Section (c) sets the appropriate timeframe within which an action must be brought.

Section (d) designates the filing parent as petitioner and the other parent as respondent, or, if a court-appointed attorney or guardian for the child files the petition, the parent who is alleged to have committed the nonconsensual sexual conduct is designated as the respondent, and the other parent is joined as a petitioner or a nominal respondent. A Committee note follows, detailing the Committee's attempt to address the issue presented by Code, Family Law Article, § 5-1403 (c), which requires that, when the action is filed by a court-appointed guardian or attorney for the child, the "other parent" is joined as "a party" but that the action may not proceed if that "other parent" objects before commencement of "a trial under this subtitle."

Under section (e), upon motion or the court's initiative, the proceedings may be shielded or sealed, for good cause, in a manner that protects the privacy of the child and the parents.

Section (f) requires that a petition (1) allege certain information regarding the act of nonconsensual sexual conduct; (2) state the relationship, if any, between the petitioner and respondent; (3) list other pending actions involving the child or the respondent and other parent; (4) make a clear statement of all relief sought; and (5) include additional information necessary for the court to evaluate the petition. Subsection (f)(1)(D) is added to assist the court in identifying possible issues pertaining to res judicata, the potential for entry of conflicting orders, scheduling of the trial and other proceedings, the method of conducting the scheduling conference (e.g., whether remote electronic participation should be used), and joinder or consolidation of actions.

Section (g) specifies that the petition shall be served pursuant to Rule 2-121.

Section (h) requires a respondent to file an affidavit of indigence, if applicable, with the respondent's answer to the petition.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 400 - TERMINATION OF PARENTAL RIGHTS UNDER CODE,
FAMILY LAW ARTICLE. TITLE 5, SUBTITLE 14

ADD new Rule 9-403, as follows:

Rule 9-403. PROCEEDINGS; DUTY OF COURT

(a) Parent's Right to Attorney

(1) Subject to subsections (a)(2) and (3) of this Rule, a parent in an action under the Rules in this Chapter has the right to the assistance of an attorney.

(2) A parent is entitled to the assistance of an attorney at the expense of the Maryland Legal Services Corporation or to an attorney appointed by the court if the parent is indigent.

(3) The court shall (A) refer an unrepresented indigent parent to a qualified grantee of the Maryland Legal Services Corporation for assignment of an attorney, or (B) appoint an attorney for the unrepresented indigent parent.

(b) Scheduling Conference

(1) The court shall hold a scheduling conference within 60 days after service of the petition.

(2) At the scheduling conference, the court:

(A) shall determine whether there is a criminal action pending that involves the same underlying facts and, if so, whether further proceedings in the termination of parental rights action should be stayed until the criminal action is concluded.

Cross reference: See Code, Family Law Article, § 5-1404(a)(2).

(B) shall advise the respondent that the respondent may refuse to testify or to offer evidence and that no adverse inference will be drawn from his or her refusal to testify or offer evidence;

(C) after taking into consideration the best interest of the child, the time needed for discovery, and the interest of justice, shall issue a scheduling order; and

(D) after providing the parents with an opportunity to be heard, may determine temporary custody of the child.

(3) Failure to comply with subsection (b)(2)(A) is not grounds to overturn a finding made under these Rules.

(c) Trial

(1) Time

(A) Subject to subsection (c)(1)(B), the court shall hold a trial on the termination of parental rights within 180 days after an answer to the petition is filed.

(B) Unless both parents agree otherwise or the court finds that it is in the best interest of the child to proceed, if a

criminal proceeding involving the same underlying facts is pending at the time an action under the Rules in this Chapter is filed or is commenced after the action is filed, the court may stay all further proceedings until the criminal proceeding is resolved.

(2) Right of Respondent

In an action under the Rules in this Chapter, (A) a respondent may refuse to testify or offer evidence, and (B) no adverse inference may be drawn from that refusal.

(d) Judgment

(1) When Parental Rights May Be Terminated

Subject to subsection (d)(2) of this Rule, the court may terminate the parental rights of a respondent if, after a trial, the court:

(A) determines that the respondent was served pursuant to Rule 9-402 (g);

(B) (i) finds that the respondent has been convicted of an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child or (ii) finds by clear and convincing evidence that the respondent committed an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child; and

(C) finds by clear and convincing evidence that it is in the best interest of the child to terminate the parental rights of the respondent.

(2) When Parental Rights May Not Be Terminated

The court may not terminate parental rights under subsection (d)(1) of this Rule if the parents were married at the time of the conception of the child unless (A) the respondent was convicted of an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child, or (B) the parents were separated in accordance with a protective order during the time of the conception of the child and have remained separate and apart since the time of conception.

(e) Effect of Judgment

A judgment terminating parental rights under this Rule terminates completely (1) the respondent's right to custody of, guardianship of, access to, visitation with, and inheritance from the child, and (2) the respondent's responsibility to support the child, including the responsibility to pay child support.

Source: This Rule is new.

REPORTER'S NOTE

New Rule 9-403 is proposed to be added in light of Code, Family Law Article, Title 5, Subtitle 14, Child Conceived without Consent.

Section (a) is based upon Code, Family Law Article, § 5-1405. Subsections (a)(2) and (3) pertain to indigence of a parent. The Code does not define indigence for this purpose. Maryland Legal Services Corporation has its own criteria, which the Court may adopt. See Rule 1-325 (e)(2) with respect to waiver of prepaid court costs. See also Rule 4-213.1 (d) regarding determination of indigence for criminal defendants.

Section (b) contains provisions pertaining to the scheduling conference that is required by Code, Family Law Article, § 1403 (e).

Section (c) is based upon Code, Family Law Article, § 5-1404 (a) and (b). The problematic issue of joinder or consolidation is not addressed in section (c), and may require resolution by additional legislation or case law. If the action to terminate parental rights is joined or consolidated with another civil action, such as divorce, custody, child support, civil assault, it is not clear whether the entire action would have to be tried within 180 days. A civil assault action may involve a jury trial. Rule 9-403 (c)(1)(B), which is taken from § 5-1404 (a)(2), raises the same issue as well as the question of whether "resolved" includes appeals from a conviction.

Section (d) is based upon Code, Family Law Article, § 1402 (a) and (b).

Section (e) is based upon Code, Family Law Article, § 1402 (c).

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-101 (i) to add proceedings for termination of parental rights under Code, Family Law Article, Title 5, Subtitle 14 to the list of proceedings to which the Rules in Title 9 are applicable, as follows:

Rule 1-101. APPLICABILITY

...

(i) Title 9

Title 9 applies to proceedings under Code, Family Law Article, Title 5, Subtitles 3 (Guardianship to and Adoption through Local Department), 3A (Private Agency Guardianship and Adoption), and 3B (Independent Adoption); proceedings for termination of parental rights under Code, Family Law Article, Title 5, Subtitle 14; proceedings relating to divorce, annulment, alimony, child support, and child custody and visitation; and proceedings under Code, Family Law Article, Title 4, Subtitle 5 (Domestic Violence).

...

REPORTER'S NOTE

An amendment to Rule 1-101 is proposed in light of Code, Family Law Article, Title 5, Subtitle 14, Child Conceived without Consent. The amendment adds proceedings under the new statute to the list of proceedings to which the Rules in Title 9 are applicable.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP;
TERMINATING PARENTAL RIGHTS

AMEND Rule 9-101 (a) to clarify that the Rules in Title 9, Chapter 100 do not apply to proceedings for termination of parental rights brought under Code, Family Law Article, Title 5, Subtitle 14, as follows:

Rule 9-101. APPLICABILITY; DEFINITIONS

(a) Applicability

The Rules in this Chapter apply to proceedings under Code, Family Law Article, Title 5, Subtitles 3 (Guardianship and Adoption through Local Department), 3A (Private Agency Guardianship and Adoption), and 3B (Independent Adoption). They do not apply to proceedings under Code, Family Law Article, Title 5, Subtitle 14 (Child Conceived Without Consent).

Cross reference: See Chapter 400 of this Title for Rules dealing with termination of parental rights proceedings under Code, Family Law Article, Title 5, Subtitle 14.

Committee note: The Rules in this Chapter do not apply to the guardianship of persons and property of minors and disabled persons governed by Code, Estates and Trusts Article, § 13-101 *et seq.*

...

REPORTER'S NOTE

An amendment to Rule 9-101 (a) and a cross reference following that section are proposed in light of Code, Family Law Article, Title 5, Subtitle 14, Child Conceived without Consent, which was enacted by Chapter 3/4, 2018 Laws of Maryland (SB2/HB1), as an emergency measure effective February 13, 2018. The amendment clarifies that the Rules in Title 9, Chapter 100 do not apply to proceedings under the new statute. The Rules in Chapter 100 address termination of parental rights under circumstances other than those specifically contemplated in the new statute. Rules related to the statute are found in proposed new Chapter 400 of Title 9.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 400 - STANDBY GUARDIAN

AMEND Rule 10-402 by retitling it and by revising the required contents of a petition, as follows:

Rule 10-402. ~~PETITION BY A PARENT FOR JUDICIAL APPOINTMENT OF A STANDBY GUARDIAN~~

(a) Filing of Petition

Except for a petition filed by a standby guardian in accordance with Rule 10-403, a petition for the judicial appointment of a standby guardian of the person or property of a minor shall be filed by a parent of the minor. The petition shall contain the consent of each person having parental rights over the minor, unless a statement pursuant to subsection (c) (14) of this Rule is included in the petition.

(b) Venue

The petition shall be filed in the county where the minor resides or is physically present.

(c) Contents

The petition shall be captioned "In the Matter of ..."
[stating the name of the minor]. It shall be signed and verified by the petitioner and shall include the following information:

(1) The petitioner's name, address, age, and telephone number;

(2) The petitioner's familial relationship to the minor;

(3) The name, address, and date of birth of the minor;

(4) If the minor is at least 14 years of age, the wishes of the minor, if known;

~~(4)~~ (5) Whether the minor has any siblings and, if so, their names and ages and whether a standby guardianship is sought for them;

~~(5)~~ (6) The proposed standby guardian's name, address, age, and telephone number;

~~(6)~~ (7) The proposed standby guardian's relationship to the minor;

~~(7)~~ (8) A statement explaining why the appointment of the proposed standby guardian is in the best interests of the minor;

~~(8)~~ (9) Whether and under what circumstances the standby guardianship is to be of the minor's person, property, or both;

~~(9)~~ (10) If the standby guardian is to be a guardian of the property of the minor, the nature, value, and location of the property;

~~(10)~~ (11) A description of the duties and powers of the standby guardian, including whether the standby guardian is to have the authority to apply for, receive, and use public benefits and child support payable on behalf of the minor;

Cross reference: For a listing of the powers of a guardian of the person, see Code, Estates and Trusts Article, § 13-708 and for a guardian of the property, see Code, Estates and Trusts Article, § 15-102.

(12) A statement (A) whether the standby guardian has been convicted of a crime listed in Code, Estates and Trusts Article, § 11-114 or any such charge is currently pending against the standby guardian, and (B) if the standby guardian has been convicted of such a crime, the charge for which the standby guardian was convicted, the year of the conviction, the court in which the conviction occurred, and any good cause for the appointment, if applicable under § 11-114 (b);

~~(11)~~ (13) Whether the authority of the standby guardian is to become effective on the petitioner's incapacity, death, or the first of those circumstances to occur;

Cross reference: Code, Estates and Trust Article, § 13-906.

~~(12)~~ (14) A statement that there is a significant risk that the petitioner will become incapacitated or die within two years of the filing of the petition and the basis for the statement;

Cross reference: Code, Estates and Trusts Article, § 13-903 (a).

~~(13)~~ (15) If the petitioner is ~~medically~~ unable to appear in court for a hearing pursuant to Rule 10-404, a statement explaining why;

~~(14)~~ (16) If a person having parental rights does not join in the petition, a statement to that effect and the following

information, to the extent known: (A) the identity of the person, (B) if the identity of the person is not known, what efforts were made to identify and locate the person, ~~(A) a statement that the identity or whereabouts of the person are unknown and a description of the reasonable efforts made in good faith to identify and locate the person or (B) and (C) if the identity of the person is known, the reasons the person did not join the petition, if known, and a description of the reasonable efforts made in good faith to inform the person about the petition; and~~

~~(15)~~ (17) If the petitioner believes that notice to the minor would be unnecessary or would not be in the best interests of the minor, a statement explaining why.

(d) Notice

(1) Unless the court orders otherwise, the petitioner shall send by ordinary mail and by certified mail to all interested persons whose whereabouts are known a copy of the petition and a "Notice to Interested Persons" pursuant to section (e) of this Rule. Service upon a minor under the age of ten years may be waived provided that the other service requirements of this section are met.

(2) If the court is satisfied that the petitioner, after reasonable efforts made in good faith, has been unable to ascertain the whereabouts of a person having parental rights,

the court may order, as to that individual, that the "Notice to Interested Persons Whose Whereabouts are Unknown," which is set out in section (f) of this Rule, be published one time in the county of that individual's last known residence or be posted at that county's courthouse door or on a bulletin board within its immediate vicinity.

. . .

Source: This Rule is new.

REPORTER'S NOTE

Amendments to Rules in Title 10, Chapter 400 are proposed in light of changes to Code, Estates and Trusts Article, §§ 13-901 and 13-904, made by Chapter 749, 2018 Laws of Maryland (SB 1239), which became effective May 15, 2018. The statutory changes expand a parent's ability to designate a standby guardian for a minor child to situations in which the parent has become "subject to an adverse immigration action" and consents to the standby guardianship.

While Rule 10-402 is not directly implicated, changes to Rule 10-403 revise the required contents of a petition under that Rule. Comparable changes to the required contents of a petition under Rule 10-402 are proposed.

In addition, Rule 10-402 is revised by retitling it from "Petition by a Parent for Judicial Appointment of a Standby Guardian" to simply "Petition by Parent."

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 400 - STANDBY GUARDIAN

AMEND Rule 10-403 by retitling it, by making stylistic changes to section (a), by adding subsections (a)(1) through (a)(4), by adding a cross reference following section (a), by revising the required contents of a petition, by revising the documentation required in section (d) and adding two cross references to the section, and by revising notice requirements, as follows:

Rule 10-403. PETITION BY STANDBY GUARDIAN ~~FOR JUDICIAL APPOINTMENT AFTER PARENTAL DESIGNATION~~

(a) Filing of Petition

If a parent ~~designates~~ has designated a standby guardian by a written designation pursuant to Code, Estates and Trusts Article, § 13-904 and has not revoked that designation, and the standby guardian wishes to retain the authority under that designation ~~for a period of more than 180 days~~, the standby guardian shall file a petition for judicial appointment:

(1) upon the standby guardian's receipt of a copy of a determination of the parent's incapacity, pursuant to Code, Estates and Trusts Article, § 13-904 (c)(1), if that was a basis

for the designation;

(2) upon the standby guardian's receipt of a copy of a determination of the parent's debilitation and other documents pursuant to Code, Estates and Trusts Article, § 13-904 (c)(2), if that was a basis for the designation; or

(3) upon the standby guardian's receipt of evidence of an adverse immigration action against the parent and the parent's written consent pursuant to Code, Estates and Trusts Article, § 13-904 (c)(3), if that was a basis for the designation; and

(4) in any case within 180 days after the effective date of the standby guardianship, pursuant to Code, Estates and Trusts Article, § 13-904 (e).

Cross reference: See Code, Estates and Trusts Article, § 13-904 (e)(2), terminating the standby guardianship if the standby guardian fails to file the petition within the 180-day period.

(b) Venue

The petition shall be filed in the county where the minor resides or is physically present.

(c) Contents

The petition shall be captioned "In the Matter of ..."
[stating the name of the minor]. It shall be signed and verified by the petitioner and shall contain the following information:

(1) The petitioner's name, address, age, telephone number, and relationship to the minor and the minor's parents;

(2) The name, address, and date of birth of the minor;

(3) If the minor is at least 14 years of age, the wishes of the minor, if known;

~~(3)~~(4) Whether the minor has any siblings and, if so, their names and ages and whether a guardianship is sought for them;

~~(4)~~(5) The names and addresses of the witnesses to the written designation of the petitioner as standby guardian of the minor and any relationship of the petitioner to those witnesses;

~~(5)~~(6) A statement explaining why the appointment of the proposed standby guardian is in the best interests of the minor;

~~(6)~~(7) Whether and under what circumstances the standby guardianship is to be of the minor's person, property, or of both;

~~(7)~~(8) If the standby guardian is to be a guardian of the property of the minor, the nature, value, and location of the property;

~~(8)~~(9) A description of the duties and powers of the standby guardian, including whether the standby guardian is to have the authority to apply for, receive, and use public benefits and child support payable on behalf of the minor; and

~~(9)~~(10) A statement (A) whether the standby guardian has been convicted of a crime listed in Code, Estates and Trusts Article, § 11-114 or any such charge is currently pending against the standby guardian, and (B) if the standby guardian has been convicted of such a crime, the charge for which the standby guardian was convicted, the year of the conviction, the court in

which the conviction occurred, and any good cause for the appointment, if applicable under § 11-114 (b);

~~(10)~~(11) If the petition is filed by a person designated by a parent as alternate standby guardian pursuant to Code, Estates and Trusts Article, § 13-904 (b)(2), a statement that the person designated as standby guardian is unwilling or unable to act as standby guardian and the basis for the statement~~;~~; and

~~(11)~~(12) A list of interested persons.

(d) Documentation

Subject to subsections (d)(3) and (4) of this Rule, the ~~The~~ petitioner shall file with the petition:

(1) The written parental designation of the standby guardian signed~~7~~ or consented to~~7~~ by each person having parental rights over the child, if available, and, if not, the documentation required by Code, Estates and Trusts Article, § 13-904 (f)(4);

(2) If a person having parental rights over the child did not sign or consent to the designation, a verified statement containing the following information, to the extent known: (A) the identity of the person, (B) if not known, what efforts were made to identify and locate the person, (C) if the person declined to sign or consent to the designation, the name and whereabouts of the person and the reasons the person declined, and (D) if the designation was due to an adverse immigration action and the person having parental rights who did not sign or consent to the designation

resides outside the United States, a statement to that effect.

Cross reference: See Code, Estates and Trusts Article, § 13-904 (f).

(3) A copy, as appropriate, of:

(A) A physician's determination of incapacity or debilitation of the parent pursuant to Code, Estates and Trusts Article, § 13-906;

(B) If a determination of debilitation is filed, the parental consent to the beginning of the standby guardianship;
or

(C) If the designation was due to an adverse immigration action against the parent, the parental consent to the beginning of the guardianship and a copy of the birth certificate or other evidence of parentage for each child for whom the standby guardian is designated.

~~(2) A copy of a physician's determination of incapacity or debilitation of the parent pursuant to Code, Estates and Trusts Article, § 13-906; and~~

~~(3) If a determination of debilitation is filed pursuant to subsection (d) (2) of this Rule, a copy of the parental consent to the beginning of the standby guardianship pursuant to Code, Estates and Trusts Article, § 13-904 (f).~~

(4) If more than three months have elapsed since the standby guardianship became effective, (A) a statement from the child's

primary healthcare provider that the child receives appropriate healthcare, (B) if the child is enrolled in school, a copy of the child's most recent report card or other progress report, and (C) a reference to all court records pertaining to the child during that period.

Cross reference: See Rule 10-106.1 regarding the appointment of an investigator if the court has a concern about the health, education, or general well-being of the child.

(e) Notice

(1) Unless the Court orders otherwise, the petitioner shall send by ~~ordinary mail and by certified mail~~ first-class mail, return service requested, to all interested persons a copy of the petition and a "Notice to Interested Persons" pursuant to section (f) of this Rule. Service upon a minor under the age of ten years may be waived provided that the other service requirements of this section are met.

(2) Except as provided in subsection (e)(3) of this Rule, if ~~If~~ the court is satisfied that the petitioner, after reasonable efforts made in good faith, has been unable to ascertain the whereabouts of a person having parental rights, the court may order, as to that individual, that the "Notice to Interested Persons Whose Whereabouts are Unknown," which is set out in section (g) of this Rule, be published one time in the county of that individual's last known residence or be posted at that county's courthouse door or on a bulletin board within its immediate

vicinity.

(3) If the designation and petition are based on an adverse immigration action and the person with parental rights resides outside the United States, the notice provided for in subsection (e) (2) of this Rule shall not be given.

(f) Notice to Interested Persons

The Notice to Interested Persons shall be in the following form:

. . .

(g) Notice to Interested Persons Whose Whereabouts are Unknown

The Notice to Interested Persons Whose Whereabouts are Unknown shall be in the following form:

. . .

Cross reference: Code, Estates and Trusts Article, § 13-904 (e) and (f).

Source: This Rule is new.

REPORTER'S NOTE

Amendments to Rule 10-403 are proposed in light of changes to Code, Estates and Trusts Article, §§ 13-901 and 13-904, made by Chapter 749, 2018 Laws of Maryland (SB 1239), which became effective May 15, 2018. The statutory changes expand a parent's ability to designate a standby guardian for a minor child to situations in which the parent has become "subject to an adverse immigration action" and consents to the standby guardianship.

Stylistic changes are made to section (a), and new subsections (a) (1) through (a) (4) are added. The subsections specify when a standby guardian must file a petition for

judicial appointment if the standby guardian wishes to retain the authority granted through a written designation.

A cross reference is added following section (a), which refers to Code, Estates and Trusts Article, § 13-904 (e) (2) on the termination of standby guardianships after 180 days if no petition has been filed.

Section (c) concerns the required contents of the petition. The required contents are revised to account for the particular vulnerabilities of families experiencing adverse immigration actions. Minors left on their own are unlikely to be able to meet their basic needs and may become vulnerable to human trafficking. Similarly, a parent unable to find a suitable guardian may turn unwittingly to either a trafficker posing as a professional guardian or an unscrupulous professional guardian who does little to ensure that the needs of the child or children are met.

The documentation necessary to support a petition is amended in section (d) to include evidence of adverse immigration action, where applicable. Additional stylistic changes are made, as well. Finally, if more than 3 months have elapsed since the standby guardianship became effective, some evidence of appropriate healthcare and schooling is required, as well as information regarding all court records pertaining to the child during that 3-month period.

Two cross references also are added to section (d), one to Code, Estates and Trusts Article, § 13-904 (f), regarding the documents needed to file for judicial appointment, and the other to Rule 10-106.1, regarding appointment of an investigator if the court has concerns about the well-being of the child.

Section (e) regarding notice is revised. In subsection (e) (1), notice currently is mailed by "ordinary mail and by certified mail." This is proposed to be changed to "First-class mail, return service requested."

Publication of notice when a person's whereabouts are unknown remains governed by subsection (e) (2), but an exception is added in subsection (e) (3). Subsection (e) (3) states that if designation as standby guardian is based on adverse immigration action, and the person with parental rights resides outside the US, notice under subsection (e) (2) is not required.

In addition, Rule 10-403 is revised by retitling it from

"Petition by Standby Guardian for Judicial Appointment After Parental Designation" to simply "Petition by Standby Guardian."

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 400 - STANDBY GUARDIAN

AMEND Rule 10-404 by deleting current sections (a) and (b) and by adding new language requiring a hearing on all petitions, and by adding a Committee note pertaining to the powers of the court, as follows:

Rule 10-404. HEARING

~~(a) No Response to Notice~~

~~If no response to the notice is filed and the court is satisfied that the petitioner has complied with the provisions of Rules 10-402 or 10-403, the court may rule on the petition without a hearing.~~

~~(b) Response to Notice~~

~~If a response is filed to the notice objecting to the appointment of the standby guardian, the court shall hold a hearing and shall give notice of the time and place of the hearing to all interested persons. Unless excused for good cause shown, the petitioner, the proposed standby guardian, and the minor named in the petition shall be present at the hearing.~~

Before ruling on a petition filed under Rule 10-402 or 10-403, the court shall hold a hearing and shall give notice of the

time and place of the hearing to all interested persons. The proposed standby guardian, the minor named in the petition, and, unless excused for good cause shown, the petitioner shall be present at the hearing.

Committee note: A court may exercise its other powers, such as appointing an attorney for the minor under Rule 10-106 or appointing an independent investigator pursuant to Rule 10-106.1, where the court is unable to obtain reliable and credible information necessary for a decision on a petition, or in any other circumstance where the court deems it necessary.

REPORTER'S NOTE

Amendments to Rule 10-404 are proposed in light of changes to Code, Estates and Trusts Article, §§ 13-901 and 13-904, made by Chapter 749, 2018 Laws of Maryland (SB 1239), which became effective May 15, 2018. The statutory changes expand a parent's ability to designate a standby guardian for a minor child to situations in which the parent has become "subject to an adverse immigration action" and consents to the standby guardianship.

A standby guardianship terminates 180 days after it begins unless the designated standby guardian petitions for judicial appointment. The current text of Rule 10-404 is proposed to be deleted and new text added requiring hearings on petitions for judicial appointment in all cases - even if no objection to the appointment has been filed. This hearing requirement affords a court the opportunity to assess whether a parent signed a designation or consent under duress, and the appropriateness of the designated standby guardian.

In addition, a Committee note following the new text of Rule 10-404 is proposed. The note refers to a court's other powers in Title 10, including the powers to appoint an attorney for a minor under Rule 10-106 and to appoint an independent investigator in a case under Rule 10-106.1. A court may find during its review of a petition that it does not have sufficient information, or sufficiently credible or reliable information, to determine whether the standby guardian appointment is in the

Rule 10-404

best interest of the minor. In those circumstances, and in any other circumstances where the court deems it necessary, the court may exercise other powers to assist it in making a determination on a petition.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 400 - STANDBY GUARDIAN

AMEND Rule 10-405 by permitting training for the guardian to be required at the discretion of the court, as follows:

RULE 10-405. ORDER

(a) Judicial Appointment of Standby Guardian

After the filing of a petition for judicial appointment of a standby guardian pursuant to Code, Estates and Trusts Article, § 13-903 (a), the court shall enter an order appointing the person as a standby guardian if the court finds that the requirements of these Rules and Code, Estates and Trusts Article, § 13-903 (d) have been met.

(b) Judicial Appointment of Standby Guardian After Parental Designation

After the filing of a petition for judicial appointment of a standby guardian who was previously designated as standby guardian or alternate standby guardian by a parent pursuant to Code, Estates and Trusts Article, § 13-904 (a), the court shall enter an order appointing the person as a standby guardian if the court finds that the requirements of these Rules and Code, Estates and Trusts Article, § 13-904 (g) have been met.

(c) Order Appointing a Standby Guardian

(1) An order appointing a standby guardian shall state whether the standby guardianship is of the minor's person, property, or both, whether the guardian shall have the authority to apply for, receive, and use public benefits and child support payable on behalf of the minor, and any other duties and powers of the standby guardian, and may require that, within 120 days or such other time that the court directs, the guardian complete a training program in conformance with the applicable Guidelines for Court-Appointed Guardians of the Person or of the Property attached as an Appendix to the Rules in this Title; and

(2) When the order is entered pursuant to section (a) of this Rule, the order shall also

(A) Specify whether the authority of the standby guardian is effective on the receipt of a determination of the petitioner's incapacity pursuant to Code, Estates and Trusts Article, § 13-906, on the receipt of the certificate of the petitioner's death, or on whichever occurs first; and

(B) Provide that the authority of the standby guardian may become effective earlier on written consent of the petitioner in accordance with Code, Estates and Trusts Article, § 13-903

(e) (3).

(d) Duty to File Documentation

A copy of the appropriate document referred to in subsection (c) (2) of this Rule shall be filed by the standby guardian with the court within 90 days after the standby guardian receives the document.

Cross reference: See Code, Estates and Trusts Article, § 13-906 concerning a written determination of incapacity.

(e) Revocation of Standby Guardian's Authority

The court may revoke the standby guardian's authority for failure to file any of the required documentation.

REPORTER'S NOTE

Amendments to Rule 10-405 are proposed in light of changes to Code, Estates and Trusts Article, §§ 13-901 and 13-904, made by Chapter 749, 2018 Laws of Maryland (SB 1239), which became effective May 15, 2018. The statutory changes expand a parent's ability to designate a standby guardian for a minor child to situations in which the parent has become "subject to an adverse immigration action" and consents to the standby guardianship.

The proposed amendment allows training for a standby guardian to be required at the discretion of the court. That training may be mandated to be completed within 120 days of appointment, or within such other time as the court sees fit.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 400 - STANDBY GUARDIAN

ADD new Rule 10-405.1, as follows:

Rule 10-405.1. PERIODIC REPORT

A person who has received judicial appointment as standby guardian of the person of a minor under Code, Estates and Trusts, § 13-903 or 13-904 and the Rules of this Chapter is subject to the annual reporting requirement specified in Rules 10-206 and 10-706, as applicable. For good cause, the court may require more frequent reports from the guardian.

Cross reference: See Rule 10-305 concerning administration of a guardianship of the property.

Source: This Rule is new.

REPORTER'S NOTE

Amendments to Rule 10-405.1 are proposed in light of changes to Code, Estates and Trusts Article, §§ 13-901 and 13-904, made by Chapter 749, 2018 Laws of Maryland (SB 1239), which became effective May 15, 2018. The statutory changes expand a parent's ability to designate a standby guardian for a minor child to situations in which the parent has become "subject to an adverse immigration action" and consents to the standby guardianship.

Rule 10-405.1 requires that standby guardians comply with the annual reporting requirement specified in Rules 10-206 and 10-207. The court may, in its discretion, require more frequent reports

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-106.1 (a) to permit the appointment of an investigator in connection with a guardianship of a minor, as follows:

Rule 10-106.1. APPOINTMENT OF INVESTIGATOR

(a) In Connection With Petition to Establish Guardianship

The court may appoint an independent investigator in connection with a petition to establish a guardianship of the person, the property, or both of an alleged disabled person or a minor to (1) investigate specific matters relevant to whether a guardianship should be established and, if so, the suitability of one or more proposed guardians and (2) report written findings to the court.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 10-106.1 permits the court to appoint investigators in connection with petitions for guardianships of minors, including standby guardianships.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-104 by clarifying on whom a show cause order may be served, by adding the words "for a response" after the word "date," by adding a Committee note at the end of the Rule, and by making stylistic changes, as follows:

Rule 10-104. SHOW CAUSE ORDERS

Except as provided in Rules 10-209 (b), 10-213, and 10-705, upon the filing of a petition, the court shall issue a show cause order directing ~~a person~~ persons on whom it is served to show cause in writing on or before a specified date why the court should not take the action described in the order. Unless the court orders otherwise, the specified date for a response shall be 20 days after the date prescribed for service in the order. The order also shall ~~also~~ specify who is to be served and the method of service and, if a the hearing date on the petition has been set ~~is scheduled~~ when the order is issued, the date, time, and place of the hearing. A copy of any related petition or document shall be served with a copy of the order. If required, the Advice of Rights form and the Notice to

Interested Persons form also shall ~~also~~ be served with the copy of the order.

Committee note: To the extent practicable, a hearing date should be included on the show cause order, particularly when the court has granted a request for an expedited hearing on a petition for guardianship pursuant to Rule 10-201 (f).

Source: This Rule is new.

REPORTER'S NOTE

An attorney requested the addition of a procedure for expedited hearings for the appointment of a guardian for individuals who have been hospitalized and are unable to make decisions about a discharge plan, control of finances, applying for benefits necessary to facilitate discharge, etc. Because the current procedure to obtain a guardian often takes several weeks from the filing of a petition to the appointment of a guardian of the person or property, individuals may not be receiving the level of care that is most appropriate for them and may be at risk for hospital-acquired infections, problems caused by long-term bed rest, and hospital-acquired psychosis. Other problems include hospitals not receiving insurance, Medicare, or other payment for the costs of caring for hospitalized patients who do not need to be there and a lack of available beds for patients who do need to be hospitalized.

The Rules Committee recommends amending Rules 10-104 and 10-201 to add a procedure for expedited hearings. A Committee note at the end of Rule 10-104 suggests that, to the extent practicable, a hearing date should be included on the show cause order, especially if a proceeding is to be heard on an expedited basis.

The Committee also recommends an amendment to Rule 16-302 to require that provisions for expedited hearings be included in each circuit court's case management plan.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-201 by adding language to section (b) providing for expedited hearings, by adding a Committee note after section (b), by adding section (f) providing a procedure for an expedited hearing in connection with medical treatment, by adding a Committee note after section (f), and by adding to the cross reference at the end of the Rule, as follows:

Rule 10-201. PETITION FOR APPOINTMENT OF A GUARDIAN OF THE PERSON.

(a) Who May File

An interested person may file a petition requesting a court to appoint a guardian of a minor or alleged disabled person.

(b) Form of Petition

The petition for a guardianship of the person of a minor shall be filed in substantially the form set forth in Rule 10-111. The petition for a guardianship of the person of an alleged disabled person shall be filed in substantially the form set forth in Rule 10-112. If an expedited hearing on a petition for guardianship of an alleged disabled person pursuant to Code,

Estates and Trusts Article, § 13-705 (f) is requested, the request shall be made in accordance with section (f) of this Rule.

Committee note: Examples of circumstances that may require the hearing on a petition for guardianship of the person of an alleged disabled person to be heard on an expedited basis pursuant to Code, Estates and Trusts Article, § 13-705 (f) include threats to the physical or mental health of an alleged disabled person associated with delaying the appointment of a guardian to make a decision about the starting or stopping of treatment or discharge from a health care facility that, although not posing an imminent risk of harm, compromises the medical well-being of the alleged disabled person.

(c) Venue

(1) Resident

If the minor or alleged disabled person is a resident of Maryland, the petition shall be filed in the county where (A) the minor or alleged disabled person resides or (B) the person has been admitted for the purpose of medical care or treatment to either a general or a special hospital which is not a State facility as defined in Code, Health-General Article, § 10-406 or a licensed private facility as defined in Code, Health-General Article, §§ 10-501 to 10-511.

(2) Nonresident

If the minor or alleged disabled person does not reside in this State, a petition for guardianship of the person may be filed in any county in which the person is physically present.

(d) Attorney's Fees

If a petition for attorney's fees is filed by an interested person or an attorney employed by the interested person, the court may order reasonable and necessary attorney's fees incurred in bringing a petition for the appointment of a guardian of the person of a disabled person to be paid from the estate of the disabled person. The court shall consider the financial resources and needs of the disabled person and whether there was substantial justification for the filing of the petition for guardianship. The court may not award attorney's fees if the petition for guardianship is brought by (1) a government agency paying benefits to the disabled person, (2) a local department of Social Services, or (3) an agency eligible to serve as the guardian of the disabled person under Code, Estates and Trusts Article, § 13-707.

Cross reference: Code, Estates and Trusts Article, § 13-704.

(e) Designation of a Guardian of the Person by a Minor

After a minor's 14th birthday, a minor may designate a guardian of the minor's person substantially in the following form:

...

(f) Request for Expedited Hearing in Connection with Medical Treatment

(1) Contents

A request for an expedited hearing in connection with medical treatment pursuant to Code, Estates and Trust Article, § 13-705 (f) shall be verified and filed with the petition for guardianship of the person of an alleged disabled person. The request shall contain the following information:

(A) the reason for seeking an expedited hearing;

(B) a description of the proposed change in the alleged disabled person's medical treatment;

(C) a statement of how the alleged disabled person's medical circumstances will be harmed if the proceeding is not expedited;

(D) a description of all efforts made to notify interested persons and any person nominated as guardian of person about the request for an expedited hearing; and

(E) whether the alleged disabled person lacks sufficient understanding or capacity to make or communicate a responsible decision to consent or to refuse consent, the basis for that belief, and an explanation of steps taken to obtain consent to the proposed medical treatment through other means.

Committee note: Examples of consent "through other means" include consent obtained or ascertained through a valid advance directive, consent by an individual pursuant to an applicable Power of Attorney that specifically authorizes health care decision-making, and consent by a surrogate authorized under Code, Health General Article, Title 5, Subtitle 6, Part I (Health Care Decisions Act).

(2) Factors for Court to Consider

In determining whether to expedite the hearing in connection with medical treatment, the court shall consider:

(A) the degree to which the alleged disabled person's current circumstances are not meeting his or her medical needs in the most appropriate manner;

(B) the degree to which alternative arrangements are or can be made available;

(C) the urgency, necessity, and gravity of the proposed medical treatment and any medical risks to the alleged disabled person if the proceedings are not expedited;

(D) the ability of the alleged disabled person or other legally authorized individual to provide necessary consents for services; and

(E) any other factor that the court considers relevant.

(3) Scheduling of an Expedited Hearing

If the court makes a determination to expedite a hearing because of the need for medical treatment, the hearing shall be scheduled as soon as practicable, taking into account:

(A) the ability of the petitioner to properly serve or notify interested persons on an expedited basis;

(B) the ability of the attorney for the alleged disabled person, government agencies, and court-appointed

investigators to perform necessary investigations on an expedited basis; and

(C) any other circumstances that the court considers relevant.

Committee note: The procedure set forth in section (f) of this Rule is not a substitute for a petition for emergency services under Rule 10-210, nor is it intended to affect the court's discretion to schedule expedited hearings, generally. If the petition is also for the appointment of a guardian of the property, the court may hear and rule on that part of the petition on an expedited basis as well.

Cross reference: See Code, Estates and Trusts Article, §§ 13-702 and 13-705 (f), Rule 10-205 (b), and In re: Sonny E. Lee, 132 Md. App. 696 (2000).

Source: This Rule is derived as follows:
Section (a) is derived from former Rule R71 a.
Section (b) is new.
Section (c) is derived from former Rule R72 a and b.
Section (d) is new.
Section (e) is new.
Section (f) is new.

REPORTER'S NOTE

See the Reporter's note to Rule 10-104.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 300 - CIRCUIT COURTS - ADMINISTRATION

AND CASE MANAGEMENT

AMEND Rule 16-302 by adding a new subsection (b)(3) pertaining to guardianship actions, as follows:

Rule 16-302. ASSIGNMENT OF ACTIONS FOR TRIAL; CASE MANAGEMENT PLAN.

(a) Generally

The County Administrative Judge in each county shall supervise the assignment of actions for trial in a manner that maximizes the efficient use of available judicial personnel, brings pending actions to trial, and disposes of them as expeditiously as feasible.

(b) Case Management Plan; Information Report

(1) Development and Implementation

(A) The County Administrative Judge shall develop and, upon approval by the Chief Judge of the Court of Appeals, implement a case management plan for the prompt and efficient scheduling and disposition of actions in the circuit court. The plan shall include a system of differentiated case management in which actions are classified according to complexity and priority and are assigned to a scheduling category based on that

classification and, to the extent practicable, follow any template established by the Chief Judge of the Court of Appeals.

(B) The County Administrative Judge shall send a copy of the plan and all amendments to it to the State Court Administrator. The State Court Administrator shall review the plan or amendments and transmit the plan or amendments, together with any recommended changes, to the Chief Judge of the Court of Appeals.

(C) The County Administrative Judge shall monitor the operation of the plan, develop any necessary amendments to it, and, upon approval by the Chief Judge of the Court of Appeals, implement the amended plan.

(2) Family Law Actions

(A) The plan shall include appropriate procedures for the granting of emergency relief and expedited case processing in family law actions when there is a credible prospect of imminent and substantial physical or emotional harm to a child or vulnerable adult.

Committee note: The intent of this subsection is that the case management plan contain procedures for assuring that the court can and will deal immediately with a credible prospect of imminent and substantial physical or emotional harm to a child or vulnerable adult, at least to stabilize the situation pending further expedited proceedings. Circumstances requiring expedited processing include threats to imminently terminate services necessary to the physical or mental health or sustenance of the child or vulnerable adult or the imminent removal of the child or vulnerable adult from the jurisdiction of the court.

(B) In courts that have a family division, the plan shall provide for the implementation of Rule 16-307.

Cross reference: See Rule 9-204 for provisions that may be included in the case management plan concerning an educational seminar for parties in actions in which child support, custody, or visitation are involved.

(3) Guardianship Actions

The plan shall include appropriate procedures for expedited case processing pursuant to Code, Estates and Trusts Article, §13-705 (f) and Rule 10-201 (b) and (f).

Committee note: The intent of subsection (b) (3) is that the case management plan contain procedures for non-emergency expedited case processing for guardianships of the person of disabled adults in connection with medical treatment.

~~(3)~~ (4) Consultation

In developing, monitoring, and implementing the case management plan, the County Administrative Judge shall (A) consult with the Administrative Office of the Courts and with other County Administrative Judges who have developed such plans, in an effort to achieve as much consistency and uniformity among the plans as is reasonably practicable, and (B) seek the assistance of the county bar association and such other interested groups and persons as the judge deems advisable.

~~(4)~~ (5) Information Report

As part of the plan, the clerk shall make available to the parties, without charge, a form approved by the County

Administrative Judge that will provide the information necessary to implement the case management plan. The information contained in the information report shall not be used for any purpose other than case management. The clerk of each circuit court shall make available for public inspection a copy of any current administrative order of the Chief Judge of the Court of Appeals exempting categories of actions from the information report requirement of Rule 2-111 (a).

(c) Additional Features of Case Management Plan

As part of the case management plan, the County Administrative Judge shall adopt procedures consistent with the Maryland Rules designed to:

- (1) eliminate docket calls in open court;
- (2) ensure the prompt disposition of motions and other preliminary matters;
- (3) provide for the use of scheduling and pretrial conferences, and the establishment of a calendar for that purpose, when appropriate;
- (4) provide for the prompt disposition of uncontested and ex parte matters, including referrals to an examiner or magistrate, when appropriate;
- (5) provide for the disposition of actions under Rule 2-507;
- (6) to the extent permitted by law and when feasible and approved by the presiding judge, provide for non-evidentiary

hearings to be conducted by telephonic, video, or other electronic means.

(7) establish trial and motion calendars and other appropriate systems under which actions ready for trial will be assigned for trial and tried, after proper notice to parties, without necessity of a request for assignment from any party; and

Cross reference: See Rule 16-303 (Motion Day).

(8) establish systems of regular reports that will show the status of all pending actions with respect to their readiness for trial, the disposition of actions, and the availability of judges for trial work.

Source: This Rule is derived from former Rule 16-202 (2016).

REPORTER'S NOTE

See the Reporter's Note to Rule 10-104.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-202 by deleting subsection (a) (4) and a reference to it, and by adding a cross reference to Code, Estates and Trusts Article, § 13-801, as follows:

Rule 10-202. CERTIFICATES AND CONSENTS

(a) Certificates

(1) Generally Required

~~Except as provided in subsection (a) (4) of this Rule, if~~
If guardianship of the person of a disabled person is sought, the petitioner shall file with the petition signed and verified certificates of (A) two physicians licensed to practice medicine in the United States who have examined the disabled person, or (B) one licensed physician who has examined the disabled person and one licensed psychologist or licensed certified social worker-clinical who has seen and evaluated the disabled person. An examination or evaluation by at least one of the health care professionals shall have been within 21 days before the filing of the petition.

(2) Form

Each certificate required by subsection (a)(1) of this Rule shall be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the offices of the clerks of the circuit courts.

(3) Absence of Certificates

(A) Refusal to Permit Examination

If the petition is not accompanied by the required certificate and the petition alleges that the disabled person is residing with or under the control of a person who has refused to permit examination by a physician or evaluation by a psychologist or licensed certified social worker-clinical, and that the disabled person may be at risk unless a guardian is appointed, the court shall defer issuance of a show cause order. The court shall instead issue an order requiring that the person who has refused to permit the disabled person to be examined or evaluated appear personally on a date specified in the order and show cause why the disabled person should not be examined or evaluated. The order shall be personally served on that person and on the disabled person.

(B) Appointment of Health Care Professionals by Court

If the court finds after a hearing that examinations are necessary, it shall appoint two physicians or one physician and one psychologist or licensed certified social worker-clinical to conduct the examinations or the examination and

evaluation and file their reports with the court. If both health care professionals find the person to be disabled, the court shall issue a show cause order requiring the alleged disabled person to answer the petition for guardianship and shall require the petitioner to give notice pursuant to Rule 10-203.

Otherwise, the petition shall be dismissed.

~~(4) Beneficiary of the Department of Veterans Affairs~~

~~If guardianship of the person of a disabled person who is a beneficiary of the United States Department of Veterans Affairs is being sought, the petitioner shall file with the petition, in lieu of the two certificates required by subsection (a)(1) of this Rule, a certificate of the Secretary of that Department or an authorized representative of the Secretary stating that the person has been rated as disabled by the Department in accordance with the laws and regulations governing the Department of Veterans Affairs. The certificate shall be prima facie evidence of the necessity for the appointment.~~

Cross reference: See Code, Estates and Trusts Article, § 13-801.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 10-202 include deleting subsection (a)(4) and a reference to it, and adding a cross reference to Code, Estates and Trusts Article, § 13-801.

Currently, subsection (b) (4) allows a petitioner for guardianship of a disabled person to file a single certificate issued by the Secretary of the United States Department of Veterans Affairs (VA) in lieu of the two certificates normally required by subsection (a) (1). The single certificate must certify that the beneficiary-disabled person is rated as disabled by the VA.

This single certificate exception to subsection (a) (1) is problematic for a few reasons. First, the term "beneficiary" encompasses a broad range of benefits, some of which do not require a disability rating by the VA. For example, a veteran may receive health care benefits or have a needs-based pension from the VA without a disability rating.

Second, a veteran with a disability rating may not have a disability that affects his or her capacity to make decisions about person or property (e.g., an amputated limb). Third, an existing disability rating may be for a disability separate from the condition prompting the petition for guardianship.

These problems with the provisions of subsection (b) (4) might permit a guardian of the person to be appointed inappropriately or render the VA unable to comply with a request for a certificate. For these reasons, the Committee recommends striking subsection (a) (4) and a reference to it.

A cross reference to Code, Estates and Trusts Article, § 13-801, follows section (a). The Administrator of Veterans Affairs is an interested party, by law, in guardianship proceedings concerning minors or disabled persons who receive or expect to receive money from the VA.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-205 by requiring a hearing on a petition for guardianship of the person of a minor, by adding a subsection to the cross reference following section (a), by deleting subsection (b) (2), and by adding a cross reference following section (b), as follows:

Rule 10-205. HEARING

(a) Guardianship of the Person of a Minor

~~(1) No Response to Show Cause Order~~

~~If no response to the show cause order is filed and the court is satisfied that the petitioner has complied with the provisions of Rule 10-203, the court may rule on the petition summarily.~~

~~(2) Response to Show Cause Order~~

~~If a response to the show cause order objects to the relief requested, the court shall set the matter for trial, and shall give notice of the time and place of trial to all persons who have responded.~~

Before ruling on a petition for guardianship of the person of a minor, the court shall hold a hearing and give

notice of the time and place of the hearing to all interested persons.

Cross reference: Code, Estates and Trusts Article, § 13-702 (a).

(b) Guardianship of Alleged Disabled Person

~~(1) Generally~~

When the petition is for guardianship of the person of an alleged disabled person, the court shall set the matter for jury trial. The alleged disabled person or the attorney representing the person may waive a jury trial at any time before trial. If a jury trial is held, the jury shall return a verdict pursuant to Rule 2-522 (b) (2) as to any alleged disability. Each certificate filed pursuant to Rule 10-202 is admissible as substantive evidence without the presence or testimony of the certifying health care professional unless, not later than 10 days before trial, an interested person who is not an individual under a disability, or the attorney for the alleged disabled person, files a request that the health care professional appear to testify. If the trial date is less than 10 days from the date the response is due, a request that the health care professional appear may be filed at any time before trial. If the alleged disabled person asserts that, because of his or her disability, the alleged disabled person cannot attend a trial at the courthouse, the court may hold the trial at a

place to which the alleged disabled person has reasonable access.

~~(2) Beneficiary of the Department of Veterans Affairs~~

~~If guardianship of the person of a disabled person who is a beneficiary of the United States Department of Veterans Affairs is being sought and no objection to the guardianship is made, a hearing shall not be held unless the Court finds that extraordinary circumstances require a hearing.~~

Cross reference: See Rule 2-806.

Source: This Rule is in part derived from former Rule R77 and is in part new.

REPORTER'S NOTE

Proposed amendments to Rule 10-205 include requiring a hearing on a petition for guardianship of the person of a minor, making a code reference in the cross reference following section (a) more specific, deleting subsection (b) (2), and adding a cross reference following section (b).

After careful review, a workgroup studying guardianships and vulnerable adults requested that all guardianships of the minor include the requirement of a hearing, which is currently mandated only in certain circumstances. The recommendation was made to provide consistency and as a protective measure.

Based on the workgroup's recommendation, the text of Rule 10-205 (a) is revised to require a hearing before a court rules on a petition for guardianship of the person of a minor. A cross reference following the section is revised from Code, Estates and Trusts Article, § 13-702 to § 13-702 (a), in order to provide more guidance.

The second set of changes concern beneficiaries of the United States Department of Veterans Affairs (VA). Subsection

(b) (2) currently allows a petition for guardianship of the person of a disabled person who is a beneficiary of the VA to be reviewed and granted by the court without a hearing, if no objection is made. The effect of striking this provision is to require a jury trial under subsection (b) (1), now section (b). The jury trial may be waived by the alleged disabled person or the attorney representing the person at any time prior to trial.

A cross reference to Rule 2-806 is added following section (b). Rule 2-806 concerns remote electronic participation in proceedings as authorized by specific law.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANSHIP AND OTHER FIDUCIARIES

CHAPTER 300 - GUARDIAN OF PROPERTY

AMEND Rule 10-301 by deleting current subsection (d)(2)(B); adding language to section (d) that requires documentation of certain requirements; by adding a Committee note after subsection (d)(1); by adding subsection (d)(2) addressing an alleged disability due to detention by a foreign power or by imprisonment; by adding subsection (d)(3) pertaining to an alleged disability due to disappearance; by adding a cross reference after subsection (d)(3); by adding subsection (d)(4) referring to certain required exhibits; and by deleting the Committee note after subsection (d)(4), as follows:

Rule 10-301. PETITION FOR APPOINTMENT OF A GUARDIAN OF PROPERTY

(a) Who May File

Any interested person may file a petition requesting a court to appoint a guardian of the property of a minor or an alleged disabled person.

(b) Form of Petition

The petition for a guardianship of the property of a minor shall be filed in substantially the form set forth in Rule 10-111. The petition for a guardianship of the property of an

alleged disabled person shall be filed in substantially the form set forth in Rule 10-112.

(c) Venue

(1) Resident

If the minor or alleged disabled person is a resident of Maryland, the petition shall be filed in the county where the minor or alleged disabled person resides, even if the person is temporarily absent.

(2) Nonresident

If the minor or disabled person does not reside in this State, the petition shall be filed in the county in which a petition for guardianship of the person may be filed, or in the county where any part of the property is located. For purposes of determining the situs of property, the situs of tangible personal property is its location; the situs of intangible personal property is the location of the instrument, if any, evidencing a debt, obligation, stock or chose in action, or the residence of the debtor if there is no instrument evidencing a debt, obligation, stock, or chose in action; and the situs of an interest in property held in trust is located where the trustee may be sued.

(d) Required Exhibits

The petitioner shall attach to the petition as exhibits ~~(1)~~ a copy of any instrument nominating a guardian; ~~(2)~~ ~~(A)~~ and

documentation in full compliance with at least one of the following:

(1) the certificates required by Rule 10-202;

Committee note: Rule 10-202 (a)(2) requires that a certificate of a licensed physician, licensed psychologist, or licensed certified social worker-clinical be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the offices of the clerks of the circuit courts.

~~, or (B) if guardianship of the property of a disabled person who is a beneficiary of the United States Department of Veterans Affairs is being sought, in lieu of the requirements of Rule 10-202, a certificate of the Secretary of that Department or an authorized representative of the Secretary stating that the person has been rated as disabled by the Department in accordance with the laws and regulations governing the Department of Veterans Affairs; and (3)~~

(2) if the alleged disability is due to detention by a foreign power or by imprisonment, affidavits or exhibits documenting (A) where and when the person is detained or imprisoned, (B) the reason the person was detained or imprisoned, (C) the expected duration of the detention or imprisonment, if known and (D) reasons why detention or imprisonment renders the person unable to manage his or her property and affairs effectively;

(3) if the alleged disability is due to disappearance, affidavits or exhibits documenting (A) when the person was first suspected of having disappeared, (B) the nature and extent of any search known to the petitioner to have been made to locate the person, (C) whether there exists any power of attorney signed by the person or effective remedy other than a guardianship, and (D) what, if any, effort was made to determine whether the person is still alive; or

Cross reference: With respect to a person who allegedly has disappeared, see Code, Courts Article, Title 3, Subtitle 1, in particular §§ 3-102, 3-105, and 3-106.

(4) if the petition is for the appointment of a guardian for a minor, all required exhibits listed in the Instructions on the form set forth in Rule 10-111, including, if the minor who is a beneficiary of the Department of Veterans Affairs, a certificate of the Secretary of that Department or any authorized representative of the Secretary, in accordance with Code, Estates and Trusts Article, § 13-802.

~~Committee note: Rule 10-202 (a) (1) requires that a certificate of a licensed physician, licensed psychologist, or licensed certified social worker-clinical be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the offices of the clerks of the circuit courts.~~

(e) Designation of a Guardian of the Property by a Minor or Disabled Person

After the 16th birthday of a minor or disabled person, a minor or disabled person may designate a guardian of the property of the minor or disabled person substantially in the following form:

. . .

Cross reference: See Code, Estates and Trusts Article, § 13-207.

Source: This Rule is derived as follows:
Section (a) is derived from former Rule R71 a.
Section (b) is new.
Section (c) is derived from former Rule R72 a and b.
Section (d) is new.
Section (e) is new.

REPORTER'S NOTE

Code, Estates and Trusts Article, § 13-201 (c) provides that a guardianship of the property may be based on the grounds of imprisonment, detention by a foreign power, and disappearance. The Rules Committee recommends amending Rule 10-301 to reference the additional grounds and the required exhibits for filing a guardianship of the property on those grounds.

In addition, at the request of the Department of Veteran Affairs, current subsection (d)(2)(B) is proposed for deletion in its entirety.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 300 - GUARDIAN OF PROPERTY

AMEND Rule 10-304 to require a hearing on a petition for guardianship of the property, and by adding a cross reference following section (a), as follows:

Rule 10-304. HEARING

~~(a) No Response to Show Cause Order~~

~~If no response to the show cause order is filed and the court is satisfied that the petitioner has complied with the provisions of Rule 10-302, the court may rule on the petition summarily.~~

~~(b) (a) Response to Show Cause Order; Place of Trial~~ Hearing Required

~~If a response to the show cause order objects to the relief requested, the court shall set the matter for trial, and shall give notice of the time and place of trial to all persons who have responded.~~ Before ruling on a petition for guardianship of the property, the court shall hold a hearing and give notice of the time and place of the hearing to all interested persons.
Upon motion by ~~the~~ an alleged disabled person asserting that, because of his or her disability, the alleged disabled person

cannot attend a ~~trial~~ hearing at the courthouse, the court may hold the ~~trial~~ hearing at a place to which the alleged disabled person has reasonable access.

Cross reference: See Code, Estates and Trusts Article, § 13-211 and Rule 2-806.

~~(c)~~ (b) Request for Attendance of Health Care Professional

When the petition is for guardianship of the property of a disabled person, each certificate filed pursuant to Rule 10-202 is admissible as substantive evidence without the presence or testimony of the health care professional unless, not later than 10 days before trial, an interested person who is not an individual under a disability, or the attorney for the disabled person, files a request that the health care professional appear to testify. If the trial date is less than 10 days from the date the response is due, a request that the health care professional appear may be filed at any time before trial.

Source: This Rule is in part derived from former Rule R77 and is in part new.

REPORTER'S NOTE

Rule 10-304 is proposed to be amended to require a hearing on all petitions for guardianship of the property.

Additionally, a cross reference to Rule 2-806 is proposed to be added.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-433 by adding a Committee note, as follows:

Rule 6-433. SUBSEQUENT PROCEDURE ON PETITION TO CAVEAT

The procedure for responding to and deciding the petition to caveat shall be governed by section (b) of Rule 6-122.

Committee note: A petition to caveat does not stay proceedings on a petition for judicial probate or preclude the court from transmitting issues pursuant to Rule 6-434. See *Shealer v. Straka*, 459 Md. 68 (2018).

REPORTER'S NOTE

A Committee note, which includes a reference to *Shealer v. Straka*, 459 Md. 68 (2018), is proposed to be added to Rule 6-433.

MARYLAND RULES OF PROCEDURE

TITLE 6 - GENERAL PROVISIONS

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-464 by adding a reference to the Register of Wills in subsection (a)(3), as follows:

Rule 6-464. STRIKING OF NOTICE OF APPEAL BY ORPHANS' COURT

(a) Generally

On motion or on its own initiative, the orphans' court may strike a notice of appeal (1) that has not been filed within the time prescribed by Rule 6-463, (2) if the Register of Wills has prepared the record pursuant to Code, Courts Article, §§ 12-501 and 12-502 and the appellant has failed to pay for the record, (3) if the appellant has failed to deposit with the Register of Wills the filing fee required by Code, Estates and Trusts Article, § 2-206, unless the fee has been waived by an order of court or by the Register of Wills pursuant to Code, Estates and Trusts Article, § 2-206 (a), (4) the appeal has been taken to the Court of Special Appeals and the appellant has failed to deposit with the Register of Wills the transcript costs, or (5) if by reason of any other neglect on the part of the appellant the record has not been transmitted to the court to which the

appeal has been taken within the time prescribed in Code, Courts Article, § 12-502.

(b) Notice

Before the orphans' court strikes a notice of appeal on its own initiative, the Register of Wills shall serve on all interested persons pursuant to Rule 6-125 a notice that an order striking the notice of appeal will be entered unless a response is filed within 15 days after service showing good cause why the notice of appeal should not be stricken.

Source: This Rule is new.

REPORTER'S NOTE

Chapter 233, 2018 Laws of Maryland (HB 556) provides that the Register of Wills is authorized to waive certain estate administration filing fees if the real property of the decedent subject to administration (1) is to be transferred to an heir of the decedent who resides on the property, or (2) is encumbered by a lien and subject to sale, and the estate is unable to pay the fees by reason of poverty. The Rules Committee recommends amending Rule 6-464 (a) (3) to refer to the authorization of the register to waive the filing fees.

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 200 - CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

ADD new Rule 1-205, as follows:

Rule 1-205. ADDRESS OF PARTICIPANT IN ADDRESS CONFIDENTIALITY PROGRAM

(a) Generally

If an individual who is a participant in the Address Confidentiality Program presents an address designated by the State Secretary of State as a substitute address, the court shall accept that address as the individual's address.

Cross reference: See Code, Family Law Article, §§ 4-519 through 4-530 and State Government Article, §§ 7-301 through 7-313, establishing an Address Confidentiality Program for victims of domestic violence or human trafficking.

(b) Prohibition

The court may not require a program participant to submit any address that could be used to physically locate the program participant either (1) as a substitute for or in addition to the designated address, or (2) as a condition of receiving a service or benefit unless the service or benefit would be impossible to provide without knowledge of the program participant's actual physical location.

REPORTER'S NOTE

An address confidentiality program has been established for victims of domestic violence and human trafficking. The program is administered by the Secretary of the State of Maryland.

Chapter 424, 2018 Laws of Maryland (SB 578) allows victims who are participants in the program to use a substitute address and requires persons and entities, including the Maryland courts, to accept the address designated by the Secretary of State.

The Rules Committee recommends adding a new Rule 1-205 to indicate that the courts must accept the designated address and may not require a program participant to submit any address that could be used to locate the individual, to which the program participant is entitled unless a service or benefit would be impossible to provide without knowledge of the program participant's actual physical location.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-206 (a) by adding to the list of conditions that allow a secured party to be excused from certain time and notice requirements when filing a petition for leave to immediately commence an action for foreclosure of a lien against real property the fact that the property that is the subject of the foreclosure is vacant and abandoned and by adding a Committee note after section (a), as follows:

Rule 14-206. PETITION FOR IMMEDIATE FORECLOSURE AGAINST RESIDENTIAL PROPERTY

(a) Right to File

A secured party may file a petition to be excused from the time and notice requirements of Code, Real Property Article, § 7-105.1 (b) and (c) and Rule 14-205 (b) and for leave to file an action for immediate foreclosure of a lien against residential property if:

(1) the debt secured by the lien instrument was obtained by fraud or deception;

(2) no payments have ever been made on the debt;

(3) the property subject to the lien has been destroyed; ~~or~~

(4) the default occurred after all stays have been lifted in a bankruptcy proceeding; or

(5) the property subject to the mortgage or deed of trust is property that is vacant and abandoned as provided under Code, Real Property Article, § 7-105.14.

Committee note: Notice and hearing procedures for filing a petition for leave to immediately commence an action for foreclosure of a lien against vacant and abandoned property are different than the procedures for filing a petition for other expedited foreclosure proceedings. See Code, Real Property Article, § 7-105.14 (b) for the notice and hearing procedures pertaining to vacant and abandoned property and (c) for the criteria required to make a finding that a property is vacant and abandoned.

(b) Contents of Petition

A petition filed under this Rule shall state with particularity the facts alleged in support of the petition and shall be under oath or supported by affidavit.

(c) Notice to Borrower and Record Owner

The secured party shall send by certified and first-class mail a copy of the petition and all papers attached to it to each borrower and record owner of the property at the person's last known address, and, if the person's last known address is not the address of the property, to the person at the address of the property. The mailing shall include a notice that the addressee may file a response to the petition within 10 days after the date of the mailing. Promptly after the mailing, the

secured party shall file an affidavit that states with particularity how compliance with this section was accomplished, including the date on which the petition was mailed and the names and addresses of the persons to whom it was mailed.

(d) Response

(1) Procedure

Within 10 days after the mailing pursuant to section (c) of this Rule, a borrower or record owner of the property may file a written response. The response shall state with particularity any defense to the petition and shall be under oath or supported by affidavit. A person who files a response shall serve a copy of the response and any supporting documents on the petitioner by first-class mail, and shall file proof of such service with the response.

Cross reference: See Rules 1-321 (a) and 1-323.

(2) Non-Waiver if No Timely Response Filed

A person's failure to file a timely response to the petition does not waive the person's right to raise any defense in the action to foreclose, including a defense based upon noncompliance with the time or notice requirements of Code, Real Property Article, § 7-105.1 (b) and (c).

(e) Hearing

The court may not grant the petition without a hearing if a response presents a genuine dispute of material fact as to

whether the petitioner is entitled to the relief requested. Otherwise, the court may grant or deny the petition without a hearing.

(f) Filing of Order to Docket or Complaint

An order to docket or complaint to foreclose shall be filed in the same action as the petition.

Committee note: If this Rule applies in an action to foreclose a lien against owner-occupied residential property, the loss mitigation analysis and affidavit requirements of Code, Real Property Article, § 7-105.1 are not applicable and foreclosure mediation under the statute is not available.

Source: This Rule is new.

REPORTER'S NOTE

Chapter 617, 2017 Laws of Maryland (SB 1033) expanded the list of conditions in Code, Real Property Article, § 7-105.1 (b) (2) that allow for expedited procedures for filing a petition for leave to file an action for immediate foreclosure of a mortgage or deed of trust to include the fact that the property that is subject to the mortgage or deed of trust is vacant and abandoned.

This revision means that the filing of a petition for leave to file an immediate foreclosure of vacant or abandoned property does not have to comply with the time and notice requirements of Code, Real Property Article, § 7-105.1 (b) and (c) and Rule 14-205 (b).

Code, Real Property Article, § 7-105.14, sets out the procedures for filing a petition for leave to commence an immediate action to foreclose a mortgage or deed of trust on vacant or abandoned property and the criteria necessary to make a finding that a property is vacant and abandoned. The statute also sets out the procedures for filing an order to docket or a

complaint to foreclose on the property when the petition is granted.

An amendment to Rule 14-206 (a) referring to Code, Real Property Article, § 7-105.14 is proposed by the Rules Committee. Because the procedure for filing a petition for leave to commence an immediate action to foreclose a mortgage or deed of trust on vacant or abandoned property varies from the procedure for leave to commence an action for immediate foreclosure that applies to other situations that allow for petitions for expedited commencement of actions to foreclose, a Committee note after section (a) explaining this also is proposed.