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# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** April 19, 2024  
**From:** Policy and Governance Committee  
**Re:** Rules of Licensure

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### **Action Recommended**

Approve the Rules of Licensure and submit them to the Supreme Court for adoption.

### **Background**

In 2023, the regulatory team submitted to PGC a recommendation for the formation of a new set of rules for attorneys to maintain their licensure within Oregon. Part of the focus of the rules of licensure was to consolidate a myriad of rules that existed in multiple different documents and rulesets throughout the bar. Additionally, the rules sought to create a location to place administrative licensure rules that did not necessarily fit within the Rules of Procedure or the Rules of Professional Conduct.

The Rules of Licensure draft presented to the PGC took rules from multiple rule sets within the bar. Rules within the MCLE Rules, the NLMP Rules, the Bylaws, RPC 1.15-2, and the Bar Rules of Procedure were encompassed within these Rules. These new rules do not reflect completely new rules but are a composite of rules already in place throughout the bar.

In September 2023, the PGC recommended that a draft of the Rules of Licensure be published for public comment, as well as comment from court staff and refinements from the regulatory staff at the bar. The Rules of Licensure were posted on the bar's website for 45 days, and the comments received from the public are attached. The changes made in the current set of rules reflect the comments provided from the public as well as court staff.

### **Options**

1. Approve the Rules of Licensure and submit them to the Supreme Court for adoption.
2. Request further review from staff on the Rules of Licensure.

### **Discussion**

A number of changes have been implemented through recommendations from public comment and staff. A lot of the changes do not change the substance of the Rules, but made them substantially easier to understand, and eliminated a lot of inconsistencies caused by merging different types of rules together.

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1. The Rules themselves have been rearranged to place the most important aspects for practicing attorneys closer to the front of the rules.
  2. Definitions have been expanded, and reviewed throughout the rules so the same terminology is used throughout the rules. Certain terms with synonyms (e.g. “lawyer” and “attorney”) have been simplified so that one term is used throughout the rules.
  3. Title 2 now distinguishes between licensure status and bar membership.
  4. Administrative suspensions, previously referenced throughout each individual Rule with suspension for violation, are all now encompassed in a uniform rule and appeal process under Title 3.
  5. Title 5 has been adjusted in relation to PLF coverage with review from the PLF. The language has been drafted to conform with their policies.
  6. The OLF provided comments for Title 6. Those comments have been incorporated to clarify the IOLTA Rules.
  7. Titles 8 and 9 encompassing the MCLE Requirements has been substantially adjusted for clarity to practitioners and sponsors.
  8. Title 11 Reinstatement has been substantially rewritten for clarity.

A clean copy of the current Rules of Licensure is provided as Exhibit 1 of the PGC Memorandum along with the public comment received as Exhibit 2. As the changes rearranged large portions of the text, no redline is provided. A copy of the memorandum provided to this Committee, along with their Exhibits, is provided as Exhibit 3.

If approved by the Board, the bar will present these rules to the Court with a planned implementation of January 1, 2025. Staff will also be working on adjusting the corresponding Bar Rules of Procedure to supplement the Rules of Licensure to be presented to the Board in June.

#### Attachments

#### PGC Memorandum

Exhibit 1: Rules of Licensure (2024.04.11 Clean Version)

Exhibit 2: Public Comment

Exhibit 3: Sept. 22, 2023 PGC Memorandum

# OREGON STATE BAR

## Policy and Governance Agenda

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**Meeting Date:** April 19, 2024  
**From:** Ankur Doshi, General Counsel  
**Re:** Rules of Licensure

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### **Action Recommended**

Recommend the Board of Governors approve the Rules of Licensure and submit them to the Supreme Court for adoption.

### **Background**

In 2023, the regulatory team submitted to PGC a recommendation for the formation of a new set of rules for attorneys to maintain their licensure within Oregon. Part of the focus of the rules of licensure was to consolidate a myriad of rules that existed in multiple different documents and rulesets throughout the bar. Additionally, the rules sought to create a location to place administrative licensure rules that did not necessarily fit within the Rules of Procedure or the Rules of Professional Conduct.

The Rules of Licensure draft presented to the PGC took rules from multiple rule sets within the bar. Rules within the MCLE Rules, the NLMP Rules, the Bylaws, RPC 1.15-2, and the Bar Rules of Procedure were encompassed within these Rules. These new rules do not reflect completely new rules but are a composite of rules already in place throughout the bar.

In September 2023, the PGC recommended that a draft of the Rules of Licensure be published for public comment, as well as comment from court staff and refinements from the regulatory staff at the bar. The Rules of Licensure were posted on the bar's website for 45 days, and the comments received from the public are attached. The changes made in the current set of rules reflect the comments provided from the public as well as court staff.

### **Options**

1. Recommend that the Board submit these Rules of Licensure to the Supreme Court for adoption.
2. Request further review from staff on the Rules of Licensure.

### **Discussion**

A number of changes have been implemented through recommendations from public comment and staff. A lot of the changes do not change the substance of the Rules, but made

them substantially easier to understand, and eliminated a lot of inconsistencies caused by merging different types of rules together.

1. The Rules themselves have been rearranged to place the most important aspects for practicing attorneys closer to the front of the rules.
2. Definitions have been expanded, and reviewed throughout the rules so the same terminology is used throughout the rules. Certain terms with synonyms (e.g. “lawyer” and “attorney”) have been simplified so that one term is used throughout the rules.
3. Title 2 now distinguishes between licensure status and bar membership.
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6. The OLF provided comments for Title 6. Those comments have been incorporated to clarify the IOLTA Rules.
7. Titles 8 and 9 encompassing the MCLE Requirements has been substantially adjusted for clarity to practitioners and sponsors.
8. Title 11 Reinstatement has been substantially rewritten for clarity.

I have provided a clean copy of the current Rules of Licensure as Exhibit 1 along with the public comment received as Exhibit 2. As the changes rearranged large portions of the text, I have not provided a redline. A copy of the memorandum provided to this Committee, along with their Exhibits, is provided as Exhibit 3.

If approved by the Board, the bar will present these rules to the Court with a planned implementation of January 1, 2025. Staff will also be working on adjusting the corresponding Bar Rules of Procedure to supplement the Rules of Licensure to be presented to the Board in June.

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Exhibit 2: Public Comment

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# Oregon State Bar Rules of Licensure

## CONTENTS

<b>Title 1 – General Provisions .....</b>	<b>4</b>
1.1    Definitions .....	4
1.2    Authority .....	6
1.3    Amendments .....	6
1.4    Citation of Rules .....	6
<b>Title 2 - Licensure Status.....</b>	<b>7</b>
2.1    Licensure Statuses and Member Classifications .....	7
2.2    Change of Licensure Status .....	8
2.3    Active Pro Bono Licensure Status - Limitations and Other Requirements.....	8
2.4    Register of Members, Demographic Data, and Contact Information .....	8
<b>Title 3 – Administrative Suspension .....</b>	<b>10</b>
3.1    Administrative Suspension .....	10
3.2    Review of Administrative Suspension.....	10
3.3    Report of Suspension to the Court .....	10
<b>Title 4 - Fees.....</b>	<b>11</b>
4.1    Annual Membership Fees and Assessments .....	11
4.2    Fee Exemptions and Waivers .....	11
4.3    Delinquency and Suspension .....	12
<b>Title 5 - Professional Liability Coverage Requirements .....</b>	<b>13</b>
5.1    Principal Office .....	13
5.2    Active Members .....	13
5.3    Active Members Outside of Oregon.....	13
5.4    Delinquency and Suspension .....	13
<b>Title 6 - Trust Account Requirements .....</b>	<b>14</b>
6.1    Application .....	14
6.2    IOLTA Accounts .....	14
6.3    Interest-Bearing Trust Accounts.....	14
6.4    Determining Whether Funds Can Earn Net Interest.....	14
6.5    Review of Trust Accounts and Requesting Refunds.....	15
6.6    Financial Institutions.....	15

6.7	Certification of Trust Accounts .....	17
6.8	Administrative Suspension .....	17
<b>Title 7 – New Lawyer Mentoring Program (NLMP) .....</b>		<b>18</b>
7.1	New Lawyer Mentoring Program (NLMP).....	18
7.2	Exemptions and Deferrals .....	18
7.3	Mentors .....	19
7.4	Matching.....	19
7.5	NLMP Completion Certificate.....	20
7.6	Removal of NLMP Mentors.....	20
7.7	Administration of New Lawyer Mentoring Program.....	21
<b>Title 8 - Minimum Continuing Legal Education (MCLE) .....</b>		<b>22</b>
8.1	MCLE Requirements for Active Members .....	22
8.2	Additional MCLE Requirements for Recently Reinstated Members and New Attorney Admittees .....	23
8.3	Out-of-State Compliance.....	23
8.4	Reporting Period .....	24
8.5	Reports.....	25
8.6	Recordkeeping.....	26
8.7	Application of Credits.....	26
8.8	Audits of Members .....	27
8.9	Suspension for Noncompliance.....	27
8.10	Cure and Initial Review .....	28
8.11	Exemptions from MCLE Requirements .....	28
8.12	Other Waiver or Exemption, or Delayed or Substitute Compliance .....	29
8.13	Further Review .....	29
<b>Title 9 - CLE Accreditation and Monitoring .....</b>		<b>30</b>
9.1	Accreditation .....	30
9.2	Group Accreditation (Category I).....	30
9.3	Credit Hours .....	31
9.4	Fees .....	31
9.5	Sponsor Advertising .....	31
9.6	Sponsor Attendance Reporting .....	32
9.7	Independent Study.....	32
9.8	Specialized Credit Program Content Standards.....	32

9.10	Licensed Paralegal Specific Program Content Standards.....	34
9.11	Additional Accredited Programs .....	35
9.12	Accreditation Standards for Teaching, Writing, and Bar Service (Category II) .....	36
9.13	Accreditation Standards for Other Programs (Category III) .....	37
9.14	Unaccredited Activities .....	38
9.15	Audit of Sponsors.....	38
<b>Title 10 - Temporary Practice During a Justice System Emergency.....</b>		<b>39</b>
10.1	Declaration of Justice System Emergency .....	39
10.2	Temporary Pro Bono Practice .....	39
10.3	Temporary Practice by Displaced Lawyers .....	39
10.4	Disciplinary Authority and Registration Requirement .....	40
<b>Title 11 - Reinstatements .....</b>		<b>41</b>
11.1	Eligibility for Administrative or Streamlined Reinstatement .....	41
11.2	Obligations of Applicant .....	41
11.3	Application Form and Content, Burden of Proof, and Required Showings .....	42
11.4	Administrative Reinstatement .....	43
11.5	Streamlined Reinstatement.....	44
11.6	Financial Obligations .....	44
11.7	Conversion of Reinstatement Application .....	45
11.7	Temporary Reinstatement .....	46
<b>Title 12 - Resignation .....</b>		<b>47</b>
12.1	Member Resignation .....	47

## TITLE 1 – GENERAL PROVISIONS

### 1.1 Definitions

- (1) "Accredited CLE Activity" means an activity that provides legal or professional education to attorneys or LPs that has been accredited in accordance with these Rules.
- (2) "Admission Type" means admission of a member to the Bar as either an attorney under the Rules for Admission of Attorneys or as an LP under the Rules for Admission of Licensed Paralegals.
- (3) "Applicant" means an applicant for reinstatement to the practice of law in Oregon.
- (4) "Attorney" means a person who has been admitted to the practice of law in Oregon under the Rules for Admission of Attorneys.
- (5) "Bar" means Oregon State Bar created by the Bar Act.
- (6) "Bar Act" refers to the statutory provisions found at ORS 9.005 to 9.757.
- (7) "Bar Rules of Procedure" or "BR" means the Oregon State Bar Rules of Procedure.
- (8) "Board" means Board of Governors of the Bar.
- (9) "CLE" means continuing legal education.
- (10) "Chief Executive Officer" means the chief administrative employee of the Bar or their designee.
- (11) "Contested Reinstatement" means a proceeding in which the Bar does not favor the reinstatement to the practice of law of an attorney, a former attorney, an LP, or a former LP. Contested reinstatements are governed by the Bar Rules of Procedure.
- (12) "Disciplinary Board" means the board appointed by the Supreme Court to adjudicate disciplinary proceedings of the Bar under ORS 9.534 and contested reinstatement hearings.
- (13) "General Counsel" means the General Counsel of the Bar or their designee.
- (14) "Hour" or "Credit Hour" means 60 minutes of accredited group CLE activity or other CLE activity.
- (15) "IOLTA" or "Interest on Lawyer/LP Trust Accounts" means a lawyer/LP trust account for client funds that cannot earn interest in excess of the costs of generating such interest.
- (16) "Licensed Paralegal" or "LP" means a person who has been admitted to law practice in Oregon under the Rules for Licensing Paralegals.
- (17) "Licensure status" means the current status of a member's Bar license.
- (18) "MCLE" means minimum continuing legal education.
- (19) "MCLE Committee" means the committee appointed by the Board to assist in the administration of MCLE.



- (20) "MCLE Program Manager" means the Bar staff member designated by the Chief Executive Officer to assist in the administration of the MCLE Program
- (21) "Member" means a member of the Bar, regardless of admission type or licensure status.
- (22) "New Attorney Admittee" means a new attorney member of the Bar, based on the date of their initial admission through the end of their first reporting period. Unless otherwise expressly stated, "New Attorney Admittee" does not include a member admitted by comity as defined in Rule for Admission
- (23) "New Lawyer Mentoring Program" or "NLMP" means the mandatory mentoring program designed to increase the competence and professionalism of new attorney admittees in Oregon.
- (24) "NLMP Manager" means the Bar staff member designated by the Chief Executive Officer to assist in the administration of the NLMP.
- (25) "Oregon Law Foundation" means the non-profit organization created by the Oregon State Bar in 1981 to distribute IOLTA monies to fund law-related charities.
- (26) "Principal Office," unless stated otherwise in the title or rule, means the physical location the member holds out to the public as an office where the member engages in the practice of law, whether the member engages in the practice while physically present in that location or while remote working via telephone, internet, or other electronic connection from another location.
- (27) "Professional Liability Fund" or "PLF" means the Oregon State Bar Professional Liability Fund, a fund created under ORS 9.080(2) that provides professional liability coverage to members of the Bar within Oregon in the private practice of law.
- (28) "PLF Policy" means the policies adopted by the PLF and the Board to govern the operation of the PLF, available at <https://www.osbplf.org/board/documents-resources.html>.
- (29) "Reporting period" means the period during which an active member must satisfy MCLE requirements.
- (30) "Rules for Admission of Attorneys" or "RFA" means the Oregon State Bar Rules for Admission of Attorneys.
- (31) "Rules for Licensing Paralegals" or "RLP" means the Oregon State Bar Rules for Licensing Paralegals.
- (32) "Rules of Professional Conduct" or "RPC" means the corresponding Rules of Professional Conduct for attorneys, or the Rules of Professional Conduct for Licensed Paralegals for LPs.
- (33) "Sponsor" means an individual or organization providing a CLE activity.
- (34) "State Court Administrator" means the person who holds the office created pursuant to ORS 8.110.
- (35) "Supreme Court" or "court" means the Oregon Supreme Court.
- (36) "SPRB" means State Professional Responsibility Board appointed by the Supreme Court.

## **1.2 Authority**

These “Rules of Licensure” are adopted by the Board and approved by the Supreme Court pursuant to ORS 9.006, ORS 9.542, and the inherent authority of the court. Unless otherwise noted, these rules apply to all admitted active and inactive members of the Bar, regardless of admission type, licensure type or member status.

## **1.3 Amendments**

These Rules of Licensure may be amended or repealed, and new rules may be adopted, by the Board at any regular meeting or at any special meeting called for that purpose. No amendment, repeal, or new rule shall become effective until approved by the Supreme Court.

## **1.4 Citation of Rules**

These Rules of Licensure may be referred to as the RLs and cited, for example, as RL 2.1(1).

## TITLE 2 - LICENSURE STATUS

### 2.1 Licensure Statuses and Member Classifications

- (1) The following statuses apply to licenses issued by the Bar:
  - (a) "Active" means that the license holder is either:
    - (i) Admitted to practice law in Oregon under ORS 9.220 and may practice law within Oregon pursuant to ORS 9.160 or ORS 9.241(3); or
    - (ii) Admitted as an associate member under ORS 9.241(3) as a licensed paralegal with a limited scope of practice and may engage in that practice.
  - (b) "Active pro bono" means that the license holder may provide only pro bono legal services to indigent clients referred by pro bono programs certified by the Bar.
  - (c) "Inactive" means that the license holder may not practice law within Oregon pursuant to ORS 9.160 or ORS 9.241(3). Suspended licenses are considered inactive.
  - (d) "Resigned" means that the license holder has voluntarily given up their license under ORS 9.261 and may not practice law in Oregon under ORS 9.160 or ORS 9.241(3).
  - (e) "Disbarred" means that the court has revoked the license holder's license pursuant to ORS 9.527, and that the license holder may not practice law in Oregon under ORS 9.160 or ORS 9.241(3).
- (2) Members are classified as follows:
  - (a) Active attorney member: An attorney member whose license is in active status.
  - (b) Active pro bono member: An attorney member whose license is in active pro bono status.
  - (c) Active LP member: An active member who is admitted as an associate member under ORS 9.241(3) as an LP with a limited scope of practice.
  - (d) Active pro bono LP member: An active member who is admitted as an associate member under ORS 9.241(3) as an LP with a limited scope of practice, and who may only provide certain pro bono legal services.
  - (e) Inactive member: An attorney or LP member whose license is in inactive status. Members who are 65 years or older may be designated as retired but are considered inactive members.
- (3) References to "active members" in these rules refer to both active attorney members and active LP members.

## 2.2 Change of Licensure Status

- (1) An active member may voluntarily change their licensure status to active pro bono status or inactive status at any time. Requests for such a change must be received in writing by January 31 to be assessed the fee for the new status in the current year.
- (2) Active pro bono members, inactive members, and prior members who resigned from Bar before December 1, 2019, who seek to reinstate to active or active pro bono status, must apply for reinstatement under Title 10 of these rules.

## 2.3 Active Pro Bono Licensure Status - Limitations and Other Requirements

- (1) Limitations on Practice.  
Active pro bono members shall not engage in the practice of law within Oregon, except that they may provide pro bono legal services to indigent clients referred by pro bono programs certified by the Bar; in volunteer service on the State Professional Responsibility Board or the Disciplinary Board; or as Bar counsel.
- (2) Professional Liability Coverage.  
An active pro bono member who engages in the practice of law within Oregon as described in this Rule shall obtain professional liability coverage through the Professional Liability Fund or through the certified pro bono program.
- (3) Reporting.  
An active pro bono member shall either:
  - (a) Ensure that the certified pro bono program reports their hours to the Bar no later than April 30 of each year; or
  - (b) Individually report their hours to the Bar no later than April 30 of each year.
- (4) Transfer from Out-Of-State Active Pro Bono Status.  
An out-of-state active pro bono member admitted through RFA 17.05 is not eligible to transfer their status to any other status.
- (5) An active pro bono member shall be assessed a fee that is equivalent to the inactive membership fee.

## 2.4 Register of Members, Demographic Data, and Contact Information

- (1) Register of Members.

The Bar shall maintain and publish a register of the enrollment of all members. The published register of members must include the member's name, Bar number, and current licensure status.

(2) Demographic Data.

To evaluate disparities and impacts in the justice system in Oregon, the Bar may collect personal information and demographic information from its members or from the public during the registration of members each year and through other means. Pursuant to ORS 1.002(3)(c), any such data shall be confidential and not subject to disclosure absent a court order for good cause shown. The Bar may utilize such demographic data for its own internal purposes, including evaluating participation in Bar groups. The Bar may permit the release of this data publicly in an aggregate de-identified form as required to carry out its functions.

(3) Designation of Contact Information.

Each member shall provide the Bar with a designation of a principal office address where the member can accept service and telephone number, or if no principal office address is available, a post office or residential address and telephone number. A post office address designation must be accompanied by the county and state in which the member is geographically located. Unless no other addresses are available, the bar will not make a member's home address publicly available on the membership directory. All addresses are subject to disclosure under the Oregon Public Records Law unless a member applies and is granted an exemption from the Bar's General Counsel.

(4) Designation of E-Mail Address.

- (a) Each member shall provide the Bar with a designation of an e-mail address for receipt of Bar regulatory notices and correspondence.
- (b) A member may request an exemption from designating an e-mail address if their licensure status is inactive or if the member seeks a reasonable accommodation under applicable law. A member seeking an exemption as a reasonable accommodation must submit a written request to the Chief Executive Officer, whose decision on the request will be final.

(5) Change of Contact Information or E-mail Address.

Each member shall promptly notify the Bar in writing when any change in their contact information or e-mail address occurs. A new designation is not effective until actually received by the Bar.

## **TITLE 3 – ADMINISTRATIVE SUSPENSION**

### **3.1 Administrative Suspension**

A member's license may be administratively suspended for failing to comply with these Rules. The Bar may impose such a suspension automatically upon the member's failure to comply.

### **3.2 Review of Administrative Suspension**

- (1) Unless otherwise noted in these Rules, a member administratively suspended under these Rules may request review of the administrative suspension by the Chief Executive Officer.
- (2) To request review, the member shall submit a written request for review of the administrative suspension to the Chief Executive Officer that describes the suspension to be reviewed and the reasons for requesting review. The member shall accompany the request with additional materials establishing compliance.
- (3) The Chief Executive Officer may vacate a decision to impose the administrative suspension if clear and convincing evidence establishes that that the member complied with these Rules, or may affirm the administrative suspension.

### **3.3 Report of Suspension to the Court**

The Chief Executive Officer shall provide the names of all members suspended under these Rules to the State Court Administrator for forwarding to the justices of the Supreme Court and shall also provide the names to each of the judges of the Court of Appeals, Tax Court, and circuit courts of the state.

## TITLE 4 - FEES

### 4.1 Annual Membership Fees and Assessments

- (1) Members will be assessed an annual fee and other assessments as set by the Board of Governors and approved by the House of Delegates pursuant to ORS 9.191.
- (2) The payment due date for annual membership fees and assessments is January 31, at 11:59 p.m. PT.
- (3) Proration of Fees. The Board may establish a uniform procedure for proration of membership fees based on the date of admission to practice during the course of the year. New members have ninety (90) days from the date of admission to pay their membership fees. If a new member fails to pay the fees within the time allowed, the new member's license is administratively suspended.

### 4.2 Fee Exemptions and Waivers

- (1) Hardship Waiver.
  - (a) The Chief Executive Officer may, each year, exempt or waive payment of annual membership fees or assessments in cases of proven extreme hardship, which must entail both extreme financial hardship and either physical or mental disability. "Extreme financial hardship" means that the member is unemployed and has no source of income other than governmental or private disability payments. The Chief Executive Officer may exempt or waive payment of annual membership fees or assessments for any of the member classifications set forth in RL 2.1(2).
  - (b) Hardship waivers may be granted for only a one-year period, and requests must be resubmitted annually on or before January 31 of the year for which the exemption is requested.
  - (c) A member seeking a request for a hardship waiver must provide documentation regarding the member's income and a physician's statement or other evidence of disability.
- (2) Civil Service-Related Waiver.
  - (a) The Chief Executive Officer, may, each year, waive or exempt annual membership fees and assessments for any member in active military service, the Peace Corps, VISTA, or other volunteer programs serving the national interest or the legal profession, and for which the member receives only a subsistence income, stipend, or expense reimbursement that is the member's principal source of income.
  - (b) Requests for service-related waivers must be received 15 days before the date that membership fees and assessments are due each year. Waivers will not be granted unless the member's service encompasses the majority of a year except in the case of military waivers, which may be granted for less than the majority of a year under special circumstances such as a war of unknown duration.

(3) Severe Disruption Waivers.

The Chief Executive Officer may take reasonable and necessary actions, including extending deadlines and waiving late fees, if national or statewide events occur that severely disrupt the normal course of business. Prior to taking action, the Chief Executive Officer will make reasonable efforts to consult with the Bar President.

### **4.3 Delinquency and Suspension**

- (1) The Board will establish a late payment penalty to be assessed on any member who is delinquent in payment of membership fees and assessments. Any member who is in default of payment of annual membership fees and assessments shall have a reasonable opportunity to cure the default, as determined by the Board.
- (2) The Chief Executive Officer shall send a notice of delinquency to each member in default at the member's e-mail address on file with the Bar on the date of the notice. The Chief Executive Officer shall send the notice by mail to any member who is not required to have an e-mail address on file with the Bar.
- (3) If a member fails to pay the fees or assessments within the time allowed to cure the default as stated in the notice, the member's license is administratively suspended automatically under RL 3.1.



## **TITLE 5 - PROFESSIONAL LIABILITY COVERAGE REQUIREMENTS**

### **5.1 Principal Office**

For the purposes of this Title alone, a “principal office” is defined as set forth in the PLF Bylaws and Policies.

### **5.2 Active Members**

Each active member with a principal office in Oregon, and each attorney temporarily admitted to perform legal services under RFA 13.70 who is engaged in the private practice of law with a principal office in Oregon, is required to participate in the mandatory coverage of the PLF unless otherwise exempt under PLF Policy 3.150.

### **5.3 Active Members Outside of Oregon**

Each active member with a principal office outside Oregon, and each attorney temporarily admitted to perform legal services under RFA 13.70 who is engaged in the private practice of law with a principal office outside Oregon, is required to obtain malpractice coverage substantially equivalent to PLF primary coverage unless otherwise exempt under the PLF Bylaws and Policies for a reason other than their principal office is not in Oregon.

### **5.4 Delinquency and Suspension**

- (1) The PLF Board of Directors will set a late payment penalty to be assessed on any member or temporarily admitted attorney who is delinquent in payment of PLF assessments. Any member or temporarily admitted attorney in default of payment of assessments will be given a reasonable opportunity to cure the default, as determined by the Board.
- (2) The Chief Executive Officer shall send a notice of delinquency to each member in default at the member’s e-mail address on file with the Bar on the date of the notice. The Chief Executive Officer shall send the notice by mail to any member who is not required to have an electronic mail address on file with the Bar.
- (3) If a member fails to pay the PLF assessment within the time allowed to cure the default as stated in the notice, the member’s license is administratively suspended automatically under Title 3.

## TITLE 6 - TRUST ACCOUNT REQUIREMENTS

### 6.1 Application

This Title applies to all members described in Title 2, regardless of licensure type or membership status.

### 6.2 IOLTA Accounts

- (1) An IOLTA (Interest on Lawyer/LP Trust Account) is a trust account for client funds that cannot earn interest in excess of the costs of generating such interest (“net interest”).
- (2) All client funds shall be deposited in the member’s or law firm’s IOLTA unless a particular client’s funds can earn net interest.
- (3) An IOLTA should be maintained in the jurisdiction where the member’s principal office is situated.
- (4) An attorney not licensed within Oregon but authorized to practice within Oregon under federal jurisdiction may open an Oregon IOLTA to serve Oregon clients.
- (5) All interest earned by funds held in an Oregon IOLTA shall be paid to the Oregon Law Foundation as provided in this Title.

### 6.3 Interest-Bearing Trust Accounts

- (1) Client funds that can earn net interest shall be deposited in an interest-bearing trust account for the client’s benefit and the net interest earned by funds in such an account shall be held in trust as property of the client in the same manner as is provided in Rule of Professional Conduct 1.15-1 for the principal funds of the client.
- (2) The interest-bearing account shall be either:
  - (a) a separate account for each particular client or client matter; or
  - (b) a pooled lawyer/LP trust account with subaccounting that provides for computation of interest earned by each client’s funds and the payment thereof, net of any bank service charges, to each client.
- (3) No earnings from a lawyer/LP trust account shall be made available to a member or the member’s firm.

### 6.4 Determining Whether Funds Can Earn Net Interest

- (1) In determining whether client funds can or cannot earn net interest, the member or law firm shall consider the following factors:
  - (a) the amount of the funds to be deposited;
  - (b) the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;

- (c) the rates of interest at financial institutions where the funds are to be deposited;
- (d) the cost of establishing and administering a separate interest-bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the member or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;
- (e) the capability of financial institutions, the member or the law firm to calculate and pay income to individual clients; and
- (f) any other circumstances that affect the ability of the client's funds to earn a net return for the client.

## **6.5 Review of Trust Accounts and Requesting Refunds**

### **(1) Review at Reasonable Intervals.**

The member or law firm shall review the IOLTA account at reasonable intervals to determine whether the client's funds may earn net interest or whether circumstances have changed that require further action.

### **(2) Requesting Refunds.**

- (a) If a member or law firm determines that a particular client's funds in an IOLTA account either did or can earn net interest, the member shall transfer the funds into an account specified in RL 6.3 and request a refund for the lesser of either:
  - (i) any interest earned by the client's funds and remitted to the Oregon Law Foundation; or
  - (ii) the interest the client's funds would have earned had those funds been placed in an interest-bearing account for the benefit of the client at the same bank.
- (b) The request shall be made in writing to the Oregon Law Foundation within a reasonable period of time after the interest was remitted to the Foundation and shall be accompanied by written verification from the financial institution of the interest amount.
- (c) The Oregon Law Foundation will not refund more than the amount of interest it received from the client's funds in question. The refund shall be remitted either directly to the member or law firm requesting a refund to be held in trust for the client, or to the financial institution for transmittal to the attorney member or law firm, after appropriate accounting and reporting.

## **6.6 Financial Institutions**

- (1) A member or a law firm may maintain an Oregon lawyer/LP trust account only at a financial institution that:
  - (a) is authorized by state or federal banking laws to transact banking business in Oregon;

- (b) is insured by the Federal Deposit Insurance Corporation or an analogous federal government agency;
- (c) has entered into an agreement with the Oregon Law Foundation, as set out in paragraph (2) of this rule; and
- (d) has entered into an overdraft notification agreement with the Bar, as set out in paragraph (3) of this rule.

(2) Oregon Law Foundation Agreement.

The agreement between the financial institution and the Oregon Law Foundation shall require the institution to:

- (a) remit to the Oregon Law Foundation, at least quarterly, interest earned by the IOLTA account, computed in accordance with the institution's standard accounting practices, less reasonable service charges, if any; and
- (b) deliver to the Oregon Law Foundation a report with each remittance showing the following:
  - (i) the name of the member or law firm for whom the remittance is sent;
  - (ii) the number of the IOLTA account as assigned by the financial institution;
  - (iii) the average daily collected account balance or the balance on which the interest remitted was otherwise computed for each month for which the remittance is made;
  - (iv) the rate of interest applied;
  - (v) the period for which the remittance is made; and
  - (vi) the amount and description of any service charges deducted during the remittance period.
- (c) For the purposes of this subsection, "service charges" are limited to the institution's following customary check and deposit processing charges: monthly maintenance fees, per item check charges, items deposited charges and per deposit charges. Any other fees or transactions costs are not "service charges" for purposes of this subsection and must be paid by the member or law firm.

(3) Overdraft Notification Requirements.

An overdraft notification agreement between the financial institution and the Bar shall require the institution to:

- (a) Report to the Bar's Disciplinary Counsel when any properly payable instrument is presented against an account containing insufficient funds, whether or not the instrument is honored; and
- (b) Provide the following information in writing to Bar's Disciplinary Counsel, within ten banking days of the date the item was returned unpaid:
  - (i) the identity of the financial institution;

- (ii) the identity of the member or law firm;
- (iii) the account number; and
- (iv) either the amount of the overdraft and the date it was created; or the amount of the returned instrument and the date it was returned.

(4) Application and Cancellation of Agreements.

- (a) Agreements between financial institutions and the Oregon State Bar or the Oregon Law Foundation shall apply to all branches of the financial institution.
  - (b) Such agreements shall not be canceled except upon a thirty-day notice in writing to OSB Disciplinary Counsel in the case of a trust account overdraft notification agreement or to the Oregon Law Foundation in the case of an IOLTA agreement.
- (5) Nothing in this rule shall preclude financial institutions that participate in any trust account overdraft notification program from charging members or law firms for the reasonable costs incurred by the financial institutions in participating in such program.

## **6.7 Certification of Trust Accounts**

- (1) Members shall certify each year to the Bar whether the member maintains any lawyer/LP trust accounts within Oregon.
- (2) The member shall provide to the Bar the financial institution maintaining each account and the account number of each account, on a form provided by the Bar.
- (3) Certifications for lawyer/LP trust accounts shall be due to the Bar by January 31, at 11:59 p.m.

## **6.8 Administrative Suspension**

- (1) If a member does not file certifications and a list of accounts as required under Rule 6.7, the Chief Executive Officer shall provide the member written notice of default and prescribe a reasonable time to cure.
- (2) Notice shall be submitted at the member's e-mail address provided to the Bar, or by mail if the member is not required to have an e-mail address.
- (3) If a member fails to file the certification and disclosures required by this section within the time allowed to cure the default as stated in the written notice of default, the member shall be administratively suspended automatically under Title 3.

## TITLE 7 – NEW LAWYER MENTORING PROGRAM (NLMP)

### 7.1 New Lawyer Mentoring Program (NLMP)

- (1) Within 28 days of admission, each new attorney admittee who is an active member whose principal office for the practice of law is in Oregon shall either:
  - (a) Enroll in the NLMP by filing an NLMP Enrollment Form with the Bar; or
  - (b) Certify to the Bar that the new attorney admittee is eligible for either an exemption from the NLMP as provided in RL 7.2(1) or a temporary deferral as provided in RL 7.2(2)(b).
- (2) Within the first three-year reporting period following admission as an active member, each new attorney admittee shall complete the requirements of the NLMP curriculum established by the Board, complete a mentoring plan, file an NLMP Completion Certificate, and pay the accreditation fee.

### 7.2 Exemptions and Deferrals

- (1) Exemptions.
  - (a) A new attorney admittee is exempt from the NLMP requirements if:
    - (i) The admittee has practiced law in another jurisdiction for two years or more upon admission to the Bar; or
    - (ii) The admittee defers the NLMP under subsection (2)(a) of this Rule for two or more years and practices law outside the State of Oregon for two or more years.
  - (b) The MCLE Program Manager may grant any other exemption from the NLMP requirements, with the consent of the NLMP Program Manager, for good cause shown.
  - (c) A new attorney admittee who earns \$75,000 or less annually and whose employer will not pay the NLMP fee is exempt from payment of the NLMP fee.
- (2) Deferrals.
  - (a) A new attorney admittee whose principal office is outside the State of Oregon is temporarily deferred from the NLMP requirements.
  - (b) A new attorney admittee is eligible for a temporary deferral from the NLMP requirements if the new attorney admittee is not engaged in the practice of law or is serving as a judicial clerk.

- (c) A new attorney admittee who ceases to qualify for a deferral must notify the NLMP Program Manager and enroll in the NLMP within 28 days of the change in circumstance that led to the deferral.
- (d) The NLMP Program Manager may approve a deferral for good cause shown.

### **7.3 Mentors**

- (1) The Supreme Court appoints NLMP mentors, upon recommendation by the Bar.
- (2) A person qualifies for appointment as a mentor if:
  - (a) The person is an active or active pro bono attorney member attorney in good standing, with at least five years of experience in the practice of law and a reputation for competence and ethical and professional conduct;
  - (b) The person is an attorney who is not a member of the Bar, but otherwise meets the requirements of subsection (2)(a) and also is a member in good standing in another United States jurisdiction and is qualified to represent clients before the Social Security Administration, the Internal Revenue Service, the United States Patent and Trademark Office, or the United States Citizenship and Immigration Services office; or
  - (c) The person is an attorney who is not a member of the Bar, but otherwise meets the requirements of subsection (2)(a) and also is in good standing in another United States jurisdiction, and is recommended by the NLMP Program Manager.

### **7.4 Matching**

- (1) The NLMP Program Manager will match new attorney admittees with NLMP mentors based principally on geography and, whenever possible, practice area interests. Upon request by the new attorney admittee and NLMP mentor, the NLMP Program Manager may consider common membership in specialty or affinity bar organizations when establishing a match. The NLMP Program Manager will notify the new attorney admittee and NLMP mentor as soon as an NLMP match is confirmed.
- (2) The NLMP Program Manager may reassign a match upon request of the new attorney admittee or NLMP mentor, if the coordinator determines a match is not effective to meet the goals of the program.
- (3) The new attorney admittee is responsible for arranging the initial meeting with the NLMP mentor, and the meeting must take place within 28 business days of the new attorney admittee's receipt of notice of the match. At the meeting, the new attorney admittee and NLMP mentor will review the elements of their mentoring plan, including the following topics:
  - (a) introduction to the legal community;

- (b) professionalism, the Oregon Rules of Professional Conduct, and cultural competence;
- (c) introduction to law office management;
- (d) working with clients;
- (e) career development through public service, Bar programs, and quality of life issues; and
- (f) practice area basic skills.

## **7.5 NLMP Completion Certificate.**

- (1) Each new attorney admittee is responsible for ensuring that all requirements of the NLMP are completed.
- (2) Upon completion of the NLMP, a new attorney admittee shall file with the Bar an NLMP Completion Certificate, executed by the new attorney admittee, for accreditation by the MCLE Program Manager.
- (3) Upon successful completion of the NLMP, a new attorney admittee earns 6 general/practical skills credits, which may be applied to the MCLE requirements of their first three-year MCLE reporting period.

## **7.6 Removal of NLMP Mentors**

- (1) An NLMP mentor against whom one or more charges of misconduct have been approved for filing by the SPRB or who has been suspended for failure to respond to requests for information or records, or to respond to a subpoena, shall be removed from participation in the NLMP until such charges have been resolved by final decision or order.
- (2) If the license of an NLMP mentor is suspended as a result of a final decision or order in a disciplinary proceeding, the member may not resume service as an NLMP mentor until the NLMP mentor's license is reinstated to active status.
- (3) For the purposes of this rule, charges of misconduct include authorization by the SPRB to file a formal complaint, Disciplinary Counsel's notification to the court of a criminal conviction, and Disciplinary Counsel's notification to the court of an attorney's discipline in another jurisdiction.
- (4) Within 14 days of receipt by the Bar of notice of charges against an NLMP mentor, the NLMP Program Manager shall provide written notice to the NLMP mentor and new attorney admittee that the NLMP mentor is removed from serving as a mentor.
- (5) Within 30 days, or as soon as reasonably practical, of removal of an NLMP mentor, the NLMP Program Manager shall select a new mentor for the new attorney admittee and shall issue a notice to the new attorney admittee and new NLMP mentor as soon as a new NLMP match is confirmed.



## **7.7 Administration of New Lawyer Mentoring Program**

- (1) The Bar may establish a fee to be paid by new attorney admittees participating in the NLMP.
- (2) The Bar shall develop the NLMP curriculum and requirements, in consultation with the Supreme Court, and shall be responsible for its administration.
- (3) The NLMP Program Manager will publish an NLMP Manual consistent with NLMP curriculum developed by the Bar, to provide additional information about developing and implementing an effective mentoring plan.
- (4) The MCLE Committee may review and provide input on the NLMP Manual to the NLMP Program Manager.

## TITLE 8 - MINIMUM CONTINUING LEGAL EDUCATION (MCLE)

### 8.1 MCLE Requirements for Active Members

(1) All active members must complete the following minimum credit hours requirements of accredited CLE activity.

(a) General Requirement.

Except as provided in RL 8.2 and 8.3, and otherwise as provided in these rules, each active attorney member shall complete a minimum of 45 credit hours every three years, and each active LP member shall complete a minimum of 40 credit hours every three years.

(b) Ethics.

For all active members, at least five of the required hours shall be in programs accredited in ethics pursuant to RL 9.8(1).

(c) Abuse Reporting.

For all active attorney members, one hour shall be in programs accredited on the statutory duty to report child abuse and elder abuse under ORS 9.114 pursuant to RL 9.8(2). For active LP members, one hour shall be on the subject of an LP's duty to report child abuse or elder abuse.

(d) Mental Health and Substance Use Education.

For all active members, one hour shall be in subjects relating to mental health, substance use, or cognitive impairment that can affect an active member's ability to practice law or represent clients pursuant to RL 9.8(3).

(e) Access to Justice.

For all active members, in alternate reporting periods, at least three of the required hours shall be in programs accredited for access to justice pursuant to RL 9.9.

(2) Additional LP Member Requirements.

All active LP members shall also complete the following minimum credit hour requirements of accredited CLE activity, which may count towards their general credit hour requirement under RL 8.1(1)(a):

(a) One hour on the administration of Interest on Lawyer/LP Trust Accounts (IOLTA).

(b) One hour on the Oregon Rules of Civil Procedure (ORCP).

(c) One hour on the scope of licensure for licensed paralegals, as defined in Section 11 of the RLP.

- (d) Twenty-six hours of education specific to the LP's practice area for which they are licensed. An LP member with an active license permitting practice in more than one practice area must complete 26 hours of education specific to each practice area for which the LP seeks renewal of licensure.

## **8.2 Additional MCLE Requirements for Recently Reinstated Members and New Attorney Admittees**

### **(1) Recently Reinstated Members.**

- (a) Any active member who has been reinstated and whose reporting period is established in RL 8.4(3)(b) and RL 8.4(3)(c) shall complete 15 credit hours of accredited CLE activity in the first reporting period following reinstatement.
- (b) Two of the 15 credit hours shall be in ethics, and one shall be in subjects relating to mental health, substance use, or cognitive impairment as described in rule 8.1(1)(c).
- (c) For an active LP member who has been reinstated, the remaining 12 credit hours must be specific to the LP's practice area for which they are licensed.

### **(2) New Attorney Admittees.**

- (a) New attorney admittees who are active attorney members shall complete 15 credit hours of accredited CLE activity in the first reporting period after admission as an active attorney member.
- (b) The 15 credit hours shall include:
  - (i) One three-credit hour Bar-approved introductory course in access to justice;
  - (ii) Two credit hours in ethics;
  - (iii) One credit hour in subjects relating to mental health, substance use, or cognitive impairment that can affect an attorney's ability to practice law; and
  - (iv) Nine credit hours in practical skills, as described in RL 9.8(4).
- (c) One of the ethics credit hours must be devoted to Oregon ethics and professionalism, and four of the nine credits hours in practical skills must be devoted to Oregon practice and procedure.

## **8.3 Out-of-State Compliance.**

### **(1) Reciprocity Jurisdictions.**

- (a) An active attorney member whose principal office for the practice of law is not in the State of Oregon and who is an active attorney member in a jurisdiction with which Oregon has established MCLE reciprocity may comply with these rules by filing a compliance report accompanied by evidence that the member is in compliance with the requirements of the other jurisdiction (generally, a certificate of compliance from the reciprocal jurisdiction) and that the attorney member has completed a child and elder abuse reporting credit required in ORS 9.114.
  - (b) Payment of a \$25.00 fee is required with submission of the compliance report, for processing the comity certificate of MCLE compliance from the reciprocal state.
- (2) Other Jurisdictions.
- (a) An active attorney member whose principal office for the practice of law is not in the State of Oregon and is not in a jurisdiction with which Oregon has established MCLE reciprocity must file a compliance report showing that the attorney member has completed at least 45 hours of accredited CLE activities as required by Rule 8.1.
  - (b) The attorney member shall attach to the compliance report evidence that the attorney member has met the requirements under Rule 8.1 with courses accredited in any jurisdiction.
- (3) Proof of Oregon Compliance.
- (a) An active member whose principal office for the practice of law is in the State of Oregon who needs to file proof of Oregon MCLE compliance in another state may request a comity certification of Oregon MCLE compliance from the MCLE Program Manager.
  - (b) An active member shall be required to pay a \$25.00 fee before the certificate will be issued.

## **8.4 Reporting Period**

(1) Active Attorney Members.

All active attorney members shall have three-year reporting periods, except as provided in paragraphs (2) and (4) of this rule.

(2) New Attorney Admittees and New Attorney Admittees Admitted by Comity.

- (a) The first reporting period for a new attorney admittee who is an active attorney member shall start on the date of admission as an active attorney member and shall end on April 30 of the next calendar year. All subsequent reporting periods shall be three years.
- (b) The first reporting period for a new attorney admittee admitted by comity who is an active attorney member and who has been actively engaged in the authorized fulltime practice of law for no less than 24 of the 48 months immediately prior to

admission in Oregon begins on May 1 the year following admission and ends on April 30 three years later. All subsequent reporting periods also shall be three years.

(3) Active LP members.

The first reporting period for a new active LP member shall start on May 1 the year following admission and shall end on April 30 three years later. All subsequent reporting periods also shall be three years.

(4) Recently Reinstated Active Members.

(a) A member who transfers to inactive or active pro bono status, or whose license is suspended or has resigned and who is reinstated as an active member before the end of the reporting period in effect at the time of the initial status change, shall retain the member's original reporting period, and these rules shall apply as though the transfer, suspension, or resignation had not occurred.

(b) Except as provided in RL 8.4(4)(a), the first reporting period for a member who is reinstated as an active member following a transfer to inactive or active pro bono status shall start on the date of reinstatement and shall end on April 30 of the next calendar year.

(i) All subsequent reporting periods shall be three years.

(ii) Members under this subsection shall not be required to fulfill the requirement of compliance during the member's inactive licensure status.

(iii) No credits obtained during the member's inactive or active pro bono licensure status shall be carried over into the next reporting period.

(c) Notwithstanding subsection (4)(a) and (4)(b) of this Rule, reinstated members who did not submit a completed compliance report for the reporting period immediately prior to their transfer to inactive or active pro bono licensure status will be assigned a new reporting period upon reinstatement. The new reporting period shall begin on the date of reinstatement and shall end on April 30 of the next calendar year. All subsequent reporting periods shall be three years.

## **8.5 Reports.**

(1) Each active member shall electronically certify and submit a completed compliance report on or before May 31 of the year the member's reporting period ends.

(2) The Bar will assess a late fee for failure to file a completed compliance report by the filing deadline.

## 8.6 Recordkeeping.

- (1) Each active member shall maintain records of participation in CLE activities for use in completing a compliance report and shall retain these records for a period of 12 months after the end of the member's reporting period.
- (2) If the MCLE Program Manager has requested an audit of an active member's compliance report, the member shall maintain records of participation in CLE activities until the conclusion of the audit.
- (3) The MCLE Program Manager may maintain records of active members' participation in CLE activities as necessary to verify compliance with the MCLE requirement.

## 8.7 Application of Credits

- (1) Application of Accredited Hours.
  - (a) Active members may credit an unlimited number hours earned through Group CLE Activities, known as Category I (as established in RL 9.2) to their requirements for MCLE compliance.
  - (b) For Category II hours earned through teaching, writing and Bar service (as established in RL 9.12), active attorney members may only credit 20 hours, and active LP members may only credit 12 hours in a three-year reporting period.
  - (c) For Category III hours earned for other educational activities (as established in RL 9.13), active attorney members may only credit 6 hours, and active LP members may only credit 5 hours in a three-year reporting period.
  - (d) If an active member's reporting cycle is shorter than three years, the active member may credit only half of the number of hours allowed in a three-year reporting period for Category II and III activities.
- (2) An active member may apply the following credits, when completed in a reporting period in excess of the minimum required, to the practical skills requirement:
  - (a) legal ethics;
  - (b) access to justice;
  - (c) child and elder abuse reporting;
  - (d) IOLTA administration;
  - (e) Oregon Rules of Civil Procedure education;
  - (f) LP scope of license education; and
  - (g) mental health and substance use education.

- (3) The Bar will apply the following credits, when completed in a reporting period, toward the member's total minimum credit requirement:
  - (a) general credit hours;
  - (b) practical skills;
  - (c) specialty credits listed in Rule 8.7(1); and
  - (d) family law and landlord-tenant practice area credit hours for LP-practice area programs attended by active attorney members.
- (4) A credit hour cannot be applied to both the practical skills requirement and the ethics requirement.
- (5) An active attorney member may carry forward 15 or fewer unused credit hours from the reporting period during which the credit hours were earned to the next reporting period. An active LP member may carry forward 10 or fewer unused credit hours from the reporting period during which the hours were earned to the next reporting period.

## **8.8 Audits of Members**

- (1) The Bar may audit compliance reports selected due to facial defects or by random selection or other appropriate method.
- (2) The Bar may request and review records of participation in CLE activities reported by members.
- (3) Failure to substantiate participation in CLE activities in accordance with these rules after request by the Bar will result in disallowance of credits for the CLE activity and assessment of a late filing fee.
- (4) The MCLE Program Manager shall refer members to the Bar's Disciplinary Counsel for further action for potential ethical violations.

## **8.9 Suspension for Noncompliance.**

- (1) The following are grounds for a determination of noncompliance with the MCLE Requirements set out in this Title:
  - (a) Failure to complete the MCLE requirement for an applicable reporting period.
  - (b) Failure to electronically certify and timely submit a completed compliance report.
  - (c) Failure, upon request by the MCLE Program Manager, to provide sufficient records of participation in CLE activities to substantiate credits reported.
- (2) The Chief Executive Officer shall provide written notice to a member found noncompliant. The notice shall set out a reasonable time to either request review of the noncompliance

finding or to cure the noncompliance, and shall state the amount of any late fee must be paid by that time. The notice shall be sent to the member's e-mail address on file with the Bar or, for any member not required to have an e-mail address on file with the Bar, to that member's mailing address on file with the Bar.

- (3) If the member fails to cure the noncompliance as required and pay the late fee within the time allowed to cure as stated in the notice, the member's license is administratively suspended automatically under Title 3. If the member thinks the suspension is in error, the member may request review of the suspension under RL 3.2

## **8.10 Cure and Initial Review**

- (1) Noncompliance for failure to comply with the MCLE requirements set out in this Title can be cured by performance of the following actions no later than the deadline set out in the notice of noncompliance:
  - (a) Completing the credit hours necessary to satisfy the unfulfilled requirement for the applicable reporting period;
  - (b) Electronically certifying and submitting the completed compliance report; and
  - (c) Paying the late filing fee specified.
- (2) Noncompliance for failure to comply as described in RL 8.9(1)(c) may be cured by providing the MCLE Program Manager with any requested records, together with the late fee, no later than the deadline set forth in the notice of noncompliance.
- (3) Credit hours applied to a previous reporting period for the purpose of curing noncompliance may be used for only that purpose and may not be used to satisfy the MCLE requirement for any other reporting period.
- (4) If the MCLE Program Manager determines that a member's noncompliance has been cured, then the Manager shall notify the member that the member has complied with the MCLE requirements for the applicable reporting period. Curing noncompliance does not prevent subsequent audit and action under this Title.
- (5) If a member believes that an error has been included in the notice of noncompliance or an error otherwise made in the automatic administrative suspension of the member's license, the member may request a review by the Chief Executive Officer under RL 3.2.

## **8.11 Exemptions from MCLE Requirements**

- (1) Active pro bono members and inactive members are exempt from compliance with the MCLE requirements under this Title.
- (2) An active member serving as Governor, Secretary of State, Commissioner of the Bureau of Labor and Industries, Treasurer, or Attorney General during all or part of a reporting period must complete the MCLE requirements in the categories of ethics, access to justice, and abuse reporting during the applicable reporting periods. Such a member is otherwise



exempt from any other credit requirements during the reporting period in which the member serves.

### **8.12 Other Waiver or Exemption, or Delayed or Substitute Compliance**

- (1) Upon written request of a member, the MCLE Program Manager may waive, grant an exemption from, or permit substitute or delayed compliance with any requirement set out in this Title. The request shall state the reason for the request and describe a continuing legal education plan tailored to the member's particular circumstances.
- (2) The MCLE Program Manager may grant a request upon a finding that hardship or other special circumstances makes compliance impossible or inordinately difficult, or the requested waiver, exemption, or substitute or delayed compliance is not inconsistent with the purposes of the MCLE requirements.

### **8.13 Further Review**

- (1) A decision affecting any active member made by the MCLE Program Manager under this Title, but not including an administrative suspension of a member's license, is final, unless a request for review is filed within 21 days after notice of the decision is issued. If a member requests review, the member has a right, on request, to be heard at a hearing.
- (2) To request review, the active member shall submit a written request to the MCLE Program Manager that describes the decision to be reviewed and the reasons for requesting review, and also, if the member wishes to exercise the right to be heard, a request for a hearing.
- (3) The MCLE Committee shall review the matter requested at its next regular meeting. If the member has requested a hearing, the MCLE Committee must provide, at least 14 days before the meeting at which the request for review will be considered, notice of the date, time, and place of its meeting. The hearing to be conducted as part of the meeting shall be informal.
- (4) On review, the MCLE Committee shall have authority to take whatever action, consistent with these rules, is deemed proper. The MCLE Program Manager shall notify the member or sponsor in writing of the decision on review and the reasons therefor.
- (5) If the decision on review is upheld by the MCLE Committee, the affected member may, within 21 days of the issuance of the MCLE Committee's decision, submit a written request to the Chief Executive Officer asking the Board to review that decision. Upon receipt of such a letter, the Board shall review the MCLE Committee's decision at their next regular meeting. The decision of the Board shall be final.

## **TITLE 9 - CLE ACCREDITATION AND MONITORING**

### **9.1 Accreditation**

- (1) Any program seeking accreditation must be offered by a sponsor having substantial, recent experience in offering continuing legal education or by a sponsor that can demonstrate ability to organize and effectively present continuing legal education. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction, and supervision of the activity.
- (2) Any program seeking accreditation must be primarily intended for presentation to multiple participants, including but not limited to live programs, video and audio presentations (including original programming and replays of accredited programs), satellite broadcasts, and on-line programs.
- (3) Any program seeking accreditation must include the use of thorough, high-quality written materials, unless the Bar determines that the activity has substantial educational value without written materials.
- (4) Any program seeking accreditation must have no attendance restrictions based on age, culture, disability, ethnicity, gender and gender identity or expression, geographic location, national origin, race, religion, sex, sexual orientation, veteran status, socioeconomic status, immigration status, marital, parental or military status or other classification protected by law, except as may be permitted upon application from a provider or member, where attendance is restricted due to applicable state or federal law.
- (5) In addition to complying with the rules of this Title, any program seeking accreditation must also follow the standards and guidelines set forth by the Board for CLE accreditation.
- (6) All sponsors shall permit the MCLE Program Manager or a committee person of the MCLE Committee to audit the sponsor's CLE activities without charge for purposes of monitoring compliance with MCLE requirements. Monitoring may include attending CLE activities, conducting surveys of participants, verifying attendance of registrants, and reviewing sponsor advertising activities and communications with members.

### **9.2 Group Accreditation (Category I)**

- (1) A group CLE program will be considered for accreditation on a case-by-case basis and must satisfy the accreditation standards for the particular type of program for which accreditation is being requested.
- (2) An application for accreditation of a group CLE program shall be accompanied by payment of the application fee. An additional program application and fee is required for a repeat live presentation of a group CLE program.
- (3) An application for accreditation of a group CLE program must be electronically submitted no later than 30 days after the original program date for live programs and no later than 30 days after the production date for recorded programs. An application received more than

30 days after the original program date (live programs) or production date (recorded programs) is subject to a late processing fee.

- (4) The MCLE Program Manager may revoke the accreditation of a program at any time if it determines that the accreditation standards were not met for the program. Notice of revocation shall be sent to the sponsor of the program.
- (5) Accreditation of a CLE activity obtained by a sponsor or an active member shall apply for all active members participating in the program.
- (6) A sponsor or individual active member may apply for accreditation of a group CLE program by filing a written application for accreditation with the MCLE Program Manager. The application must demonstrate compliance with the standards contained within this Title.

### **9.3 Credit Hours**

- (1) Credit hours shall be assigned in multiples of one-quarter of an hour.
- (2) Only CLE program that meet the accreditation standards shall be included in computing total CLE credits. Activities such as registration, non-substantive remarks, breaks, and business meetings will be excluded from credit calculations.
- (3) Programs less than 30 minutes in length will be excluded from credit calculations.

### **9.4 Fees**

The Board will set forth in its standards and regulations any applicable fees and costs to be charged to sponsors and members seeking accreditation of MCLE Programs.

### **9.5 Sponsor Advertising**

- (1) Only sponsors of accredited group CLE programs may include in their advertising the accredited status of the program and the credit hours assigned.
- (2) Advertisements by sponsors of accredited CLE programs shall not contain any false or misleading information.
- (3) Advertisements may list the number of approved credit hours. If approval of accreditation is pending, the advertisement shall so state and may list the number of CLE credit hours for which application has been made.
- (4) If a sponsor includes in its advertisement the number of credit hours that a member will receive for attending the program, the sponsor must have previously applied for and received MCLE accreditation for the number of hours being advertised.

## 9.6 Sponsor Attendance Reporting

- (1) Within 30 days of a member's attendance of a live accredited CLE program, or screening of a recorded accredited CLE program, the sponsor must either:
  - (a) Post the credits earned by the member onto the active member's MCLE Transcript via the attendance posting portal on the OSB's website; or
  - (b) Electronically submit an attendance report to the MCLE Program Manager via the attendance reporting portal on together with payment of the credit processing fee.
- (2) The attendance report must include the following:
  - (a) sponsor name;
  - (b) program title;
  - (c) event ID number as indicated in the program database on the Bar's website;
  - (d) original program date;
  - (e) first and last name of each member who earned credits from the program;
  - (f) Bar number of each member listed;
  - (g) number and types of credits earned by each member; and
  - (h) date of credit completion for each member.

## 9.7 Independent Study

A member may earn credit through independent screening or viewing of programs originally presented to live group audiences, or through online programs designed for presentation to a wide audience. An attorney who is licensed in a jurisdiction that allows credit for reading and successfully completing an examination about specific material may use such credits to meet the Oregon requirement. No credit will be allowed for independent reading of material selected by a member except as part of an organized and accredited group program.

## 9.8 Specialized Credit Program Content Standards

- (1) Ethics.

To be accredited as a program in ethics, a program shall be devoted to the study of judicial or legal ethics or professionalism, and shall include discussion of applicable judicial conduct codes, rules of professional conduct, or statements of professionalism.
- (2) Child and Elder Abuse Reporting.

To be accredited as a program in child or elder abuse reporting, a program must be devoted to an attorney's or LP's statutory duty to report child abuse and elder abuse. The program must include discussion of a member's requirements to report child abuse or elder abuse, and the exceptions to those requirements.

(3) Mental Health and Substance Use.

To be accredited as a program in mental health and substance use, a program must be devoted to educating members about mental health in relation to legal practice or to the causes, detection, response, treatment, or prevention related to substance use related in relation to legal practice.

(4) Practical Skills.

(a) A practical skills program is one that includes courses designed primarily to instruct new attorney admittees in the methods and means of the practice of law, including instruction in the practice of law generally, instruction in the management of a legal practice, and instruction in particular substantive law areas designed for new practitioners.

(b) A CLE course on any subject matter can contain as part of the curriculum a portion devoted to practical skills.

(c) The sponsor shall designate those portions of any program which it claims is eligible for practical skills credit.

(5) Access to Justice.

(a) To be accredited as a program in access to justice, a program shall be directly related to the practice of law and designed to educate members to identify and eliminate from the legal profession, from the provision of legal services, and from the practice of law barriers to access to justice arising from biases against persons because of age, culture, disability, ethnicity, gender and gender identity or expression, geographic location, national origin, race, religion, sex, sexual orientation, veteran status, immigration status, and socioeconomic status.

(b) To be accredited as an introductory course in access to justice for newly admitted attorneys, as required by RL 8.2(2)(b)(i), the three-hour program must the requirements of this Rule and must substantially provide education on three of the areas of biases set out in subsection (a) of this Rule.

(c) A program is eligible for accreditation as an access to justice program even if it is limited to a discussion of substantive law, provided the substantive law relates to access to justice issues involving age, culture, disability, ethnicity, gender and gender identity or expression, geographic location, national origin, race, religion, sex, sexual orientation, veteran status, immigration status, and socioeconomic status.

(d) Access to justice programming should be guided by these three principles:

- (i) Promoting accessibility by eliminating systemic barriers that prevent people from understanding and exercising their rights;
  - (ii) Ensuring fairness by delivering fair and just outcomes for all parties, including those facing financial and other disadvantages; and
  - (iii) Addressing systemic failures that lead to a lack of confidence in the justice system by creating meaningful and equitable opportunities to be heard.
- (e) The presenters of access to justice and introductory access to justice programs should have qualifications in the topic being presented through lived experience, professional experience, or substantial training on the topic.

(6) Fractional Credit.

A fractional portion of a program may be accredited for ethics and access to justice, if the applicable content of the program is clearly defined.

## **9.10 Licensed Paralegal Specific Program Content Standards**

(1) IOLTA.

To be accredited as IOLTA administration education, a program must be devoted to topics related to the administration of IOLTA accounts, such as understanding the types of lawyer/LP trust accounts, the rules governing lawyer/LP trust accounts in Oregon, how to open and close trust accounts, how to transfer funds into and out of trust accounts, and how to identify and reduce of liability risks arising from mismanagement of trust accounts.

(2) Oregon Rules of Civil Procedure.

To be accredited as Oregon Rules of Civil Procedure education, a program must be devoted to the ORPCs and include topics such as recent updates to the ORPCs and practical applications of the ORPCs in family law or landlord- tenant related matters.

(3) Scope of Licensure.

To be accredited as Scope of License education, a program must be devoted to the parameters of the scope of license of LPs as defined in Section 11 of the RLPs, including the parameters within which LPs are authorized to practice law, the types of matters in which LPs are permitted to provide legal advice and representation, and the practical identification of mandatory referral scenarios.

(4) Family Law.

To be accredited as family law practice area education, a program must be devoted to substantive and practical education in Oregon family law and should include topics generally within the scope of LP license as defined in Section 11 of the RLPs, such as

dissolution of marriage, separation, annulment, custody, parenting time, child support, spousal support, modifications, and remedial contempt.

(5) Landlord-Tenant.

To be accredited as landlord-tenant law practice area education, a program must be devoted to substantive and practical education in Oregon landlord-tenant law, and should include topics generally within the scope of LP license as defined in Section 11 of the RLPs, such as residential rental agreements, amendments to residential rental agreements, eviction notices, notices of intent to enter rental property, rent increases, violations, security deposit accountings, and evictions.

## 9.11 Additional Accredited Programs

(1) Attending Classes.

- (a) Attending a class at an ABA or AALS accredited law school may be accredited as a CLE program.
- (b) Attending other classes may also be accredited as a CLE program, provided the activity satisfies the following criteria:
  - (i) the content of the activity is in compliance with other MCLE accreditation standards;
  - (ii) the class is a graduate-level course offered by a university; and
  - (iii) the university is accredited by an accrediting body recognized by the U.S. Department of Education for the accreditation of institutions of postsecondary education.

(2) Legislative Service.

General credit hours may be earned for service as a member of the Oregon Legislative Assembly while it is in session.

(3) NLMP Mentor Service.

An attorney member who serves as a mentor in the NLMP may earn a total of 8 CLE credits, including 2 ethics credits and 6 general credits, upon filing of a NLMP Completion Certificate. If an attorney member serves as a mentor for more than one new attorney, the member may claim up to 16 total credits, including 4 ethics credits, during the three-year reporting cycle. If another attorney assists with the NLMP completion, the mentoring credits must be apportioned between the attorney members in a proportionate manner agreed upon by the NLMP mentor.

(4) Other Professionals.

Participation in an educational activity offered primarily to or by other professions or occupations may be accredited as a CLE program if the MCLE Program Manager determines that the content of the activity is in compliance with other MCLE accreditation standards. The MCLE Program Manager may accredit the activity for fewer than the actual activity hours if the MCLE Program Manager determines that the subject matter is not sufficient to justify full accreditation.

## **9.12 Accreditation Standards for Teaching, Writing, and Bar Service (Category II)**

### **(1) Teaching Activities.**

- (a) Credit may be claimed for teaching accredited continuing legal education programs or for teaching courses in ABA or AALS accredited law schools.
- (b) Credit may be claimed for teaching other courses, provided the activity satisfies the following criteria:
  - (i) The MCLE Program Manager determines that the content of the activity is in compliance with other MCLE content standards;
  - (ii) The course is a graduate-level course offered by a university; and
  - (iii) The university is accredited by an accrediting body recognized by the U.S. Department of Education for the accreditation of institutions of postsecondary education.
- (c) Credit may not be claimed by an active member whose primary employment is as a full-time or part-time law teacher, but may be claimed by an active member who teaches on a part-time basis in addition to the member's primary employment.
- (d) No credit may be claimed for repeat presentations of previously accredited courses unless the presentation involves a substantial update of previously presented material, as determined by the MCLE Program Manager.

### **(2) Legal Research and Writing.**

- (a) Credit for legal research and writing activities, including the preparation of written materials for use in a teaching activity, may be claimed provided the activity satisfies the following criteria:
  - (i) The activity deals primarily with one or more of the types of issues for which a Category I Program may be accredited;
  - (ii) The activity has been published in the form of articles, CLE course materials, chapters, or books, or issued as a final product of the Legal Ethics Committee or a final instruction of the Uniform Civil Jury Instructions Committee or the Uniform Criminal Jury Instructions Committee, personally authored or edited in whole or in substantial part, by the applicant; and



(iii) The activity is not performed in the regular course of the active member's primary employment.

(b) The number of credit hours shall be determined by the MCLE Program Manager, based on the contribution of the written materials to the professional competency of the applicant and other attorneys.

(3) Service as a Bar Examiner.

Credit may be claimed for service as a bar examiner for Oregon, provided that the service includes personally writing or grading a question for the Oregon Bar exam or paralegal licensing exam during the reporting period.

(4) Legal Ethics Service.

Credit may be claimed for serving on the Oregon State Bar Legal Ethics Committee, Client Security Fund Committee, Commission on Judicial Fitness & Disability, Oregon Judicial Conference Judicial Conduct Committee, State Professional Responsibility Board, or Disciplinary Board, or for serving as volunteer Bar counsel or volunteer counsel to an accused in Oregon disciplinary proceedings.

(5) Credit for Committee and Council Service.

Credit may be claimed for serving on committees that are responsible for drafting court rules or jury instructions that are designed to aid the judicial system and improve the judicial process. Examples include service on the Oregon State Bar Uniform Civil Jury Instructions Committee, Uniform Criminal Jury Instructions Committee, Oregon Council on Court Procedures, Uniform Trial Court Rules Committee, and the District of Oregon Local Rules Advisory Committee.

(6) Service as a Judge Pro Tempore.

Credit may be claimed for volunteer service as a judge pro tempore.

### **9.13 Accreditation Standards for Other Programs (Category III)**

(1) Personal Management Assistance.

Credit may be claimed for programs that deal with personal self-improvement, provided the MCLE Program Manager determines the self-improvement relates to professional competence as an attorney.

(2) Other Volunteer Activities.

Credit for volunteer activities for which accreditation is not already available pursuant to this Title may be claimed provided the MCLE Program Manager determines the primary purpose of such activities is the provision of legal services or legal expertise.

(3) Business Development and Marketing Programs.

Credit may be claimed for courses devoted to business development and marketing that are specifically tailored to the delivery or marketing of legal services and focus on use of the discussed techniques and strategies in law practice.

### **9.14 Unaccredited Activities**

- (1) The following activities and programs shall not be accredited:
  - (a) Activities and programs that would be characterized as dealing primarily with personal self-improvement unrelated to professional competence as an attorney.
  - (b) Activities and programs designed primarily to sell services or equipment.
  - (c) Video or audio presentations of a CLE program originally conducted more than three years prior to the date viewed or heard by the member seeking credit, unless it can be shown by the member that the activity has current educational value.
  - (d) Repeat live, video, or audio presentations of a CLE program for which the active member or active LP member has already obtained MCLE credit.

### **9.15 Audit of Sponsors**

- (1) The MCLE Program Manager may audit sponsors of CLE programs for compliance with these Rules.
- (2) The MCLE Program Manager may request materials and information related to the sponsor's CLE programs and accreditation application during an audit. If a sponsor declines to comply with the MCLE Program Manager's requests for materials and information during an audit, the MCLE Program Manager may revoke or withhold accreditation of the sponsor's CLE programs.
- (3) The MCLE Program Manager may revoke accreditation of any CLE program or withhold accreditation of future CLE programs if the audit determines the sponsor is not compliant with these Rules and MCLE Regulations.
- (4) A sponsor may seek review of the MCLE Program Manager's decision to withhold or revoke accreditation under this Title with the MCLE Committee by written request. The decision of the MCLE Committee is final.

## **TITLE 10 - TEMPORARY PRACTICE DURING A JUSTICE SYSTEM EMERGENCY**

### **10.1 Declaration of Justice System Emergency**

- (1) This rule applies when the Supreme Court has issued an order declaring a justice system emergency, based on the following circumstances:
  - (a) A natural or other major disaster has substantially disrupted the justice system in Oregon or in another jurisdiction (after the highest court of that jurisdiction has made such a determination); and
  - (b) As a result of that disaster:
    - (i) Oregon residents or displaced persons from another jurisdiction who are residing in Oregon are in need of legal services that cannot reasonably be provided by active attorney members and active pro bono members alone; or
    - (ii) lawyers licensed in the other jurisdiction are displaced and unable to practice law in the other jurisdiction.

### **10.2 Temporary Pro Bono Practice**

- (1) Following the Supreme Court's declaration of a justice system emergency as described in RL 10.1, an attorney who is authorized to practice law in another United States jurisdiction, and who is not disbarred, suspended from practice, or otherwise restricted from practice in any jurisdiction, may provide legal services in Oregon, as follows:
  - (a) On a temporary basis;
  - (b) To persons in need of legal services as a result of the disaster;
  - (c) Under a pro bono arrangement, without the payment of compensation, the expectation of compensation, or any other direct or indirect pecuniary gain to the attorney.
- (2) The temporary pro bono practice described in this rule must be performed under the auspices of an established not-for-profit bar association, pro bono program, or legal services program, or through organization(s) specifically designated by the Bar or the court.

### **10.3 Temporary Practice by Displaced Lawyers**

- (1) Following the Supreme Court's declaration of justice system emergency as described in RL 10.1, an attorney who is authorized to practice law and whose principal office is in an affected jurisdiction, and who is not disbarred, suspended from practice, or otherwise restricted from practice in any jurisdiction, may provide legal services in Oregon on a temporary basis to any client, provided that the legal services arise out of or are reasonably related to the attorney's practice in the other jurisdiction.

- (2) Duration of Authority for Temporary Practice.
- (a) The authority to practice law in Oregon granted by this Title shall end when the court determines that the disruption of the justice system in this or the other jurisdiction has ended, and issues an order to that effect.
  - (b) Once the court issues an order to the effect that the disruption has ended, attorneys practicing under such authority shall not accept any new clients or matters.
  - (c) Notwithstanding the termination of authority, an attorney then representing a client with a legal matter pending in Oregon is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation.
  - (d) The authority to practice law in Oregon granted by this Title shall end 60 days after the court issues an order to the effect that the disruptions caused by the major disaster in the affected jurisdiction have ended.
- (3) Court Appearances.
- (a) The authority granted by this Title does not include appearances in court, except as:
    - (i) Pursuant to the Uniform Trial Court Rules, if such authority is granted, any applicable fees for Bar admission shall be waived; or
    - (ii) Pursuant to an order of the Supreme Court making any determination under this rule that grants authorization to attorneys providing legal services pursuant to this Title to appear in all or certain designated courts of Oregon. If such an authorization is ordered, any applicable pro hac vice admission fees shall be waived.

#### **10.4 Disciplinary Authority and Registration Requirement**

- (1) An attorney providing legal services in Oregon under this Title is subject to the Oregon Supreme Court's disciplinary authority and the Oregon Rules of Professional Conduct, as provided in RPC 8.5.
- (2) An attorney providing legal services in Oregon under this Title shall, within 30 days from the commencement of the provision of legal services, file a registration statement with the Appellate Court Administrator and the Bar, in a form prescribed by the court.
- (3) An attorney providing legal services under this Title shall not be considered to be engaged in the unlawful practice of law in Oregon.
- (4) A lawyer authorized to practice law in another United States jurisdiction providing legal services under this Title shall inform clients in Oregon of the jurisdictional limits of their practice authority, including that they are not authorized to practice law in Oregon except as permitted by this Title, and shall not state or imply to any person that they are otherwise authorized to practice law in Oregon.

## TITLE 11 - REINSTATEMENTS

### 11.1 Eligibility for Administrative or Streamlined Reinstatement

- (1) An applicant may apply for administrative reinstatement to active status under RL 11.4 and other provisions of this Title if the applicant has been administratively suspended for six months or less for failing to comply with their regulatory requirements under RL 3.1.
- (2) An applicant may apply for streamlined reinstatement to active status under RL 11.5 and other provisions of this Title if they meet any of the following criteria:
  - (a) the applicant voluntarily transferred their licensure status to inactive or active pro bono status, and currently remains in that voluntary status;
  - (b) the applicant's license has been administratively suspended under RL 3.1 for failure to comply with their regulatory requirements and has remained suspended for less than 10 years, but more than six months, prior to the date of application for reinstatement; or
  - (c) the applicant resigned under BR 9.1 prior to December 1, 2019, and has remained resigned or their license has remained administratively suspended for less than 10 years since they were last an active member.
- (3) An applicant must apply for reinstatement to active status under Title 8 of the Bar Rules of Procedure if the applicant:
  - (a) has not practiced law or completed continuing legal education courses in any jurisdiction for more than 10 years; or
  - (b) is not otherwise eligible for reinstatement under RL 11.1(1) or (2).

### 11.2 Obligations of Applicant

- (1) An applicant seeking reinstatement under this Title shall:
  - (a) Report promptly any changes, additions, or corrections to information provided in the application; and
  - (b) Cooperate and comply with requests from the Bar, including responding to a lawful demand for information and executing releases necessary to obtain information and records from third parties.
- (2) The Bar will not consider any application for reinstatement, or any issues related to reinstatement, until the applicant submits a complete application and pays the required application fee and any other applicable financial obligation set out in this Title.

### 11.3 Application Form and Content, Burden of Proof, and Required Showings

- (1) An applicant seeking reinstatement under this Title must submit an application on a form created by the Bar. The form shall provide an opportunity for the applicant to make the required showings and shall include any declaration required by this Rule.
- (2) An applicant has the burden to establish their required showings for reinstatement under this Rule by clear and convincing evidence.
- (3) An applicant shall provide employment and residential history during the entire period of their inactive status.
- (4) Required Showings.

(a) Character and Fitness.

An applicant must show, by clear and convincing evidence, that they have good moral character and general fitness required to practice law in Oregon, and that their resumption of the practice of law in Oregon will not be detrimental to the administration of justice or the public interest.

(b) Learning and Ability.

An applicant must show, by clear and convincing evidence, that they have the requisite learning and ability to practice law in Oregon.

- (i) In determining whether an applicant has satisfied the burden of proof, the Bar may consider the length of time since the applicant was an active member of the Bar; whether and when the applicant has practiced law in Oregon; whether the applicant practiced law in any other jurisdiction since they were an active member in Oregon; and whether the applicant has participated in continuing legal education activities.
- (ii) If the application indicates that the applicant does not have the requisite learning and ability, the Bar may request the applicant provide further evidence to show learning and ability.
- (iii) The Bar may require an applicant to show the requisite learning and ability by taking the following minimum continuing legal education credits, as set out in subsections (iv) through (v) of this Rule.
- (iv) An applicant who has not practiced law or completed continuing legal education courses in any jurisdiction in each of the time ranges set out below will be required to complete the corresponding minimum number of continuing legal education credits also set out below:

- (A) For more than two, but less than four years, 15 credits;

- (B) For more than four, but less than six years, 30 credits of continuing legal education;
  - (C) For more than six, but less than eight years, 45 credits of continuing legal education; and
  - (D) For more than eight, but less than 10 years, 60 credits.
- (v) An applicant who was an active member for at least two years prior to their application and has resigned their license or has their license in inactive status for two or fewer years may not be required to complete any continuing legal education if they have been engaged in the practice of law full time in another jurisdiction for no less than 24 of the 48 months immediately preceding their application.
- (c) If an applicant's license is administratively suspended, the applicant must show that they have complied with the regulatory obligation(s) that caused their suspension and with any other outstanding regulatory obligations.
- (5) Declarations.
- (a) An applicant must submit a declaration affirming that they did not engage in the practice of law, except where authorized to do so, when the applicant's license was in inactive status. If an applicant cannot do so, the applicant shall provide a statement about the conduct in question, which the Bar will refer to Disciplinary Counsel's Office for investigation. An applicant who provides such a statement may be reinstated unless the decisionmaker under this Title finds that there is a reasonable belief that reinstatement may be detrimental to the administration of justice or the public interest.
  - (b) An applicant must submit a declaration affirming that they have complied with all their regulatory obligations.
- (6) The Chief Executive Officer may develop policies and procedures for conducting character and fitness investigations under this rule. Any investigation shall be at the direction of the Chief Executive Officer.

## **11.4 Administrative Reinstatement**

- (1) An applicant who qualifies under RL 11.1(1) may seek reinstatement under this rule, as described in RL 11.3.
- (2) An applicant under this rule shall pay a \$150 fee when submitting their application for each administrative suspension that they must cure, in addition to any outstanding financial obligations under this Title.
- (3) The Chief Executive Officer may reinstate an applicant under this Rule who has made the required showings under RL 11.3(4). Based on their findings, the Chief Executive Officer may reinstate the applicant, conditionally reinstate the applicant, or deny the

reinstatement. The Chief Executive Officer may also request the applicant submit additional information to establish the required showings. If additional information is required from the applicant, the Chief Executive Officer may defer making a decision on the application until the information is provided by the applicant.

- (a) If the Chief Executive Officer reinstates the applicant conditionally, the Bar shall notify the Oregon Supreme Court of that decision and copy the applicant.
- (b) If the Chief Executive Officer denies the reinstatement, the applicant may file a petition to review that adverse recommendation under BR 8.8.

## **11.5 Streamlined Reinstatement**

- (1) An applicant who qualifies under RL 11.1(2) may seek reinstatement under this Rule, as described in RL 11.3.
- (2) An applicant under this Rule shall pay a \$300 fee when submitting their application, in addition to any outstanding financial obligations under this Title. The fee shall be waived for an applicant seeking reinstatement from inactive status to pro bono status.
- (3) The Chief Executive Officer may reinstate an applicant who has made the required showings under RL 11.3(4). Based on their findings, the Chief Executive Officer may reinstate the applicant, conditionally reinstate the applicant, or deny the reinstatement. The Chief Executive Officer may also request the applicant submit additional information to establish the required showings. If additional information is required from the applicant, the Chief Executive Officer may defer a decision on an application until the information is provided by the applicant.
  - (a) If the Chief Executive Officer conditionally reinstates the applicant, the Bar shall notify the Oregon Supreme Court of that decision and copy the applicant.
  - (b) If the Chief Executive Officer denies the reinstatement, the applicant may file a petition to review that adverse recommendation under BR 8.8

## **11.6 Financial Obligations**

- (1) In addition to any applicable application fee, an applicant seeking reinstatement under this Title shall pay the following to the Bar, at the time the application of reinstatement is filed:
  - (a) Any past due assessments, fees, and penalties owed to the Bar for prior years. If the status from which the member is seeking reinstatement did not require an annual membership fee be paid to the Bar, then the Bar shall collect \$100 for each year the member remained in that status.
  - (b) Membership fees and assessments for the calendar year in which the application for reinstatement is filed. Any membership fees and assessments (absent late penalties) already paid by the applicant at the start of the calendar year may be deducted.



- (c) Any assessment to the Professional Liability Fund, if applicable.
  - (d) Any unpaid judgment assessed in a prior disciplinary, contested reinstatement proceeding, judicial hearing, or assignment of claim.
  - (e) If the Bar has not acted on the applicant's reinstatement application until the year after it is filed, the applicant shall pay, prior to reinstatement, any increase in membership fees or assessments since the date of application. If a decrease in membership fees and assessments has occurred, the Bar shall refund the decrease to the applicant.
- (2) If an application for reinstatement is denied, the Bar shall refund the applicant membership fees and assessments paid for the year the application was filed. Any refund of membership fees and assessments will be prorated if the applicant was temporarily reinstated during the pendency of their application for reinstatement.

## **11.7 Conversion of Reinstatement Application**

- (1) The Bar's Chief Executive Officer may convert an application for reinstatement under this Title to a Formal Reinstatement under Bar Rule of Procedure 8.1 if:
- (a) the applicant has been convicted in any jurisdiction of an offense that is a misdemeanor involving moral turpitude or a felony under the laws of this state, or is punishable by death or imprisonment under the laws of the United States;
  - (b) the applicant has been suspended for professional misconduct for six months or more, or has been disbarred by any court other than the Oregon Supreme Court;
  - (c) the applicant engaged in conduct that raises issues of possible violation of the Bar Act, the former Code of Professional Responsibility, or the Rules of Professional Conduct;
  - (d) the applicant made a material misrepresentation on, or omitted relevant information from, their reinstatement application submitted to the Bar;
  - (e) during the reinstatement process, it is determined that the applicant does not meet the eligibility requirements for reinstatement under this Title; or
  - (f) the applicant fails to make the required showings under this Title.
- (2) The Chief Executive Officer's decision to convert an application for reinstatement is not subject to review.
- (3) Upon receipt of notice from the Bar that a reinstatement application is being converted under this rule, an applicant shall submit whatever supplemental materials are required under BR 8.1 to complete the application.
- (4) The applicant shall pay the difference of the cost of a BR 8.1 reinstatement fee from the applicant's reinstatement fee for a converted application for reinstatement..

## **11.7 Temporary Reinstatement**

The Chief Executive Officer may temporarily reinstate an applicant seeking reinstatement under these Rules, pending receipt of all investigatory materials.

## **TITLE 12 - RESIGNATION**

### **12.1 Member Resignation**

A member seeking to resign from the Bar must file the appropriate resignation with the Bar pursuant to Bar Rules of Procedure Title 9.

**From:** [Blaine Clooten](#)  
**To:** [OSB Feedback](#)  
**Subject:** FW: Comments on Rules for Licensure Due Friday - OSB 133294  
**Date:** Friday, November 10, 2023 4:06:11 PM

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Rule 1.11 Designation of Contact Information. Service by Email - I object to this language change.

I have no objection to non-substantive changes, for instance changing pronouns.

I have no objection to clarifications, for instance, clarifying computation of time.

I generally object to any broadening of power.

[Blaine Clooten](#)

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**From:** Bar News <[barnews@osbar.org](mailto:barnews@osbar.org)>  
**Sent:** Wednesday, November 8, 2023 4:06 PM  
**To:** Blaine Clooten <[bclooten@brownsteinrask.com](mailto:bclooten@brownsteinrask.com)>  
**Subject:** Comments on Rules for Licensure Due Friday - OSB 133294

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**Seeking Comment on Rules for Licensure**

The OSB Board of Governors (BOG) is considering creation of a new body of rules – the [Rules for Licensure](#) - to bring together the rules required for attorneys to maintain their licensure in good standing. Currently, the rules are spread over disparate rule sets, complicating review and compliance.

The BOG opened the matter for member comment on September 22, and the comment period will close **this Friday, November 10**. All feedback will be submitted to the BOG for consideration on November 17.

Comments can be shared via [feedback@osbar.org](mailto:feedback@osbar.org).

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### Oregon State Bar

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PO Box 231935, Tigard OR 97281-1935  
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**From:** [Martin W. Anderson](#)  
**To:** [OSB Feedback](#)  
**Subject:** Fwd: Comments on Rules for Licensure Due Friday - OSB 200271  
**Date:** Wednesday, November 8, 2023 4:15:03 PM

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Putting all the relevant rules together is a great idea.

I'd go one step further and make the actual rule into a simple checklist or flowchart that anyone can easily read, understand, and navigate.

**Martin W. Anderson | Attorney | Anderson Law, APC**  
Tel: +1 (714) 516-2700 | Fax: +1 (714) 532-4700  
2070 N. Tustin Ave., Santa Ana, CA 92705

----- Forwarded message -----

**From:** Bar News <[barnews@osbar.org](mailto:barnews@osbar.org)>  
**Date:** Wed, Nov 8, 2023 at 4:07 PM  
**Subject:** Comments on Rules for Licensure Due Friday - OSB 200271  
**To:** <[martin@andersonlaw.net](mailto:martin@andersonlaw.net)>

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Oregon  State Bar



## Seeking Comment on Rules for Licensure

The OSB Board of Governors (BOG) is considering creation of a new body of rules – the **Rules for Licensure** - to bring together the rules required for attorneys to maintain their licensure in good standing. Currently, the rules are spread over disparate rule sets, complicating review and compliance. The BOG opened the matter for member comment on September 22, and the comment period will close **this Friday, November 10**. All feedback will be submitted to the BOG for consideration on November 17.

Comments can be shared via [feedback@osbar.org](mailto:feedback@osbar.org).

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### Oregon State Bar

16037 SW Upper Boones Ferry Rd  
PO Box 231935, Tigard OR 97281-1935  
(503) 620-0222 or (800) 452-8260



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**From:** [Ankur Doshi](#)  
**To:** [OSB Feedback](#)  
**Subject:** FW: Rules of Licensure Comments  
**Date:** Monday, October 16, 2023 9:19:34 AM  
**Attachments:** [IOLTA Rule Comment Letter.pdf](#)  
[image001.png](#)  
[image002.png](#)

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Public Comment re Rules of licensure

**Ankur Doshi**  
General Counsel  
503-431-6312  
[adoshi@osbar.org](mailto:adoshi@osbar.org)

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • [www.osbar.org](http://www.osbar.org)

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**From:** Judith Baker <[JBaker@osbar.org](mailto:JBaker@osbar.org)>  
**Sent:** Monday, October 16, 2023 8:57 AM  
**To:** Ankur Doshi <[adoshi@osbar.org](mailto:adoshi@osbar.org)>  
**Cc:** Helen Hirschbiel <[HHirschbiel@osbar.org](mailto:HHirschbiel@osbar.org)>  
**Subject:** Fw: Rules of Licensure Comments

Hi Ankur

I hope you had a nice weekend. I'm forwarding Bill's comments regarding moving RPC 15-2 into the Rules of Licensure. Is forwarding Bill's comments to you adequate or should I also forward to [feedback@osbar.org](mailto:feedback@osbar.org)? Please let me know if you have any questions.

Judith

---

**From:** Bill Penn <[bpenn@osbar.org](mailto:bpenn@osbar.org)>  
**Sent:** Sunday, October 15, 2023 4:48 PM  
**To:** Judith Baker <[JBaker@osbar.org](mailto:JBaker@osbar.org)>  
**Subject:** Rules of Licensure Comments

Judith,

Attached is a pdf document versions of comments related to the shift of Oregon's IOLTA rule



from the RPCs to the new Rules of Licensure. Please forward the comments on to Ankur or if you think it is more appropriate, the address given in the Oregon State Bar's request for public comment on the Rules of Licensure is [feedback@osbar.org](mailto:feedback@osbar.org).

Thanks,  
Bill

**William C. Penn**

Executive Director, Oregon Law Foundation

(503) 431-6344

[bpenn@osbar.org](mailto:bpenn@osbar.org)

**Oregon Law Foundation** • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • [oregonlawfoundation.org](http://oregonlawfoundation.org)



October 15, 2023

Oregon State Bar  
16037 SW Upper Boones Ferry Rd  
PO Box 231935  
Tigard, OR 97281-1935

RE: Public Comment on proposed Oregon State Bar Rules of Licensure

Dear Oregon State Bar:

I am writing to provide comment on the movement of Oregon's IOLTA rule from the Rules of Professional Conduct to the Rules of Licensure. These comments are broken down into six segments below.

1. No regulation of banks is occurring: On page two of the Policy and Governance Committee Memo about the Rules of Licensure and Rules of Procedure, the discussion of Title 7 of the Rules of Licensure characterizes RPC 1.15-2 as "banking regulations." Language is important around IOLTA rules, and it is worth noting that nothing in the current RPCs and noting in the new Rules of Licensure and Rules of Procedure regulates the business or activities of banks. A more exact description of what RPC 1.15-2 and the IOLTA portions of the Rules of Licensure control is the banking activities of legal professionals licensed by the Oregon State Bar.
2. Loss of context from moving the IOLTA rule out of the RPC: Transforming RPC 1.15-2 into Title 7 of the Rules of Licensure makes it less clear to practitioners what jurisdiction their IOLTA should be opened in and makes it more difficult for practitioners to understand how to resolve conflicts between the IOLTA rules of different jurisdictions.

RPC 1.15-1 answers the question of where an Oregon practitioner should open a trust account: "Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate "Lawyer Trust Account" *maintained in the jurisdiction where the lawyer's office is situated* [emphasis added]." Because RPC 1.15-2 directly follows 1.15-1, it is likely that a practitioner reviewing the IOLTA rule will also encounter 1.15-1 to assess what jurisdiction their IOLTA should be opened in. With the move to the Rules of Licensure, this lack of proximity is likely to increase the number of practitioners who have questions about where to open their IOLTA. This could be resolved by repeating in Title 7 of the Rules of Licensure the language from RPC 1.15-1 about where accounts should be maintained. For example, 7.1(c) could be replaced with the following (additions in red):

**"(c) An IOLTA shall be maintained in the jurisdiction where the practitioner's office is situated.** All interest earned by funds held in ~~the~~ **an Oregon** IOLTA account shall be paid to the Oregon Law Foundation as provided in this rule."

Because Safekeeping and IOLTA rules differ from jurisdiction to jurisdiction, multi-state practitioners often encounter contradictory IOLTA requirements—most notably for Oregon practitioners, there is a conflict between the IOLTA rules of Oregon and Washington. With the IOLTA rule located in the RPCs, it is clear that RPC 8.5 dictates how to resolve the choice of law in these contradictory situations. With the IOLTA rule located in Title 7 of the Rules of Licensure, it is less clear that RPC 8.5 dictates the resolution of regulatory conflicts. Again, this could lead to practitioners having more unresolved questions.

The disconnection of the IOLTA rule from sections of the RPC that provide context to the IOLTA rule is not necessarily a reason to avoid moving the IOLTA rule to the Rules of Licensure; however, it presents some areas where practitioners may require additional guidance and education in the future.

3. The addition of “within Oregon” to section (a) of Rules of Licensure 7.5 changes the nature of the IOLTA rule. Modern banking technology means that it is unclear what it means for a financial institution to be “within Oregon”, so the addition brings unnecessary ambiguity. The IOLTA rule presently allows practitioners to have IOLTAs at financial institutions that do not maintain brick and mortar branches within Oregon. If “within Oregon” means that a financial institution must have a physical presence in Oregon, then this addition changes which banks Oregon attorneys can use. At present, the most highly utilized for IOLTA financial institution of this type is Salal Credit Union with the closest branch in Seattle. If “within Oregon” is broader than a financial institution having a physical presence in the state, then this addition simply creates confusion for practitioners attempting to navigate the rules. If the addition is intended to provide more specificity to Oregon, then Changing 7.5 (a) and 7.5(a)(i) to the following would provide specificity and neither add confusion nor changing where practitioners can bank:
  - (a) A lawyer member or law firm may maintain an Oregon trust account only at a financial institution ~~within Oregon~~ that:
    - (i) Is authorized by state or federal banking laws to transact banking business in ~~Oregon the state where the account is maintained~~;
4. Allowing the refund of net interest to the member requesting a refund under Rules of Licensure 7.4(b) would expedite delivering funds to clients. On the rare occasion that a practitioner requests a refund of IOLTA interest because net interest is due to the client, refunding interest through the financial institution rather than directly to the lawyer creates delay for the client. Requiring the refund be made to the bank means funds must travel through a third party—the financial institution—and creates confusion for the financial institution because Oregon’s refund rule is both rarely used and relatively unique among states. Requiring financial institutions to act as a pass-through for refunds creates additional work for the financial institutions when responsibility for any error and knowledge about the amount of client funds lies with the attorney and the funds to return are held by the Oregon Law Foundation. The last paragraph of 7.4 (b) should be updated to say:

“The Oregon Law Foundation will not refund more than the amount of interest it received from the client’s funds in question. The refund shall be remitted **either directly to member or law firm requesting a refund or** to the financial institution for transmittal to the ~~lawyer member~~ or law firm, after appropriate accounting and reporting.”

5. The present rule and the proposed Rules of Licensure lack clarity around where IOLTAs should be opened for Oregon practitioners with out of state offices and members of other Bars with a federal practice in Oregon. While the IOLTA rule is being moved to the Rules of Licensure, the OSB should embrace the opportunity to provide additional clarity to the Safekeeping and IOLTA rules.

The requirement of RPC 1.15-1 regarding where lawyers should hold client funds is ambiguous: “Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate “Lawyer Trust Account” *maintained in the jurisdiction where the lawyer’s office is situated* [emphasis added].” Applying this to IOLTAs could mean that Oregon Bar members must always use an Oregon IOLTA but must use a bank that operates in the jurisdiction where their office is located. Alternately, it could mean that Oregon Bar members should use an IOLTA account that conforms to the IOLTA rules and pays interest to the IOLTA program in the jurisdiction where their office is located. The Oregon Annual IOLTA Program Report form makes it relatively clear that the latter interpretation is the correct one because of the three options presented:

1. “My office is in Oregon and I maintain the following lawyer trust accounts in Oregon for the purpose of holding client funds or the funds of third persons, under RPC 1.15-1 and RPC 1.15-2
2. *My office is in another jurisdiction. I maintain lawyer trust accounts for the purpose of holding client funds or the funds of third persons, but those accounts are not located in Oregon.*
3. I do not hold client funds or the funds of third persons, and I do not maintain any lawyer trust accounts.”

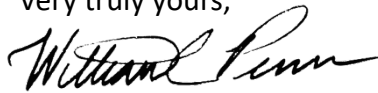
Unfortunately, the clarity provided by the annual reporting form is incomplete. Some jurisdictions will not allow an attorney who is not licensed in that jurisdiction to open an IOLTA account. An Oregon licensed practitioner with an office located in one of those foreign jurisdictions conducting a federal practice (e.g. immigration or bankruptcy) would encounter a paradox. Oregon’s RPC 1.15-1 would dictate that the practitioner should open their IOLTA in that foreign jurisdiction, but the foreign jurisdiction would not allow them to open an IOLTA there. The attorney would be left with opening an Oregon IOLTA as their only IOLTA option. Additionally, none of the three options on the reporting form accurately describes this practitioner’s situation. The practitioner’s situation would best be described as “My office is in *another jurisdiction*, and I maintain the following *Oregon* lawyer trust accounts...”

The OSB should consider adding this clarity through the Safekeeping and IOLTA rules as well as the annual reporting form so Oregon practitioners operating a federal practice in another jurisdiction always have a clear path to using and reporting an IOLTA account.

6. The Oregon IOLTA rule provides no guidance to practitioners licensed by other jurisdictions but not by the Oregon State Bar regarding whether they are eligible to open an Oregon IOLTA for a federal practice (e.g. immigration or bankruptcy) in Oregon. The Oregon IOLTA rule does not prohibit practitioners licensed by other jurisdictions from opening an Oregon IOLTA, but it also does not explicitly allow it. In theory, the allowance of these out-of-state-licensed federal practitioners to open an Oregon trust account is a corollary to the office-based requirements of Oregon RPC 1.15-1. In practice, a number of practitioners licensed by other jurisdiction maintain Oregon IOLTA accounts. An explicit allowance for these out-of-state-licensed federal practitioners to open Oregon IOLTAs would provide clearer guidance to these practitioners and to financial institutions.

Thank you for considering the comments presented here, and as always, the Oregon Law Foundation eagerly desires to help the Oregon State Bar protect the interests of clients, streamline the regulation of lawyers, promote efficient IOLTA banking, and provide justice for all. Whenever you desire to talk to Foundation staff about these rule shifts or any other topic, we are here to help you.

Very truly yours,



William C. Penn  
Executive Director

**From:** [Judy Brant](#)  
**To:** [OSB Feedback](#)  
**Subject:** Licensure  
**Date:** Wednesday, November 8, 2023 4:34:24 PM

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Suggestion: Should give reduced dues to attorneys who want to remain Bar members but are retired and not working.

Judith Brant  
822009

Sent from my iPhone

**From:** [Paul J. Sundermier](#)  
**To:** [OSB Feedback](#)  
**Subject:** OSB Licensing Rules  
**Date:** Thursday, November 9, 2023 8:33:22 AM  
**Attachments:** [image001.png](#)

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The only comment I have is that it seems the Bar is changing the status of Oregon lawyers from “members of the bar” (without a license) to “licensed members of the bar.” I do not understand why this change is happening. Has there been some problem with members not being licensed?

I’m not sure this makes a difference – I’d just like the Bar to explain what the intent is of changing to a license format. “License” is not even defined in the definitions section.

### **Paul J. Sundermier**

Of Counsel – Condemnation and Takings Litigation



Park Place, Suite 200 | 250 Church Street SE | Salem, Oregon 97301

tel: 503.399.1070 | fax: 503.371.2927

[Email](#) | [Web](#) | [Bio](#) | [LinkedIn](#)

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**From:** [Michael Moore](#)  
**To:** [OSB Feedback](#)  
**Subject:** Rules for licensure  
**Date:** Wednesday, November 8, 2023 4:39:22 PM

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Comments:

1. In the process, consider having fewer rules.
2. Consider deleting the "mandatory" component of continuing legal education.
3. If mandatoriness persists, consider abolishing subject areas, that is, the components that are mandatory, and simply have a gross number of hours of approved courses without dictating subject matter.

Thank you for the opportunity to comment and for your service.

Regards,

Mike

Michael M. Moore

MOORE & WELLIVER

2002 Pacific Ave.

Forest Grove, OR 97116

Telephone: (503) 357-3191

Facsimile: (503) 357-3193

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**From:** [Temple, Bob](#)  
**To:** [OSB Feedback](#)  
**Subject:** Rules for Licensure  
**Date:** Wednesday, November 8, 2023 4:15:26 PM  
**Attachments:** [image001.png](#)

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A couple of items to consider:

1. Those licensed to serve as House Counsel are unable to provide pro bono services because of the limitations on their license to practice law. It is to the benefit of the underserved public to allow those licensed as House Counsel to provide pro bono services.
2. There should be a simple path to convert a House Counsel license to a regular license to practice law in Oregon. Having a rule that provides a clear roadmap for the conversion would be helpful.

Thank you,



**Bob Temple**  
**General Counsel**

**email:** [btemple@nuscalepower.com](mailto:btemple@nuscalepower.com)

**web:** [www.nuscalepower.com](http://www.nuscalepower.com)

**office:** 971.371.2276

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**From:** [David Wade](#)  
**To:** [OSB Feedback](#)  
**Subject:** Rules of Licensure  
**Date:** Tuesday, September 26, 2023 7:06:54 PM

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Extremely helpful!!!

David Wade Bar No. 931217  
1673 Villard Street  
Eugene, OR 97403  
Tel: (541) 684-0674  
[jdwadejd@outlook.com](mailto:jdwadejd@outlook.com)

# OREGON STATE BAR

## Policy and Governance Agenda

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**Meeting Date:** September 22, 2023  
**From:** Ankur Doshi, General Counsel  
**Re:** Rules of Procedure and Rules of Licensure

---

### **Action Recommended**

Recommend the bar submit the Rules of Procedure and the Rules of Licensure for public comment for 45 days.

### **Background**

At the June 2023 PGC meeting, PGC reviewed an initial draft of the Bar Rules of Licensure. The Bar Rules of Licensure would cover those rules that are required for an attorney to maintain their licensure in good standing. Currently, the rules are spread over disparate rule sets, making review and compliance difficult.

The bar's regulatory team have worked to refine the initial draft presented to the Board. Additional work was conducted on the Bar Rules of Licensure to encompass most aspects of regulatory licensing for practice. Staff within DCO and RCO have helped to substantially revise reinstatement practices for counsel who are administratively suspended for non-payment or non-compliance.

In tandem with the Rules of Licensure, the Adjudicator has been working with the Bar Rules of Procedure to conform with the Bar Rules of Licensure, and to modify disciplinary proceeding rules to better reflect actual practice. Several of the changes to the Bar Rules of Procedure encompass those changes.

### **Options**

1. Submit the Rules of Procedure and Rules of Licensure amendments for public comment for 45 days.
2. Refer to staff for further review.

### **Discussion**

This draft takes the Rules from multiple rule sets and places them into a one rule set. If this rule set is adopted by the Supreme Court, additional amendments will likely need to occur to the Bylaws. These Rules of Licensure will also supersede the MCLE Rules and Regulations.

Allowing for public comment would also allow additional stakeholders to review the rules and submit comments, considerations, and additional input. Staff will likely adjust the rules throughout the public comment process, so revisions will be provided at the Board's next meeting. Staff are requesting 45 days for public comment to allow for substantial comments, but also allow for the Committee to revisit these rules at its November meeting. The Committee may determine if additional redrafting is required at the November meeting, or if the Committee can recommend the rules for passage by the Board. If the Rules are passed by the Board, the bar would likely request the court to adopt the rules with an implementation date of January 1, 2025.

With this Committee's last discussion, the objective was to transfer the rules into the Rules of Licensure with minimum changes. However, certain provisions, such as reinstatement required substantial changes to clarify the process for reinstatement to readers. Additionally, several rules needed substantial redrafting, as the rule itself no longer mirrored actual practice.

1. Rule 2.3 contains information about member registration and designation of an email address. It also now contains a rule to protect member and constituent demographic data based on the revised SB 234 as well as a note about seeking protection for addresses through the General Counsel's Office.
2. Rule 2.5 adds a review process for administrative suspensions by the CEO.
3. Title 4 deals with MCLE compliance. The rules within this Title deal specifically with the requirements of the attorney to obtain their 45 credit-hours of MCLE over three years.
4. Title 5 deals with accreditation of CLE programs. This Title details how programs and sponsors can obtain accreditation for their programs. The combination of Title 4 and Title 5 constitute the majority of the MCLE Rules and Regulations. If the Rules of Licensure is approved by the Supreme Court, the bar will likely request the MCLE Rules and Regulations be sunset as well. Future changes would be conducted by the MCLE Committee in the Rules of Licensure.
5. Title 6 adds the NLMP rules from the MCLE Rules.
6. Title 7 encompasses most of RPC 1.15-2. RPC 1.15-2 contains a number of rules and regulations related to trust accounts that do not belong in the RPCs as they are not conduct rules, but banking regulations. If the court approves this ruleset, an amendment to RPC 1.15-2 would likely be necessary.
7. Title 8 deals with PLF Coverage. It provides the requirement for PLF coverage, and also notes that members may be suspended for failure to pay for coverage.
8. Title 9 codifies a Supreme Court Order issued during Hurricane Katrina.

9. Title 10 now creates two specific non-disciplinary pathways for reinstatement. RL 10.3 establishes administrative reinstatement, which is a quick reinstatement for short periods of administrative suspensions. These usually occur if members forget to pay their fees, and request reinstatement a few days later. RL 10.4, streamlined reinstatement, is a process for transferring status from inactive to active, or if a member has been administratively suspended for greater than six months. All other reinstatements not within RL 10.3 or RL 10.4 are disciplinary in nature, and must go through reinstatement through the BRs.
10. RL 10.6 allows the CEO to convert a administrative reinstatement or a streamlined reinstatement to a Formal Reinstatement under BR 8.1 if warranted.
11. Title 11 regarding resignations submits the reader back to the Bar Rules of Procedure. The entanglement of Form A and Form B resignations would make placing two different rules referring to each other too confusing to the reader.

The Rules of Procedure includes a number of substantive changes as well, focusing around disciplinary proceedings in addition to changes in relation to the Rules of Licensure. A number of the more substantive changes are listed below. A redline is attached for the purposes of comparison.

1. Time periods were adjusted to be more uniform, and generally reflect 14 days unless otherwise noted.
2. BR 1.11 was moved to Rules of Licensure. A substitute provision for service is in place for DCO to utilize BR 1.11 for service.
3. BR 2.4 was substantially rewritten to better reflect the current practice with the Disciplinary Board. DB members are now subject to the DB Code of Conduct instead of the Judicial Code of Conduct.
4. BR 2.5 changed the name from CAO to a generic intake office. CAO requested this change as it may study a change to its name in the future.
5. BR 3.1 changed interlocutory suspensions to interim suspensions. Additional timing adjustments were made, including the time for scheduling trial shortened to 120 days from 270 days. Termination of interim suspension now requires order from adjudicator or the court.
6. BR 4.4 adds rules governing motion practice before the DB.
7. BR 6.2 changes the authority of the DB to provide probation after a hearing.
8. BR 6.4 Ethics School does not require in-person attendance. In practice, Ethics School has allowed for remote attendance since 2020. Reinstatement for ethics school suspension has been moved to this rule.
9. BR 8.1 The Board has been removed from consideration of reinstatements.

10. BR 8.2 Informal suspensions have been removed from Rule and moved to Rules of Licensure
11. BR 8.3 has been adjusted to allow for more discretion for DCO to reinstate in cases after a less than six month disciplinary suspension.
12. BR 8.4 – Removed – Moved to Rules of Licensure
13. BR 8.5 – Removed – Move to 6.4
14. BR 8.6 A provision for conditional reinstatement added
15. BRs 8.8 through 8.11 At the request of the court, staff has changed the process for a contested reinstatement. The denial of reinstatement goes to the DB Clerk instead of the Supreme Court. Currently, the process requires a denial of reinstatement to go to the Supreme Court, which generally returns it back to the Bar to conduct a hearing before reviewing it.
16. BR 8.14 – Removed - Moved to Rules of Licensure
17. BR 10.6 – Allows the Supreme Court to establish a period of time prior to an applicant filing an application for reinstatement.

## **Attachments**

Exhibit 1: Rules of Licensure

Exhibit 2: Rules of Procedure Redline

Exhibit 3: Rules of Procedure – Licensure Changes

# Oregon State Bar Rules of Licensure

## Title 1 - General Provisions

### 1.1. Definitions

- (a) Accredited CLE Activity: An activity that provides legal or professional education to attorneys or LPs that has been accredited in accordance with these Rules.
- (b) “Applicant” means an applicant for reinstatement to the practice of law in Oregon.
- (c) “Attorney” means a person who has been admitted to the practice of law in Oregon.
- (d) “Bar” or “OSB” means Oregon State Bar created by the Bar Act.
- (e) “Bar Act” means ORS Chapter 9.
- (f) “Bar Rules of Procedures” or “BRs” refers to the Oregon State Bar Rules of Procedure.
- (g) “Board” means Board of Governors of the Bar.
- (h) “Chief Executive Officer” means the chief administrative employee of the Bar or their designee.
- (i) “Contested Reinstatement” means a proceeding in which the Bar is objecting to the reinstatement of an attorney or a former attorney or LP or former LP to the practice of law. Contested reinstatements are conducted under the Bar Rules of Procedure.
- (j) “General Counsel” means general counsel of the bar or their designee.
- (k) “Hour” or “Credit Hour” means sixty minutes of accredited group CLE activity or other CLE activity.
- (l) “Licensed Paralegal” or “LP” means a person who has been admitted to practice in Oregon under a Licensed Paralegal license.
- (m) “MCLE” means minimum continuing legal education.
- (n) “Member” means a member of the bar, including lawyers and LPs.
- (o) “New Lawyer Admittee” means a new lawyer member of the bar. A lawyer member is considered a new admittee from the date of their initial admission through the end of their first reporting period.
- (p) “Professional Liability Fund” or “PLF” is the Professional Liability Fund, a fund that provides professional liability coverage to members of the Oregon State Bar in the private practice of law.
- (q) “Reporting period” means the period during which an active member must satisfy MCLE requirements.
- (r) “Rules for Licensing Paralegals” or “RLP” means the Oregon State Bar Rules for Licensing Paralegals.

- (s) “Rule of Professional Conduct” means the corresponding Rules of Professional Conduct for attorneys, or the Rules of Professional Conduct for Licensed Paralegals for LPs.
- (t) “Sponsor” means an individual or organization providing a CLE activity.
- (u) “State Court Administrator” means the person who holds the office created pursuant to ORS 8.110.
- (v) “Supreme Court” and “court” mean the Oregon Supreme Court.
- (w) “SPRB” means State Professional Responsibility Board appointed by the Supreme Court.

## 1.2. Authority

These “Rules of Licensure” are adopted by the Board and approved by the Supreme Court pursuant to ORS 9.006 and the inherent authority of the Supreme Court. These Rules of Licensure, unless otherwise noted, apply to all admitted active and inactive members of the Oregon State Bar, regardless of admission application type.

## 1.3. Amendments

The Rules of Licensure may be amended or repealed, and new rules may be adopted by the Board at any regular meeting or at any special meeting called for that purpose. No amendment, repeal or new rule shall become effective until approved by the Supreme Court.

## 1.4. Citation of Rules

These Rules of Licensure may be referred to as RLs and cited, for example, as RL 1.1(a).

# Title 2 - Licensure Status

## 2.1. Classification of Members

- (a) Active member.  
Any member of the Bar admitted to practice law in the State of Oregon who is not an inactive or suspended member. Active members include Active Pro Bono members. Active members may practice law within Oregon pursuant to ORS 9.160.
- (b) Active Pro Bono Status.  
Active Pro Bono Status members agree to provide pro bono legal services to indigent clients referred by pro bono programs certified by the Bar and report annually to the Oregon State Bar their number of hours of pro bono service.
- (c) Inactive member.  
A member designated as an inactive member may not practice law within Oregon pursuant to ORS 9.160. Members who are 65 years or older may be designated as retired, but are considered inactive members.
- (d) Associate Member.  
A member of the Bar who is admitted as an associate member under ORS 9.241(3) as a licensed paralegal with a limited scope of practice.

## 2.2. Active Pro Bono Status



(a) Eligibility and Fees

Active lawyers who are not suspended may request a transfer to active pro bono status at any time. Requests for transfers must be received by January 31 to be assessed the Active Pro Bono fee for the current year. Active Pro Bono members are assessed a fee that is equivalent to the inactive membership fee. Inactive or retired lawyers may apply for active pro bono status through reinstatement.

(b) Limitations on Practice

Active Pro Bono Status lawyers shall not engage in the practice of law within Oregon except for providing pro bono services specified above or in volunteer service on the State Professional Responsibility Board, the Disciplinary Board or as bar counsel. Professional liability coverage for any practice of law within Oregon must be obtained through the Professional Liability Fund or through the certified pro bono program.

(c) Reporting Requirement

Active Pro Bono lawyers must ensure that the certified program reports their hours or must individually report their hours no later than April 30 of each year.

(d) Transfer from Out-of-State Active Pro Bono Status

Out-of-State Active Pro Bono members admitted through Admissions Rule 17.05 are not eligible to transfer their status to any other status.

## 2.3. Register of Members

(a) Register of Members

The bar shall keep a register of the enrollment of all members of the bar. The published register of members must include at least the member's name, bar number, and current status.

(b) Demographic Data

The bar may collect personal information and demographic information from its members and constituents during the registration of members each year and through other means in order to evaluate disparities and impacts in the justice system in Oregon. Any data shall be confidential and not subject to disclosure absent a court order. The bar may utilize such demographic data for its own internal purposes, including evaluating participation in bar groups. The bar may permit the release of this data publicly in an aggregate de-identified form as required to carry out its functions.

(c) Designation of Contact Information

All members shall designate a principal office address and telephone number, or if no business address is available, a post office or residential address and telephone number. A post office address designation must be accompanied by the county and state in which the lawyer is geographically located. Unless no other addresses are available, the bar will not make a member's home address publicly available on the membership directory. All addresses are subject to disclosure under the Oregon Public Records Law unless a member applies and is granted an exemption from the bar's general counsel.

(d) Principal Office

"Principal Office" means the location the member holds out to the public as an office where the member engages in the practice of law, whether the member engages in the practice while physically present in that location, or while teleworking via telephone, internet, or other electronic connection from a remote

location.

(e) Designation of Email Address

All members shall designate an e-mail address for receipt of bar regulatory notices and correspondence except members whose status is retired, and members for whom reasonable accommodation is required by applicable law. A member seeking an exemption as a reasonable accommodation must submit a written request to the Chief Executive Officer, whose decision on the request will be final.

(f) Change of Contact Information

All members shall promptly notify the Bar in writing when any change in their contact information occurs. A new designation is not effective until actually received by the Bar.

## 2.4. Change of Status

- (a) An active member of the bar may change to inactive status, retired status, or active pro bono status at any time. Requests for a change to an inactive status, retired status, or active pro bono status must be received by January 31 to be assessed the fee for the new status in the current year.
- (b) Members who are inactive, retired, active pro bono, or who have resigned from bar prior to December 1, 2019, must apply for reinstatement pursuant to these rules to reinstate to active or active pro bono status.

## 2.5. Administrative Suspension

- (a) A member may be administratively suspended for failing to comply with the Rules of Licensure.
- (b) If a member believes that they have been improperly suspended under the Rules of Licensure, the member may request review of the suspension from the Bar's CEO. To request review, the member shall submit a written letter that states the decision to be reviewed and the reasons for requesting review. The Chief Executive Officer may vacate a suspension upon review of a member's request if clear and convincing evidence establishes that that the member complied with the Rules of Licensure.

# Title 3 - Fees

## 3.1. Annual Membership Fees and Assessments

- (a) Members will be assessed an annual fee and other assessments as set by the Board of Governors and approved by the House of Delegates as set forth in ORS 9.191.
- (b) The payment due date for annual membership fees and assessments is January 31, at 11:59 p.m PT.
  - (i) If the payment due date falls on a Saturday, a legal holiday or a day that the bar office is closed for any reason, including inclement weather or natural disaster, the due date of such fees and assessments is the next day that the bar office is open for business. As used in this section, "legal holiday" means legal holiday as defined in ORS 187.010 and 187.020, which includes Sunday as a legal holiday.
- (c) No part of the membership fees will be rebated, refunded or forgiven by reason of death, resignation, suspension, disbarment or change from active to inactive membership after January 31.

(d) A bar member who, by January 31, expresses a clear intent to the Bar to transfer to inactive, retired, or active pro bono status and timely pays the corresponding membership fees, but does not timely submit a request to transfer, may be allowed to complete the transfer without payment of the active membership assessment, if the Chief Executive Officer finds extenuating circumstances exist. The Chief Executive Officer's decision is final.

(e) Proration of Fees

The Board may establish a uniform procedure for proration of membership fees based on admission to practice during the course of the year. New members admitted to the bar will have ninety (90) days from the date of admission to pay their membership fees. If a new member fails to pay the fees within the time allowed, the new member is automatically suspended.

### 3.2. Delinquency and Suspension

- (a) The Board will set a late payment penalty to be assessed on any member delinquent in payment of member fees. Any member in default of payment of annual member fees will be given a reasonable opportunity to cure the default as determined by the Board.
- (b) The Chief Executive Officer shall send a notice of delinquency to each member in default at the member's electronic mail address on file with the bar on the date of the notice. The Chief Executive Officer shall send the notice by mail to any member who is not required to have an electronic mail address on file with the Bar.
- (c) If a member fails to pay the fees or contributions within the time allowed to cure the default as stated in the notice, the member is administratively suspended automatically.

### 3.3. Fee Exemptions and Waivers

(a) Hardship Waivers

- (i) The Chief Executive Officer may, each year, exempt or waive payment of annual membership fees in case of proven extreme hardship, which must entail both physical or mental disability, and extreme financial hardship. "Extreme financial hardship" means that the member is unemployed and has no source of income other than governmental or private disability payments. The Chief Executive Officer may exempt or waive payment of annual membership fees and assessments of an active or inactive member.
- (ii) Hardship waivers are for a one-year period only, and requests must be resubmitted annually on or before January 31 of the year for which the exemption is requested.
- (iii) Members seeking a request for a hardship waiver must provide a physician's statement or other evidence of disability and documentation regarding income.

(b) Service Waivers

- (i) The Chief Executive Officer, may, each year, waive or exempt annual membership fees and assessments for members in active military service, the Peace Corps, VISTA or other volunteer programs serving the national interest or the legal profession, and for which the member receives only a subsistence income, stipend or expense reimbursement that is the member's principal source of income.
- (ii) Requests for waivers must be received 15 days before the date that membership fees and assessments are due each year. Waivers will not be granted unless the lawyer's service

encompasses the majority of a year except in the case of military waivers, which may be granted for less than the majority of a year under special circumstances such as a war of unknown duration.

(c) Severe Disruption Waivers

The Chief Executive Officer may take reasonable and necessary actions, including extending deadlines and waiving late fees, if national or statewide events occur that severely disrupt the normal course of business. Prior to taking action, the CEO will make reasonable efforts to consult with the Bar President.

## **Title 4 - Minimum Continuing Legal Education**

### **4.1. Minimum Continuing Legal Education for Active Members**

- (a) Except as provided in Rules 4.2 and 4.3, all active members shall complete a minimum of 45 credit hours of accredited CLE activity every three years as provided in these Rules.
- (b) Ethics. At least five of the required hours shall be in programs accredited in ethics.
- (c) Abuse Reporting. One hour must be on the subject of a lawyer's statutory duty to report child abuse and elder abuse (see ORS 9.114).
- (d) Mental Health and Substance Use Education. One hour must be in subjects relating to mental health, substance use, or cognitive impairment that can affect a lawyer's ability to practice law.
- (e) Access to Justice. In alternate reporting periods, at least three of the required hours must be in programs accredited for access to justice.
- (f) IOLTA Administration. One hour for LP members must be on the administration of Interest on Lawyer Trust Accounts (IOLTA).
- (g) Oregon Rules of Civil Procedure. One hour for LP members must be on the Oregon Rules of Civil Procedure (ORCP).
- (h) Scope of License. One hour for LP members must be on the LPs scope of license as defined in Section 11 of the Rules for Licensing Paralegals (RLPs).
- (i) Substantive Law and Practice. 26 hours for LP members must be education specific to the LP's practice area for which they are licensed. LP's with licenses to practice in more than one practice area must complete 26 hour of education specific to each practice area for which the LP seeks renewal of licensure.

### **4.2. Reinstatements, Resumption of Practice After Retirement and New Admittees**

- (a) An active member whose reporting period is established in Rule 4.4(c)(2) and 4.4(c)(3) shall complete 15 credit hours of accredited CLE activity in the first reporting period after reinstatement. Two of the 15 credit hours shall be in ethics and one shall be in subjects relating to mental health, substance use, or cognitive impairment that can affect a lawyer's ability to practice law. 12 of the credits for an active LP member must be specific to the LP's practice area for which they are licensed.
- (b) The requirements in Rule 4.1(a) shall apply to new admittees who are active members in a three year initial reporting period pursuant to 4.4(b). New admittees in a shorter initial reporting period shall complete 15 credit hours of accredited CLE activity in the first reporting period after admission as an active member, including a three credit hour OSB-approved introductory course in access to justice, two credit hours in ethics, one credit hour in subjects relating to mental health, substance use, or cognitive impairment that can affect a lawyer's ability to practice law, and nine credit hours in practical skills. One

of the ethics credit hours must be devoted to Oregon ethics and professionalism and four of the nine credits in practical skills must be devoted to Oregon practice and procedure.

- (c) New lawyer admittees shall enroll in the NLMP within 28 days of admission, except as otherwise provided in these rules. New lawyer admittees shall complete the requirements of the NLMP curriculum established by the BOG, complete a mentoring plan and file a NLMP Completion Certificate, and pay the accreditation fee in the first three-year reporting period after admission as an active member.

#### **4.3. Out-of-State Compliance.**

- (a) Reciprocity Jurisdictions. An active member whose principal office for the practice of law is not in the State of Oregon and who is an active member in a jurisdiction with which Oregon has established MCLE reciprocity may comply with these rules by filing a compliance report accompanied by evidence that the member is in compliance with the requirements of the other jurisdiction (generally a certificate of compliance from the reciprocal jurisdiction) and that they have completed a child and elder abuse reporting credit required in ORS 9.114. This filing shall include payment of the fee of \$25.00 for processing the comity certificate of MCLE compliance from the reciprocal state.
- (b) An active member whose principal office for the practice of law is in the State of Oregon may obtain from the MCLE Program Manager a comity certification of Oregon MCLE compliance upon payment of the fee of \$25.00.
- (c) Other Jurisdictions. An active member whose principal office for the practice of law is not in the State of Oregon and is not in a jurisdiction with which Oregon has established MCLE reciprocity must file a compliance report showing that the member has completed at least 45 hours of accredited CLE activities as required by Rule 4.1. The member shall attach to the compliance report evidence that the member has met the requirements under Rule 4.1 with courses accredited in any jurisdiction.

#### **4.4. Reporting Period**

- (a) All active members shall have three-year reporting periods, except as provided in paragraphs (b) and (c).
- (b) New Admittees. The first reporting period for a new lawyer admittee shall start on the date of admission as an active member and shall end on April 30 of the next calendar year. A new lawyer admittee admitted by comity who has been actively engaged in the authorized fulltime practice of law for no less than 24 of the 48 months immediately prior to admission in Oregon shall have a three-year initial reporting period that begins May 1 the year following admission and ends April 30 three years later. All subsequent reporting periods shall be three years.
- (c) Reinstatement Reporting Periods.
  - (i) A member who transfers to inactive, retired or Active Pro Bono status, is suspended, or has resigned and who is reinstated before the end of the reporting period in effect at the time of the status change shall retain the member's original reporting period and these Rules shall be applied as though the transfer, suspension, or resignation had not occurred.
  - (ii) Except as provided in Rule 4.4(c)(i), the first reporting period for a member who is reinstated as an active member following a transfer to inactive, retired or Active Pro Bono status or a suspension, disbarment or resignation shall start on the date of reinstatement and shall end on April 30 of the next calendar year. All subsequent reporting periods shall be three years. Members under this subsection shall not be required to fulfill the requirement of compliance during the member's inactive or retired status, suspension, disbarment or resignation, but no credits obtained during the member's inactive or retired status, suspension, disbarment or resignation shall be carried over into the next reporting period.

- (iii) Notwithstanding Rules 4.4(c)(i) and (ii), reinstated members who did not submit a completed compliance report for the reporting period immediately prior to their transfer to inactive, retired or Active Pro Bono status, suspension or resignation will be assigned a new reporting period upon reinstatement. This reporting period shall begin on the date of reinstatement and shall end on April 30 of the next calendar year. All subsequent reporting periods shall be three years.

#### **4.5. Reports.**

Every active member shall electronically certify and submit their completed compliance report on or before May 31 of the year the active member's reporting period ends.

#### **4.6. Recordkeeping.**

- (a) Every active member shall maintain records of participation in CLE activities for use in completing a compliance report and shall retain these records for a period of twelve months after the end of the member's reporting period.
- (b) The MCLE Program Manager may maintain records of active members' participation in CLE activities as necessary to verify compliance with the MCLE requirement.

#### **4.7. Application of Credits**

- (a) Members may credit an unlimited number of Category I hours to their requirements for MCLE compliance. For Category II hours, lawyer members may only credit 20 hours and LP members may only credit 12 hours in a three-year reporting period. For Category III hours, lawyer members may only credit 6 hours and LP members may only credit 3 hours in a three year reporting. If a member's reporting cycle is shorter than three years, the member may only credit half of the number of hours allowed in a three year reporting cycle for Category II and III activities.
- (b) Legal ethics, access to justice, abuse reporting, IOLTA administration, Oregon Rules of Civil Procedure education, LP scope of license education, and mental health and substance use education credits in excess of the minimum required can be applied to the practical skills requirement.
- (c) General, practical skills, specialty credits listed in 4.7(a), and family law and landlord-tenant practice area education credits earned by lawyer members will be applied toward the lawyer member's total minimum credit requirement.
- (d) Practical Skills. A practical skills program is one which includes courses designed primarily to instruct new admittees in the methods and means of the practice of law. This includes those courses which involve instruction in the practice of law generally, instruction in the management of a legal practice, and instruction in particular substantive law areas designed for new practitioners. A CLE course on any subject matter can contain as part of the curriculum a portion devoted to practical skills. The sponsor shall designate those portions of any program which it claims is eligible for practical skills credit.
- (e) A credit hour cannot be applied to both the practical skills requirement and the ethics requirement.
- (f) An active lawyer member may carry forward 15 or fewer unused credit hours from the reporting period during which the credit hours were earned to the next reporting period. An active LP may carry forward 10 or fewer unused credit hours from the reporting period during which the hours were earned to the next reporting period.

#### **4.8. Audits of Bar Members**

- (a) The bar may audit compliance reports selected because of facial defects or by random selection or other appropriate method.

- (b) The bar may request and review records of participation in CLE activities reported by members.
- (c) Failure to substantiate participation in CLE activities in accordance with these rules after request by the bar will result in disallowance of credits for the CLE activity, assessment of a late filing fee.
- (d) The MCLE Program Manager shall refer members to the Oregon State Bar Disciplinary Counsel for further action for potential ethical violations.

#### **4.9. Suspension for Noncompliance.**

- (a) Grounds. The following are considered grounds for a finding of noncompliance with the MCLE Requirements:
  - (i) Failure to complete the MCLE requirement for the applicable reporting period.
  - (ii) Failure to electronically certify and submit a completed compliance report on time.
  - (iii) Failure to provide sufficient records of participation in CLE activities to substantiate credits reported, following request by the MCLE Program Manager.
- (b) Notice. The Chief Executive Officer of the Oregon State Bar shall provide written notice to any member found noncompliant under subsection (a). The notice shall set out a reasonable time to either request review of the noncompliance determination or to cure the noncompliance. The notice shall be sent to the member's electronic mail address on file with the bar or, for any member not required to have an electronic mail address on file with the bar, to that member's mailing address on file with the bar.
- (c) Suspension. If the member fails to cure the noncompliance as required, and pay the late fee within the time allowed to cure as stated in the notice, the member is automatically suspended. The member may request review of the suspension if the member believes the suspension is in error.
- (d) The Chief Executive Officer shall provide the names of all members suspended under this section to the State Court Administrator for forwarding to the judges of the Supreme Court, and also shall provide the names to each of the judges of the Court of Appeals, circuit and tax courts of the state.

#### **4.10. Cure and Review**

- (a) Noncompliance for failure to comply with Title 4 can be cured by performance of the following actions no later than the deadline set out in the notice of noncompliance.
  - (i) Completing the credit hours necessary to satisfy the MCLE requirement for the applicable reporting period;
  - (ii) Electronically certifying and submitting the completed compliance report; and
  - (iii) Paying the late filing fee specified.
- (b) Noncompliance for failure to comply as described in Rule 4.8(a)(iii) can be cured by providing the MCLE Program Manager with the requested records, together with the late fee, no later than the deadline set forth in the notice of noncompliance.
- (c) The bar will assess a late fee of \$200 for failing to file a completed compliance report by the filing deadline.
- (d) Credit hours applied to a previous reporting period for the purpose of curing noncompliance may be used for only that purpose and may not be used to satisfy the MCLE requirement for any other reporting period.

- (e) If the MCLE Program Manager determines that noncompliance has been cured, then the Manager shall notify the affected member that the member has complied with the MCLE Rules and Regulations for the applicable reporting period. Curing noncompliance does not prevent subsequent audit and action under this Title.
- (f) If a member believes that there is a factual error in a notice of noncompliance or an automatic suspension, the member may request a review by the Chief Executive Officer of the Oregon State Bar. To request review, the member shall submit a written letter to the MCLE Program Manager that states the decision to be reviewed and sets out the reasons for requesting review. The member also may submit additional materials as part of the request for review, establishing compliance with these Rules. The Chief Executive Officer may vacate a notice of noncompliance or a suspension upon review of a member's request if clear and convincing evidence establishes that that the member complied with the Rules and the requirements. The MCLE Program Manager shall provide the member with the Chief Executive Officer's decision on review.

#### **4.11. Exemptions from MCLE Requirements**

- (a) A member who is in Inactive, Retired or Active Pro Bono status is exempt from compliance with these Rules.
- (b) A member serving as Governor, Secretary of State, Commissioner of the Bureau of Labor and Industries, Treasurer, or Attorney General during all or part of a reporting period must complete the minimum credit requirements in the categories of ethics, access to justice, and abuse reporting during the reporting periods. Such a member is otherwise exempt from any other credit requirements during the reporting period in which the member serves.

#### **4.12. Other Waiver, Exemption, Delayed or Substitute Compliance**

Upon written request of a member or sponsor, the MCLE Program Manager may waive, grant exemption from, or permit substitute or delayed compliance with any requirement of these Rules. The request shall state the reason for the waiver or exemption and shall describe a continuing legal education plan tailored to the particular circumstances of the requestor. The MCLE Program Manager may grant a request upon a finding that hardship or other special circumstances makes compliance impossible or inordinately difficult, or the requested waiver, exemption, or substitute or delayed compliance is not inconsistent with the purposes of these Rules.

#### **4.13. Review.**

- (a) A decision, other than a suspension, affecting any active member or sponsor is final unless a request for review is filed with the MCLE Program Manager within 21 days after notice of the decision is issued. The request for review shall be by letter and requires no special form, but it shall state the decision to be reviewed and give the reasons for review. The matter shall be reviewed by the BOG or, if one has been appointed, the MCLE Committee, at its next regular meeting.
- (b) An active member or sponsor shall have the right, upon request, to be heard, and any such hearing request shall be made in the initial letter. Notice of the date, time and place of the BOG or MCLE Committee meeting at which the request for review will be considered will be provided to the active member or sponsor 14 days prior to meeting. The hearing shall be informal. On review, the BOG or the MCLE Committee shall have authority to take whatever action consistent with these rules is deemed proper. The MCLE Program Manager shall notify the member or sponsor in writing of the decision on review and the reasons therefor.
- (c) Decisions of the MCLE Committee. If a decision of the MCLE Program Manager is initially reviewed by the MCLE Committee, the decision of the MCLE Committee may be reviewed by the BOG on written request of the affected active member or sponsor made within 21 days of the issuance of the MCLE Committee's



decision. The decision of the BOG shall be final.

## **Title 5 - CLE Accreditation**

### **5.1. Accreditation**

- (a) Programs seeking accreditation must be offered by a sponsor having substantial, recent experience in offering continuing legal education or by a sponsor that can demonstrate ability to organize and effectively present continuing legal education. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction, and supervision of the activity.
- (b) The program seeking accreditation must be primarily intended for presentation to multiple participants, including but not limited to live programs, video and audio presentations (including original programming and replays of accredited programs), satellite broadcasts and on-line programs.
- (c) The program must include the use of thorough, high-quality written materials, unless the bar determines that the activity has substantial educational value without written materials.
- (d) All sponsors shall permit the MCLE Program Manager or a member of the MCLE Committee to audit the sponsors' CLE activities without charge for purposes of monitoring compliance with MCLE requirements. Monitoring may include attending CLE activities, conducting surveys of participants, verifying attendance of registrants, and reviewing sponsor advertising activities and communications with members.
- (e) In addition to complying with the Rules of this Title, programs seeking accreditation must also follow the standards and guidelines set forth by the Board for CLE accreditation.

### **5.2. Group Accreditation (Category I)**

- (a) CLE activities will be considered for accreditation on a case-by-case basis and must satisfy the accreditation standards for the particular type of activity for which accreditation is being requested.
- (b) An application for accreditation of a group CLE activity shall be accompanied by payment of the application fee. An additional program application and fee is required for a repeat live presentation of a group CLE activity.
- (c) An application for accreditation of a group CLE activity must be electronically submitted no later than 30 days after the original program date for live programs and no later than 30 days after the production date for recorded programs. An application received more than 30 days after the original program date (live programs) or production date (recorded programs) is subject to a late processing fee.
- (d) The MCLE Program Manager may revoke the accreditation of an activity at any time if it determines that the accreditation standards were not met for the activity. Notice of revocation shall be sent to the sponsor of the activity.
- (e) Accreditation of a CLE activity obtained by a sponsor or an active member shall apply for all active members participating in the activity.

### **5.3. Credit Hours.**

- (a) Credit hours shall be assigned in multiples of one-quarter of an hour or fraction thereof.
- (b) Only CLE activities that meet the accreditation standards shall be included in computing total CLE credits. Activities such as registration, non-substantive remarks, breaks and business meetings will be excluded from credit calculations.
- (c) Programs less than 30 minutes in length will be excluded from credit calculations.

#### 5.4. Fees

The Board will set forth in its standards and regulations any applicable fees and costs to be charged to sponsors seeking accreditation of MCLE Programs.

#### 5.5. Sponsor Advertising.

- (a) Only sponsors of accredited group CLE activities may include in their advertising the accredited status of the activity and the credit hours assigned.
- (b) Advertisements by sponsors of accredited CLE activities shall not contain any false or misleading information.
- (c) Advertisements may list the number of approved credit hours. If approval of accreditation is pending, the advertisement shall so state and may list the number of CLE credit hours for which application has been made.
- (d) If a sponsor includes in its advertisement the number of credit hours that a member will receive for attending the program, the sponsor must have previously applied for and received MCLE accreditation for the number of hours being advertised.

#### 5.6. Sponsor Attendance Reporting.

- (a) Within 30 days of a bar member's attendance of a live accredited CLE activity, or screening of a recorded accredited CLE program, the sponsor must either:
  - (i) post the credits earned by the bar member onto the bar member's MCLE Transcript via the attendance posting portal on the Oregon State Bar website; or
  - (ii) electronically submit an attendance report to the MCLE Program Manager via the attendance reporting portal on together with payment of the credit processing fee.
- (b) The attendance report must include the
  - (i) sponsor name,
  - (ii) program title,
  - (iii) Event ID number as indicated in the Program Database on the Oregon State Bar webs
  - (iv) original program date,
  - (v) first and last name of each Oregon bar member who earned credits from the activity,
  - (vi) Oregon bar number of each bar member listed,
  - (vii) the number and types of credits earned by each bar member, and
  - (viii) date of credit completion for each bar member.

#### 5.7. Independent Study

Members may earn credit through independent screening or viewing of programs originally presented to live group audiences, or through online programs designed for presentation to a wide audience. A lawyer who is licensed in a jurisdiction that allows credit for reading and successfully completing an examination about specific material may use such credits to meet the Oregon requirement. No credit will be allowed for independent reading of material selected by a member except as part of an organized and accredited group program.

#### 5.8. Specialized Credit Activity Content Standards

- (a) Ethics. In order to be accredited as an activity in ethics, an activity shall be devoted to the study of judicial or legal ethics or professionalism, and shall include discussion of applicable judicial conduct codes, rules of

professional conduct, or statements of professionalism.

- (b) Child and Elder Abuse Reporting. In order to be accredited as an activity in child or elder abuse reporting, the program must be devoted to the lawyer's statutory duty to report child abuse and elder abuse. The program must include discussion of a member's requirements to report child abuse or elder abuse, and the exceptions to those requirements.
- (c) Mental Health and Substance Use. In order to be accredited as an activity in mental health and substance use, the program must be devoted to educating members about mental health in relation to legal practice or to the causes, detection, response, treatment or prevention related to substance use related in relation to legal practice.
- (d) A fractional portion of an activity may be accredited for ethics and access to justice, if the applicable content of the activity is clearly defined.

### **5.9. Access to Justice Accrediation**

- (a) In order to be accredited as an activity in access to justice, an activity shall be directly related to the practice of law and designed to educate members to identify and eliminate from the legal profession, from the provision of legal services, and from the practice of law barriers to access to justice arising from biases against persons because of age, culture, disability, ethnicity, gender and gender identity or expression, geographic location, national origin, race, religion, sex, sexual orientation, veteran status, immigration status, and socioeconomic status.
- (b) A program is eligible for accreditation as an access to justice activity even if it is limited to a discussion of substantive law, provided the substantive law relates to access to justice issues involving age, culture, disability, ethnicity, gender and gender identity or expression, geographic location, national origin, race, religion, sex, sexual orientation, veteran status, immigration status, and socioeconomic status.
- (c) Access to justice programming should be guided by these three principles:
  - (i) Promoting accessibility by eliminating systemic barriers that prevent people from understanding and exercising their rights.
  - (ii) Ensuring fairness by delivering fair and just outcomes for all parties, including those facing financial and other disadvantages.
  - (iii) Addressing systemic failures that lead to a lack of confidence in the justice system by creating meaningful and equitable opportunities to be heard.
- (d) The presenters of access to justice and introductory access to justice programs should have qualifications in the topic being presented through lived experience; professional experience; or substantial training on the topic.

### **5.10. Licensed Paralegal Specific Activity Content Standards**

- (a) IOLTA. In order to be accredited as IOLTA administration education, programs must be devoted to topics related to the administration of IOLTA accounts, such as understanding the types of lawyer trust accounts, the rules governing lawyer trust accounts in Oregon, how to open and close trust accounts, how to transfer funds into and out of trust accounts, and how to identify and reduce of liability risks arising from mismanagement of trust accounts.
- (b) ORCP. In order to be accredited as Oregon Rules of Civil Procedure education, programs must be devoted to the ORPCs and include topics such as recent updates to the ORPCs and practical applications of the ORPCs in family law or landlord- tenant related matters.

- (c) Scope of Licensure. In order to be accredited as Scope of License education, programs must be devoted to the parameters of the scope of license of LPs as defined in Section 11 of the RLPs, including the parameters within which LPs are authorized to practice law, the types of matters in which LPs are permitted to provide legal advice and representation, and the practical identification of mandatory referral scenarios.
- (d) Family Law. In order to be accredited as family law practice area education, programs must be devoted to substantive and practical education in Oregon family law and should include topics generally within the scope of LP license as defined in Section 11 of the RLPs, such as dissolution of marriage, separation, annulment, custody, parenting time, child support, spousal support, modifications, and remedial contempt.
- (e) Landlord-Tenant. In order to be accredited as landlord-tenant law practice area education, programs must be devoted to substantive and practical education in Oregon landlord-tenant law, and should include topics generally within the scope of LP license as defined in Section 11 of the RLPs, such as residential rental agreements, amendments to residential rental agreements, eviction notices, notices of intent to enter rental property, rent increases, violations, security deposit accountings, and evictions.

### **5.11. Additional Accredited Activities**

- (a) Attending Classes.
  - (i) Attending a class at an ABA or AALS accredited law school may be accredited as a CLE activity.
  - (ii) Attending other classes may also be accredited as a CLE activity, provided the activity satisfies the following criteria:
    - (A) The MCLE Program Manager determines that the content of the activity is in compliance with other MCLE accreditation standards;
    - (B) The class is a graduate-level course offered by a university; and
    - (C) The university is accredited by an accrediting body recognized by the U.S. Department of Education for the accreditation of institutions of postsecondary education.
- (b) Legislative Service. General credit hours may be earned for service as a member of the Oregon Legislative Assembly while it is in session.
- (c) Participation in New Lawyer Mentoring Program. New lawyer admittee NLMP participants and NLMP mentors may earn MCLE credit for participation in the NLMP.
- (d) Other Professionals. Participation in an educational activity offered primarily to or by other professions or occupations may be accredited as a CLE activity if the MCLE Program Manager determines that the content of the activity is in compliance with other MCLE accreditation standards. The MCLE Program Manager may accredit the activity for fewer than the actual activity hours if the MCLE Program Manager determines that the subject matter is not sufficient to justify full accreditation.
- (e) NLMP Service. Lawyer members who serve as mentors in the NLMP may earn a total of 8.0 CLE credits, including 2.0 ethics credits and 6.0 general credits, upon filing of a NLMP Completion Certificate. If a member serves as a mentor for more than one new lawyer, the member may claim up to 16.0 total credits, including 4.0 ethics credits, during the three-year reporting cycle. If another lawyer assists with the NLMP completion, the mentoring credits must be apportioned between lawyers in a proportionate manner agreed upon by the NLMP mentors

### **5.12. Accrediation Standards for Teaching, Writing, and Bar Service (Category II)**

- (a) Teaching Activities.
  - (i) Teaching credit may be claimed for teaching accredited continuing legal education activities or for courses in ABA or AALS accredited law schools.
  - (ii) Credit may be claimed for teaching other courses, provided the activity satisfies the following criteria:
    - (A) The MCLE Program Manager determines that the content of the activity is in compliance with other MCLE content standards;

- (B) The course is a graduate-level course offered by a university; and
  - (iii) The university is accredited by an accrediting body recognized by the U.S. Department of Education for the accreditation of institutions of postsecondary education.
  - (iv) Credit may not be claimed by an active member whose primary employment is as a full-time or part-time law teacher, but may be claimed by an active member who teaches on a part-time basis in addition to the member's primary employment.
  - (v) No credit may be claimed for repeat presentations of previously accredited courses unless the presentation involves a substantial update of previously presented material, as determined by the MCLE Program Manager.
- (b) Legal Research and Writing.
- (i) Credit for legal research and writing activities, including the preparation of written materials for use in a teaching activity may be claimed provided the activity satisfies the following criteria:
    - (A) It deals primarily with one or more of the types of issues for which a Category I activity may be accredited;
    - (B) It has been published in the form of articles, CLE course materials, chapters, or books, or issued as a final product of the Legal Ethics Committee or a final instruction of the Uniform Civil Jury Instructions Committee or the Uniform Criminal Jury Instructions Committee, personally authored or edited in whole or in substantial part, by the applicant; and
    - (C) It is not done in the regular course of the active member's primary employment.
  - (ii) The number of credit hours shall be determined by the MCLE Program Manager, based on the contribution of the written materials to the professional competency of the applicant and other attorneys.
- (c) Service as a Bar Examiner. Credit may be claimed for service as a bar examiner for Oregon, provided that the service includes personally writing or grading a question for the Oregon bar exam or paralegal licensing exam during the reporting period.
- (d) Legal Ethics Service. Credit may be claimed for serving on the Oregon State Bar Legal Ethics Committee, Client Security Fund Committee, Commission on Judicial Fitness & Disability, Oregon Judicial Conference Judicial Conduct Committee, State Professional Responsibility Board, and Disciplinary Board or serving as volunteer bar counsel or volunteer counsel to an accused in Oregon disciplinary proceedings.
- (e) Credit for Committee and Council Service. Credit may be claimed for serving on committees that are responsible for drafting court rules or jury instructions that are designed to aid the judicial system and improve the judicial process. Examples include service on the Oregon State Bar Uniform Civil Jury Instructions Committee, Uniform Criminal Jury Instructions Committee, Oregon Council on Court Procedures, Uniform Trial Court Rules Committee, and the District of Oregon Local Rules Advisory Committee.
- (f) Service as a Judge Pro Tempore. Credit may be claimed for volunteer service as a judge pro tempore.

### **5.13. Accreditation Standards for Other Activities (Category III)**

- (a) Personal Management Assistance. Credit may be claimed for activities that deal with personal self-improvement, provided the MCLE Program Manager determines the self-improvement relates to professional competence as a lawyer.
- (b) Other Volunteer Activities. Credit for volunteer activities for which accreditation is not already available pursuant to this Title may be claimed provided the MCLE Program Manager determines the primary purpose of such activities is the provision of legal services or legal expertise.
- (c) Business Development and Marketing Activities. Credit may be claimed for courses devoted to business development and marketing that are specifically tailored to the delivery or marketing of legal services and focus on use of the discussed techniques and strategies in law practice.

### **5.14. Unaccredited Activities**

The following activities shall not be accredited:

- (a) Activities that would be characterized as dealing primarily with personal self-improvement unrelated to

- professional competence as a lawyer.
- (b) Activities designed primarily to sell services or equipment.
  - (c) Video or audio presentations of a CLE activity originally conducted more than three years prior to the date viewed or heard by the member seeking credit, unless it can be shown by the member that the activity has current educational value.
  - (d) Repeat live, video or audio presentations of a CLE activity for which the active member has already obtained MCLE credit.

## **Title 6 - New Lawyer Mentoring Program**

### **6.1. New Lawyering Mentoring Program.**

All lawyers admitted to practice in Oregon after January 1, 2011 must complete the requirements of the New Lawyer Mentoring Program (NLMP) unless exempt. Within 28 days of admission, new lawyer admittees whose principal office for the practice of law is in Oregon must file an NLMP Enrollment Form or certify that they are exempt.

### **6.2. Administration of New Lawyer Mentoring Program**

- (a) The bar shall develop the NLMP curriculum and requirements in consultation with the Supreme Court and shall be responsible for its administration.
- (b) The bar may establish a fee to be paid by new lawyer admittees participating in the NLMP.

### **6.3. Mentors**

- (a) The Supreme Court appoints NLMP mentors as recommended by the bar.
- (b) To qualify for appointment, the mentor must be a lawyer member of the bar in good standing with at least five years of experience in the practice of law and have a reputation for competence and ethical and professional conduct.
- (c) Attorneys in good standing in another United States jurisdiction who are not bar members but are qualified to represent clients before the Social Security Administration, the Internal Revenue Service, the United States Patent and Trademark Office, or the United States Citizenship and Immigration Services office are eligible to be appointed as mentors, provided they meet the other requirements of these rules.
- (d) Attorneys in good standing in another United States jurisdiction who are not bar members are eligible to be appointed as mentors with the recommendation of the NLMP Program Manager, provided they meet the other requirements of these rules.
- (e)

### **6.4. Removal of NLMP Mentors**

- (a) An NLMP Mentor against whom charges of misconduct have been approved for filing by the State Professional Responsibility Board or who has been suspended under the BRs for failure to respond to

- requests for information or records or to respond to a subpoena shall be removed from participation in the NLMP until those charges have been resolved by final decision or order.
- (b) If an NLMP mentor is suspended from the practice of law as a result of a final decision or order in a disciplinary proceeding, the member may not resume service as an NLMP mentor until the member is once again authorized to practice law.
  - (c) For the purposes of this Title, charges of misconduct include authorization by the SPRB to file a formal complaint, Disciplinary Counsel's notification to the court of a criminal conviction, and Disciplinary Counsel's notification to the court of an attorney's discipline in another jurisdiction pursuant to the BRs.
  - (d) Within 14 days of receipt by OSB of notice of charges against an NLMP mentor, the NLMP Program Manager shall provide written notice by email to the NLMP mentor and new lawyer admittee that the NLMP mentor is removed from serving as a mentor.
  - (e) Within 30 days, or as soon as reasonably practical, of removal of an NLMP mentor, the NLMP Program Manager shall select a new mentor for the new lawyer admittee and shall issue a notice to the new lawyer admittee and new NLMP mentor as soon as a new NLMP match is confirmed.

## 6.5. Matching

- (a) The NLMP Program Manager will match new lawyer admittees with NLMP mentors based principally on geography, and whenever possible, practice area interests. Upon request by the new lawyer admittee and NLMP mentor, the NLMP Program Manager may consider common membership in specialty or affinity bar organizations when establishing a match. The NLMP Program Manager will issue a notice to the new lawyer admittee and NLMP mentor as soon as an NLMP match is confirmed.
- (b) The NLMP Program Manager may reassign a match upon request of the new lawyer admittee of NLMP mentor if the coordinator determines a match is not effective to meet the goals of the program.
- (c) The new lawyer admittee is responsible for arranging the initial meeting with the NLMP mentor, and the meeting must take place within 28 business days of the new lawyer admittee's receipt of notice of the match. At the meeting, the new lawyer admittee and NLMP mentor will review the elements of their mentoring plan, including the following topics:
  - (i) Introduction to the Legal Community;
  - (ii) Professionalism, the Oregon Rules of Professional Conduct and Cultural Competence;
  - (iii) Introduction to Law Office Management;
  - (iv) Working with Clients;
  - (v) Career Development through Public Service, OSB programs, and quality of life issues; and
  - (vi) Practice Area Basic Skills.

## 6.6. Coordination

- (a) The NLMP Program Manager will publish an NLMP Manual consistent with NLMP curriculum developed by the bar, to provide additional information about developing and implementing an effective mentoring plan.
- (b) The MCLE Committee may review and provide input on the NLMP Manual to the NLMP Program Manager.

## 6.7. Deferral and Exemption of NLMP Requirements

- (a) A new lawyer admittee who has practiced law in another jurisdiction for two years or more upon admission to the Oregon State Bar is exempt from the NLMP requirements.
- (b) A new lawyer admittee whose principal office is outside the State of Oregon is temporarily deferred from the NLMP requirements. A new lawyer admittee whose principal office remains outside the State of Oregon for two years or more is exempt from the NLMP requirements.
- (c) A new lawyer admittee who is not engaged in the practice of law; and a new lawyer admittee serving as a judicial clerk are eligible for a temporary deferral from the NLMP requirements. The new lawyer admittee seeking a deferral must submit a written request to the NLMP Program Manager.
  - (i) A new lawyer admittee who ceases to qualify for a deferral must notify the NLMP Coordinator and enroll in the NLMP within 28 days of the change in circumstance that led to the deferral.
- (d) The NLMP Program Manager may approve a deferral for good cause shown. Such a deferral is subject to continued approval of the NLMP Program Manager.
- (e) Any new lawyer admittee who earns \$65,000 or less annually and whose employer will not pay the NLMP fee is exempt from payment of the NLMP fee.
- (f) The MCLE Program Manager may grant any other exemption from the NLMP Requirements with the consent of the NLMP Program Manager, for good cause shown.

## **6.8. NLMP Completion Certificate.**

- (a) The new lawyer admittee is responsible for ensuring that all requirements of the NLMP are completed.
- (b) Upon successful completion of the NLMP, new lawyer admittees earn 6.0 general/practical skills credits, which may be applied to the MCLE requirements of their first three-year MCLE reporting period.
- (c) Upon completion of the NLMP, a new lawyer admittee shall file a NLMP Completion Certificate, executed by the new lawyer admittee for accreditation by the MCLE Program Manager.
- (d) Filing of an NLMP Completion Certificate is defined as the electronic submission by the NLMP new lawyer admittee of their NLMP Completion Certificate by adding the certificate to their MCLE transcript through the electronic system provided by the Oregon State Bar via the internet during their first three-year reporting period.

## **Title 7 - Lawyer Trust Account Requirements**

### **7.1. IOLTA Accounts**

- (a) A lawyer trust account for client funds that cannot earn interest in excess of the costs of generating such interest (“net interest”) shall be referred to as an IOLTA (Interest on Lawyer Trust Accounts) account.
- (b) All client funds shall be deposited in the member’s or law firm’s IOLTA account unless a particular client’s



funds can earn net interest.

- (c) All interest earned by funds held in the IOLTA account shall be paid to the Oregon Law Foundation as provided in this rule.

## 7.2. Interest Bearing Trust Accounts

- (a) Client funds that can earn net interest shall be deposited in an interest-bearing trust account for the client's benefit and the net interest earned by funds in such an account shall be held in trust as property of the client in the same manner as is provided in Rule of Professional Conduct 1.15 for the principal funds of the client.
- (b) The interest-bearing account shall be either:
  - (i) a separate account for each particular client or client matter; or
  - (ii) a pooled lawyer trust account with subaccounting which will provide for computation of interest earned by each client's funds and the payment thereof, net of any bank service charges, to each client.

## 7.3. Determining Whether Funds Can Earn Net Interest

In determining whether client funds can or cannot earn net interest, the member or law firm shall consider the following factors:

- (i) the amount of the funds to be deposited;
- (ii) the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;
- (iii) the rates of interest at financial institutions where the funds are to be deposited;
- (iv) the cost of establishing and administering a separate interest-bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;
- (v) the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and
- (vi) any other circumstances that affect the ability of the client's funds to earn a net return for the client.

## 7.4. Review of Trust Accounts

### (a) Review at Reasonable Intervals

The member or law firm shall review the IOLTA account at reasonable intervals to determine whether the client's funds may earn net interest, or circumstances have changed that require further action.

### (b) Requesting Refunds

If a member or law firm determines that a particular client's funds in an IOLTA account either did or can earn net interest, the member shall transfer the funds into an account specified in Rule 5.3 of this Title and request a refund for the lesser of either:

- (i) any interest earned by the client's funds and remitted to the Oregon Law Foundation; or
- (ii) the interest the client's funds would have earned had those funds been placed in an interest-bearing account for the benefit of the client at the same bank.

The request shall be made in writing to the Oregon Law Foundation within a reasonable period of time after the interest was remitted to the Foundation and shall be accompanied by written verification from the financial institution of the interest amount.

The Oregon Law Foundation will not refund more than the amount of interest it received from the client's funds in question. The refund shall be remitted to the financial institution for transmittal to the lawyer or

law firm, after appropriate accounting and reporting.

(c) Access to Earnings

No earnings from a lawyer trust account shall be made available to a lawyer or the lawyer's firm.

## 7.5. Financial Institutions

- (a) A lawyer or law firm may maintain a lawyer trust account only at a financial institution within Oregon that:
- (i) is authorized by state or federal banking laws to transact banking business in the state where the account is maintained;
  - (ii) is insured by the Federal Deposit Insurance Corporation or an analogous federal government agency;
  - (iii) entered into an agreement with the Oregon Law Foundation;
  - (iv) entered into an overdraft notification agreement with the Oregon State Bar.

## 7.6. Oregon Law Foundation Agreement

- (a) The financial institution must have entered into an agreement with the Oregon Law Foundation to
- (i) remit to the Oregon Law Foundation, at least quarterly, interest earned by the IOLTA account, computed in accordance with the institution's standard accounting practices, less reasonable service charges, if any; and
  - (ii) deliver to the Oregon Law Foundation a report with each remittance showing the name of the lawyer or law firm for whom the remittance is sent, the number of the IOLTA account as assigned by the financial institution, the average daily collected account balance or the balance on which the interest remitted was otherwise computed for each month for which the remittance is made, the rate of interest applied, the period for which the remittance is made, and the amount and description of any service charges deducted during the remittance period. For the purposes of this subsection, "service charges" are limited to the institution's following customary check and deposit processing charges: monthly maintenance fees, per item check charges, items deposited charges and per deposit charges. Any other fees or transactions costs are not "service charges" for purposes of this subsection and must be paid by the lawyer or law firm.

## 7.7. Overdraft Notification Requirements

- (a) The financial institution must have also entered into an overdraft notification agreement with the Oregon State Bar requiring the financial institution to report to the Oregon State Bar Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored.
- (b) Overdraft notification agreements with financial institutions shall require that the following information be provided in writing to Disciplinary Counsel within ten banking days of the date the item was returned unpaid:
- (i) the identity of the financial institution;
  - (ii) the identity of the lawyer or law firm;
  - (iii) the account number; and
  - (iv) either the amount of the overdraft and the date it was created; or the amount of the returned instrument and the date it was returned.

## 7.8. Application of Agreements

- (a) Agreements between financial institutions and the Oregon State Bar or the Oregon Law Foundation shall

- apply to all branches of the financial institution.
- (b) Such agreements shall not be canceled except upon a thirty-day notice in writing to OSB Disciplinary Counsel in the case of a trust account overdraft notification agreement or to the Oregon Law Foundation in the case of an IOLTA agreement.
  - (c) Nothing in this rule shall preclude financial institutions which participate in any trust account overdraft notification program from charging lawyers or law firms for the reasonable costs incurred by the financial institutions in participating in such program.

### **7.9. Certification of Trust Accounts**

- (a) Members of the bar shall certify each year to the bar whether the member maintains any lawyer trust accounts within Oregon.
- (b) The member shall provide to the bar the financial institution of each account, and the account number of each account, on a form provided by the bar.
- (c) Certifications for lawyer trust accounts shall be due to the bar on January 31, at 11:59 p.m.
  - (i) If the date falls on a Saturday, a legal holiday or a day that the bar office is closed for any reason, including inclement weather or natural disaster, the due date of such fees and assessments is the next day that the bar office is open for business. As used in this section, "legal holiday" means legal holiday as defined in ORS 187.010 and 187.020, which includes Sunday as a legal holiday.

### **7.10. Administrative Suspension**

- (a) If a member does not file certifications and disclosures required under this Title, the chief executive officer shall give the member written notice of default and prescribe a reasonable time to cure.
- (b) Notice shall be submitted at the member's electronic mail address provided to the Bar, or by mail if the member is not required to have an electronic mail address.
- (c) If a member fails to file the certification and disclosures required by this section within the time allowed to cure the default as stated in the written notice of default, the member shall automatically be administratively suspended.

## **Title 8 - Professional Liability Coverage Requirements**

### **8.1. Active Members**

Every active member of the Oregon State Bar ("OSB"), and every attorney temporarily admitted to perform legal services under OSB Rule for Admission 13.70, who is engaged in the private practice of law with a principal office in Oregon is required to participate in the mandatory coverage of the PLF unless otherwise exempt.

### **8.2. Active Members Outside of Oregon**

Every active member of the Oregon State Bar and every attorney temporarily admitted to perform legal services under OSB Rule for Admission 13.70 who is engaged in the private practice of law with a principal office outside Oregon is required to obtain malpractice coverage substantially equivalent to the PLF unless otherwise exempt..

### **8.3. Delinquency and Suspension**

- (a) The PLF Board of Directors will set a late payment penalty to be assessed on any member delinquent in payment of PLF assessments. member fees. Any member in default of payment of assessments will be given a reasonable opportunity to cure the default as determined by the Board.
- (b) The Chief Executive Officer shall send a notice of delinquency to each member in default at the member's electronic mail address on file with the bar on the date of the notice. The Chief Executive Officer shall send the notice by mail to any member who is not required to have an electronic mail address on file with the Bar.

- (c) If a member fails to pay the PLF assessment within the time allowed to cure the default as stated in the notice, the member is administratively suspended automatically.

## **Title 9 - Temporary Practice Following a Major Disaster**

### **9.1. Declaration of Major Disaster**

The Oregon Supreme Court may declare an emergency when a natural or other major disaster substantially disrupts the justice system in Oregon or in another jurisdiction (after the highest court of that jurisdiction has made such a determination), as a result of which:

- (i) Oregon residents or displaced persons from another jurisdiction residing in Oregon are in need of legal services that cannot reasonably be provided by Oregon lawyers alone; or
- (ii) lawyers licensed in the other jurisdiction are displaced and unable to practice law in the other jurisdiction.

### **9.2. Temporary Pro Bono Practice**

Following the declaration of an emergency under this Rule, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in Oregon on a temporary basis to persons in need of legal services as a result of the disaster, on a *pro bono* basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. This temporary *pro bono* practice must be performed under the auspices of an established not-for-profit bar association, *pro bono* program, or legal services program or through organization(s) specifically designated by the Oregon State Bar or the Oregon Supreme Court.

### **9.3. Temporary Practice by Displaced Lawyers**

Following the declaration of emergency under this Title, a lawyer who is authorized to practice law and whose principal office is in an affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in Oregon on a temporary basis to any client provided the legal services arise out of or are reasonably related to the lawyer's practice of law in the other jurisdiction.

#### **(a) Duration of Authority for Temporary Practice**

- (i) The authority to practice law in Oregon granted by this rule shall end when the Oregon Supreme Court determines that the disruption of the justice system in this or the other jurisdiction has ended.
- (ii) Once the Court determines the disruption has ended, lawyers practicing under such authority shall not accept any new clients or matters.
- (iii) Notwithstanding the termination of authority, a lawyer then representing a client with a legal matter pending in Oregon is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation.
- (iv) The authority to practice law in Oregon granted by this rule shall end sixty [60] days after the Oregon Supreme Court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

#### **(b) Court Appearances**

The authority granted by this Title does not include appearances in court except:

- (i) pursuant to the Uniform Trial Court Rules and, if such authority is granted, the fees for admission shall be waived; or
- (ii) if the Oregon Supreme Court, in any determination made under this rule, grants blanket

permission to appear in all or designated courts of Oregon to lawyers providing legal services pursuant to this rule. If such an authorization is included, the *pro hac vice* admission fees shall be waived.

#### **9.4. Disciplinary Authority and Registration Requirement**

- (a) Lawyers providing legal services in Oregon pursuant to this rule are subject to the Oregon Supreme Court's disciplinary authority and the Oregon Rules of Professional Conduct as provided in RPC 8.5.
- (b) Lawyers providing legal services in Oregon under this rule shall, within 30 days from the commencement of the provision of legal services, file a registration statement with the Clerk of the Oregon Supreme Court and the Oregon State Bar in a form prescribed by the Court.

#### **9.5. A lawyer who provides legal services pursuant to this rule shall not be considered to be engaged in the unlawful practice of law in Oregon.**

Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to his rule shall inform clients in Oregon of the jurisdictional limits of their practice authority, including that they are not authorized to practice law in Oregon except as permitted by this Rule, and shall not state or imply to any person that they are otherwise authorized to practice law in Oregon.

## **Title 10 - Reinstatements**

### **10.1. Applicability of Reinstatements & Obligations of Applicants**

- (a) Eligibility. An applicant may apply for reinstatement under this Title if they meet one of the following criteria.
  - (i) The applicant voluntarily transferred their status to inactive, retired, or active pro bono status and currently remains in the voluntary status.
  - (ii) The applicant has been administratively suspended under the Rules of Licensure for failure to comply with their regulatory requirements and has remained suspended for less than 10 years prior to the date of application for reinstatement.
  - (iii) The applicant resigned under Form A prior to December 1, 2019 and has remained resigned or administratively suspended for less than 10 years since they were last an active member.
- (b) Applicants not eligible for reinstatement under this Title must apply for reinstatement under Title 8 of the Bar Rules of Procedure.
- (c) All applicants shall cooperate and comply with requests from the Bar, including responding to a lawful demand for information; the execution of releases necessary to obtain information and records from third parties.
- (d) All applicants must report promptly any changes, additions or corrections to information provided in the application
- (e) The Bar will not consider any application for reinstatement, or any issues related to reinstatement, until the applicant submits a complete application and pays all fees required with the application.

## 10.2. Required Showings.

- (a) All applicants seeking reinstatement under this Title must submit an application prepared by the Bar. The applicant shall make the required showings and any declaration related to the unauthorized practice of law.
- (b) Burden of Proof. The applicant has the burden to establish their required showings for reinstatement under this title by clear and convincing evidence.
- (c) Compliance with the Regulatory Obligations after Suspension. An applicant administratively suspended must show they have complied with their regulatory obligation(s) that caused their suspension, and any other outstanding regulatory obligations.
- (d) Compliance with Regulatory Obligations after Inactive/Retired Status. An applicant seeking to transfer from inactive/retired status to active status after fewer than six months in inactive/retired status must submit a declaration affirming that they complied with all their regulatory obligations.
- (e) Unauthorized Practice of Law.
  - (i) Each applicant must declare that they did not engage in the practice of law, except where authorized to do so, during the applicant's non-active status. If an applicant cannot declare that they did not engage in the practice of law except where authorized to do so during the applicant's non-active status, the applicant shall provide a statement about the conduct. The statement will be referred to Disciplinary Counsel's Office for investigation. The Bar may reinstate applicant unless there is a reasonable belief that reinstatement may be detrimental to the administration of justice or the public interest.
  - (ii) Each applicant shall provide employment and residential history during the entire period of their non-active status.
- (f) Character and Fitness. Each applicant must show, by clear and convincing evidence, that they have good moral character and general fitness required to practice law in Oregon and that the resumption of the practice of law in Oregon by the applicant will not be detrimental to the administration of justice or the public interest. The Chief Executive Officer may develop policies and procedures for conducting character and fitness investigations. The investigation shall be at the direction of the Chief Executive Officer.
- (g) Learning and Ability. Each applicant must show, by clear and convincing evidence, that they have the requisite learning and ability to practice law in Oregon. The Bar may consider the length of time since the applicant was an active member of the Bar; whether and when the applicant has practiced law in Oregon; whether the applicant practiced law in any other jurisdiction since they were an active member in Oregon; and whether the applicant has participated in continuing legal education activities.
  - (i) Applicants may be required to show the requisite learning and ability by taking the minimum continuing legal education credits:
    - (A) Applicants who were active members for at least two years prior to their application for reinstatement; who have resigned, been suspended, or been inactive/retired for two or fewer years prior to their application for reinstatement; and have been engaged in the practice of law full time in another jurisdiction for no less than 24 of the 48 months immediately preceding their application may not be required to complete any continuing legal education;

- (B) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than two years, but less than 4 years, will be required to complete a minimum of 15 credits of continuing legal education;
  - (C) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than four, but less than six years, will be required to complete a minimum of 30 credits of continuing legal education;
  - (D) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than six, but less than eight years, will be required to complete a minimum of 45 credits of continuing legal education;
  - (E) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than 8 years, but less than ten years, will be required to complete a minimum of 60 credits of continuing legal education; and
- (ii) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than ten years must pursue Formal Reinstatement under the Bar Rules of Procedure Title 8 and must comply with the required showing for such proceedings.
  - (iii) The bar may request the applicant provide further evidence to show learning and ability if there is an indication that the applicant does not have the requisite learning under this prerequisites of this subsection.

### 10.3. Administrative Reinstatement

- (a) Eligibility. An applicant may apply for administrative reinstatement if the applicant has been administratively suspended for six months or less for failing to comply with their regulatory requirements under the Rules for Licensure.
- (b) Fees. In addition to any outstanding financial obligations under this Title, an applicant currently suspended shall pay a \$150 fee for each administrative suspension they must cure. An applicant seeking reinstatement from inactive/retired status to active status under this Rule shall pay a \$150 fee in addition to any outstanding financial obligations under this Title.
- (c) CEO Review. The Chief Executive Officer may reinstate any applicant who has made the required showings under this Rule. Based on their findings, the CEO may recommend the applicant be reinstated, conditionally reinstated, or denied reinstatement. The Chief Executive Officer may defer an application if additional information is required from the applicant until the information is provided by the applicant, or convert an application for reinstatement to a Formal Reinstatement if further review is required.
- (d) If the CEO recommends conditional reinstatement, the bar shall notify the Oregon Supreme Court of this decision and copy the applicant, If the CEO recommends denial of the reinstatement, the applicant may contest the decision under the Bar Rules of Procedure for Contested Reinstatements prior to submission to the Oregon Supreme Court.

### 10.4. Streamlined Reinstatement

- (a) Eligibility. An applicant may apply for streamlined reinstatement if they meet one of the following criteria.
  - (i) The applicant voluntarily transferred their status to inactive, retired, or active pro bono status.

- (ii) The applicant has been administratively suspended for failure to comply with their regulatory requirements for more than 6 months but less than 10 years prior to the date of application for reinstatement.
  - (iii) The applicant resigned under Form A prior to December 1, 2019 and has remained resigned or administratively suspended for less than 10 years since they were last an active member.
  - (iv) The applicant is currently an inactive/retired member and seeks reinstatement to active pro bono status.
- (b) Fees. In addition to any outstanding financial obligations under this Title, the applicant shall pay a fee of \$300 when applicant submits their application for Streamlined Reinstatement. The fee shall be waived for applicants seeking reinstatement from inactive/retired status to pro bono status.
- (c) CEO Review. The Chief Executive Officer may reinstate any applicant who has made the required showings under this Rule. Based on their findings, the CEO may recommend the applicant be reinstated, conditionally reinstated, or denied reinstatement. The Chief Executive Officer may defer an application if additional information is required from the applicant until the information is provided by the applicant, or convert an application for reinstatement to a Formal Reinstatement if further review is required.
- (d) If the CEO recommends conditional reinstatement, the bar shall notify the Oregon Supreme Court of this decision and copy the applicant, If the CEO recommends denial of the reinstatement, the applicant may contest the decision under the Bar Rules of Procedure for Contested Reinstatements prior to submission to the Oregon Supreme Court.

## 10.5. Financial Obligations

- (a) In addition to application and reinstatement fees, applicants seeking reinstatement under this Title shall pay the bar the following at the time the application of reinstatement is filed.
- (i) All past due assessments, fees, and penalties owed to the Bar for prior years. If the status from which the member is seeking reinstatement did not require an annual membership fee be paid to the Bar, then the Bar shall collect \$100 for each year the member remained in that status.
  - (ii) Membership fees and assessments for the calendar year in which the application for reinstatement is filed. Any membership fees and assessments (absent late penalties) already paid by the applicant at the start of the calendar year may be deducted.
  - (iii) Any assessment to the Professional Liability Fund, if applicable.
  - (iv) All unpaid judgments assessed in a prior disciplinary, contested reinstatement proceeding, judicial hearing, or assignment of claim.
  - (v) In the event an application for reinstatement is not acted upon until the following year, the applicant shall pay to the Bar, prior to reinstatement, any increase in membership fees or assessments since the date of application. If a decrease in membership fees and assessments has occurred, the Bar shall refund the decrease to the applicant.
  - (vi) If an application for reinstatement is denied, the Bar shall refund the applicant membership fees and assessments paid for the year the application was filed. Any refund of membership fees and assessments will be prorated if the applicant was temporarily reinstated during the pendency of



their application for reinstatement.

## **10.6. Conversion of Reinstatement**

- (a) The Bar's CEO may convert an application for reinstatement under this Title to a Formal Reinstatement under the Bar Rules of Procedure if:
  - (i) The applicant has been convicted in any jurisdiction of an offense that is a misdemeanor involving moral turpitude or a felony under the laws of this state, or is punishable by death or imprisonment under the laws of the United States;
  - (ii) The applicant has been suspended for professional misconduct for more than six months or has been disbarred by any court other than the Oregon Supreme Court;
  - (iii) The applicant engaged in conduct that raises issues of possible violation of the Bar Act, former Code of Professional Responsibility, or the Rules of Professional Conduct;
  - (iv) The applicant made a material misrepresentation on, or omitted relevant information from, their reinstatement application submitted to the Bar;
  - (v) During the reinstatement process, it is determined that the applicant does not meet the eligibility requirements for reinstatement under this Title; or
  - (vi) The applicant fails to make the required showings under this Title.
- (b) The Bar's decision to convert an application for reinstatement is not appealable.
- (c) The applicant shall pay the application fee for a converted application for reinstatement at the time the new Reinstatement application is filed, together with any other payments owed. No refund or credit will be provided for fees paid for other reinstatement applications filed by the applicant.

## **10.7. Temporary Reinstatement**

The Chief Executive Officer may temporarily reinstate an applicant seeking reinstatement under these Rules pending receipt of all investigatory materials.

# **Title 11 - Resignation**

## **11.1. Member Resignation.**

Members seeking to resign from the bar must file the appropriate resignation with the bar pursuant to Title 9 of the Bar Rules of Procedure.

**Rules of Procedure**  
**Rules of Procedure**

*(As approved by the Supreme Court by order dated February 9, 1984 and as amended by Supreme Court orders dated April 18, 1984; May 31, 1984; July 16, 1984; July 27, 1984; November 1, 1984; June 25, 1985; July 8, 1985; July 22, 1985; November 29, 198; January 2, 1986; January 24, 1986; March 20, 1986; September 10, 1986; June 30, 1987; September 24, 1987; October 1, 1987; November 10, 1987; November 24, 1987; December 10, 1987; January 5, 1988; February 22, 1988; February 23, 1988; July 8, 1988; March 13, 1989; March 31, 1989; June 1, 1989; March 20, 1990; October 1, 1990; January 10, 1991; April 4, 1991; July 22, 1991; August 2, 1991; January 17, 1992; December 22, 1992; June 29, 1993; December 13, 1993; December 28, 1993; October 10, 1994; May 15, 1995; November 6, 1995; December 14, 1995; September 30, 1996; June 5, 1997; August 19, 1997, effective October 4, 1997; October 3, 1997; July 10, 1998; November 30, 1999; February 5, 2001; June 28, 2001; September 6, 2001; June 17, 2003, effective July 1, 2003; July 9, 2003, effective August 1, 2003; June 17, 2003, effective January 1, 2004; December 8, 2003, effective January 1, 2004; December 9, 2004, effective January 1, 2005; January 21, 2005; April 26, 2007; August 29, 2007; January 17, 2008; March 20, 2008; October 19, 2009; January 1, 2011; December 10, 2010, effective June 1, 2011; July 21, 2011; June 6, 2012; April 5, 2013; August 13, 2013, effective November 1, 2013; August 10, 2015; May 3, 2017, effective January 1, 2018; May 22, 2019, effective September 1, 2019; October 27, 2019, effective December 1, 2019; January 9, 2020, effective January 15, 2020; October 15, 2020, effective November 14, 2020; December 8, 2020; January 26, 2021; November 22, 2021; August 17, 2022, effective July 1, 2023; October 31, 2022, effective November 1, 2022; December 14, 2022, effective January 1, 2023; and August 1, 2023.)*

**TABLE OF CONTENTS**

**Title 1 — General Provisions ..... 4**

    Rule 1.1 Definitions ..... 4

    Rule 1.2 Authority ..... 6

    Rule 1.3 Nature Of Proceedings ..... 6

    Rule 1.4 Jurisdiction; Choice of Law..... 6

    Rule 1.5 Effective Date..... 7

    Rule 1.6 Citation Of Rules ..... 7

    Rule 1.7 Bar Records..... 7

    Rule 1.8 Service Methods ..... 7

    Rule 1.9 Time ..... 8

    Rule 1.10 Filing..... 8

    Rule 1.11 Designation of Contact Information ..... 9

    Rule 1.12 Service Of Bar Pleadings Or Documents on Out-of-State Attorney ..... 9

    Rule 1.13 Electronic Signature and Submission..... 9

    Rule 1.14 Declarations May Replace Affidavits ..... 10

**Title 2 — Structure And Duties ..... 10**

    Rule 2.1 Qualifications of Counsel..... 10

    Rule 2.2 Disciplinary Counsel. .... 12

    Rule 2.3 State Professional Responsibility Board..... 13

    Rule 2.4 Disciplinary Board ..... 14

    Rule 2.5 Intake and Review of Inquiries and Complaints by Client Assistance Office ..... 18

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[OSB Rules of Procedure \(Revised 9/1/2023\)](#)

2

Rule 2.6 Investigations..... 19

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OSB Rules of Procedure (Revised 9/1/2023)

3

Rule 2.7 Investigations Of Alleged Misconduct Other Than By Inquiry .....	21
Rule 2.8 Proceedings Not To Stop On Compromise .....	22
Rule 2.9 Requests For Information And Assistance .....	22
Rule 2.10 Diversion.....	22
<b>Title 3 — Special Proceedings .....</b>	<b>24</b>
Rule 3.1 Interlocutory Suspension During Pendency Of Disciplinary Proceedings.....	24
Rule 3.2 Mental Incompetency Or Addiction— Involuntary Transfer To Inactive Membership Status .....	26
Rule 3.3 Allegations Of Criminal Conduct Involving Attorneys .....	29
Rule 3.4 Conviction Of Attorneys .....	29
Rule 3.5 Reciprocal Discipline.....	31
Rule 3.6 Discipline By Consent .....	32
<b>Title 4 — Prehearing Procedure .....</b>	<b>34</b>
Rule 4.1 Formal Complaint.....	34
Rule 4.2 Service Of Formal Complaint.....	35
Rule 4.3 Answer .....	35
Rule 4.4 Pleadings And Amendments .....	35
Rule 4.5 Discovery .....	36
Rule 4.6 Prehearing Issue Narrowing and Settlement Conference; Order .....	37
Rule 4.7 Pre-hearing Orders.....	38
Rule 4.8 Briefs .....	38
Rule 4.9 Mediation .....	38
<b>Title 5 — Disciplinary Hearing Procedure.....</b>	<b>39</b>
Rule 5.1 Evidence And Procedure.....	39
Rule 5.2 Burden Of Proof .....	39
Rule 5.3 Location Of Hearing; Subpoenas; Testimony .....	39
Rule 5.4 Hearing Date; Continuances .....	40
Rule 5.5 Prior Record.....	40
Rule 5.6 Evidence Of Prior Acts Of Misconduct .....	40
Rule 5.7 Consideration Of Sanctions.....	40
Rule 5.8 Default.....	41
Rule 5.9 Attorney Assistance Evidence .....	41
<b>Title 6 — Sanctions And Other Remedies.....</b>	<b>42</b>
Rule 6.1 Sanctions .....	42
Rule 6.2 Probation.....	43
Rule 6.3 Duties Upon Disbarment Or Suspension.....	44
Rule 6.4 Ethics School.....	44

Current versions of this document are maintained on the OSB website: [www.osbar.org](http://www.osbar.org)

<b>Title 7 — Suspension for Failure to Respond in a Disciplinary Investigation .....</b>	<b>45</b>
Rule 7.1 Suspension for Failure to Respond to a Subpoena .....	45
<b>Title 8 — Reinstatement .....</b>	<b>46</b>
Rule 8.1 Reinstatement — Formal Application Required.....	46
Rule 8.2 Reinstatement — Informal Application Required .....	48
Rule 8.3 Reinstatement — Compliance Affidavit.....	50
Rule 8.4 Reinstatement — Financial or Trust Account Certification Matters .....	51
Rule 8.5 Reinstatement — Noncompliance With Minimum Continuing Legal Education, New Lawyer Mentoring Program or Ethics School Requirements .....	52
Rule 8.6 Other Obligations Upon Application.....	52
Rule 8.7 Board Investigation And Recommendation .....	53
Rule 8.8 Petition To Review Adverse Recommendation .....	53
Rule 8.9 Procedure On Referral By Supreme Court .....	54
Rule 8.10 Answer To Statement Of Objections .....	54
Rule 8.11 Hearing Procedure .....	54
Rule 8.12 Burden Of Proof .....	54
Rule 8.13 Burden Of Producing Evidence.....	54
Rule 8.14 Reinstatement and Transfer--Active Pro Bono.....	55
<b>Title 9 — Resignation.....</b>	<b>55</b>
Rule 9.1 Resignation .....	55
Rule 9.2 Acceptance Of Resignation .....	55
Rule 9.3 Duties Upon Resignation .....	56
Rule 9.4 Effect of Form B Resignation.....	56
Rule 9.5 Effect of Form A Resignation after November 30, 2019. ....	56
<b>Title 10 — Review By Supreme Court.....</b>	<b>56</b>
Rule 10.1 Disciplinary Proceedings .....	56
Rule 10.2 Request for Review .....	57
Rule 10.3 Contested Reinstatement Proceeding.....	57
Rule 10.4 Filing In Supreme Court. ....	57
Rule 10.5 Procedure In Supreme Court.....	58
Rule 10.6 Nature Of Review .....	58
Rule 10.7 Costs And Disbursements .....	58
<b>Title 11 — Time Requirements.....</b>	<b>59</b>
Rule 11.1 Failure To Meet Time Requirements .....	59
<b>Title 12 — Unlawful Practice of Law Committee .....</b>	<b>59</b>
Rule 12.1 Appointment.....	59

Rule 12.2 Investigative Authority ..... 59

Rule 12.3 Public Outreach and Education ..... 59

Rule 12.4 Enforcement. .... 60

**Title 13 — Forms ..... 60**

Rule 13.1 Formal Complaint..... 60

Rule 13.2 Notice to Answer..... 61

Rule 13.3 Answer..... 62

Rule 13.4 [Reserved for expansion] ..... 63

Rule 13.5 Statement Of Objections To Reinstatement..... 63

Rule 13.6 Form A Resignation ..... 64

Rule 13.7 Form B Resignation ..... 65

Rule 13.8 Request For Review..... 67

Rule 13.9 Compliance Declaration..... 67

Rule 13.10 Compliance Declaration..... 68

**Title 1 — General Provisions**

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**Rule 1.1 Definitions.**

In these rules, unless the context or subject matter requires otherwise:

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(a) "Adjudicator" means the Disciplinary Board statewide adjudicator, one or more of whom is appointed by the Supreme Court to chair all trial panels and any attorney appointed to serve in the Adjudicator's role in a particular proceeding pursuant to BR 2.4(e)(14) or BR 2.4(f)(2).

(b) "Applicant" means an applicant for reinstatement to the practice of law in Oregon.

(c) "Attorney" means a person who has been admitted to the practice of law in Oregon.

(d) "Bar" means Oregon State Bar created by the Bar Act.

(e) "Bar Act" means ORS Chapter 9.

(f) "Bar Counsel" means counsel appointed by ~~the SPRB or the Board~~Disciplinary Counsel to represent the Bar.

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(g) "BBX" means Board of Bar Examiners appointed by the Supreme Court.

(h) "Board" means Board of Governors of the Bar.

(i) "Chief Executive Officer" means the chief administrative employee of the Bar.

(j) "~~Client Assistance~~Intake Office" means a department ~~of~~designated by the Bar ~~separate from Disciplinary Counsel~~ that reviews and responds to inquiries from the public about the conduct of attorneys and LPs.

(k) "Complainant" means ~~the~~a person who ~~inquires~~question or raises concerns about the conduct of an attorney or LP through the ~~Client Assistance~~Intake Office.

(l) "Contested Admission" means a proceeding in which the BBX is objecting to the admission of an applicant to the practice of law after a character review proceeding.

- (m) "Contested Reinstatement" means a proceeding in which the Bar is objecting to the reinstatement of an attorney or a former attorney or LP or former LP to the practice of law.
- (n) "Disciplinary Board" means the board appointed by the Supreme Court to hear and decide disciplinary and contested reinstatement proceedings pursuant to these rules.
- (o) "Disciplinary Board Clerk" means the person or persons designated in General Counsel's Office of the Bar to receive and maintain records of disciplinary and reinstatement proceedings on behalf of the Disciplinary Board.
- (p) "Disciplinary Counsel" means disciplinary counsel retained or employed by, and in the office of, the Bar and shall include such assistants as are from time to time employed by the Bar to assist disciplinary counsel.
- (q) "Disciplinary proceeding" means a proceeding in which the Bar is charging an attorney or LP with misconduct in a formal complaint.
- (r) "Examiner" means a member of the BBX.
- (s) "Formal complaint" means the document that initiates a formal lawyer or LP discipline proceeding alleging misconduct and violations of disciplinary rules or statutory provisions.
- (t) "General Counsel" means the General Counsel of the Bar or their designee.
- (u) "Grievance" means an instance of alleged misconduct by an attorney or LP that may be investigated by the Intake office and/or Disciplinary Counsel.
- (v) "Inquiry" means a communication received by the Client Assistance/Intake Office pertaining to an attorney or LP that may or may not allege professional misconduct.
- (w) "Licensed Paralegal" or "LP" means a person who has been admitted to practice in Oregon under a Licensed Paralegal license.
- (x) "Misconduct" means any conduct which may or does subject an attorney or LP to discipline under the Bar Act or the rules of professional conduct adopted by the Supreme Court.
- (y) "Regulatory Counsel" means regulatory counsel retained or employed by, and in the office of, the Bar and shall include such assistants as are from time to time employed by the Bar to assist regulatory counsel.
- (z) "Respondent" means an attorney or LP who is charged with misconduct by the Bar in a formal complaint or who is the subject of proceedings initiated pursuant to BR 3.1, BR 3.2, BR 3.3, BR 3.4, or BR 3.5.
- (aa) ~~(aa)~~ "Rule of Professional Conduct" means the corresponding Rules of Professional Conduct for attorneys, or the Rules of Professional Conduct for Licensed Paralegals for LPs.
- (bb) ~~(bb)~~ "State Court Administrator" means the person who holds the office created pursuant to ORS
- 8.110.
- (~~bb~~cc) "Supreme Court" and "court" mean the Oregon Supreme Court.
- ~~(cc)~~
- "SPRB" means State Professional Responsibility Board appointed by the Supreme Court.
- (dd) ~~(dd)(ee)~~ "Trial Panel" means a three-member panel of the Disciplinary Board.
- (eeff) "Unlawful Practice of Law Committee" means the committee appointed by the Supreme Court to carry out the committee's functions on behalf of the Bar pursuant to ORS 9.164.

(Rule 1.1 amended by Order dated November 10, 1987.)

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*(Rule 1.1(c) amended by Order dated February 23, 1988.)*  
*(Rule 1.1(i) and (k) amended by Order dated July 22, 1991.)*  
*(Rule 1.1(l) through (w) amended by Order dated June 17, 2003, effective July 1, 2003.)*  
*(Rule 1.1(b) and (i) amended by Order dated October 19, 2009.)*  
*(Former Rule 1.1(a), (p), and ~~(r)~~ deleted; former Rule 1.1(i), (j), (k), (l), (m), (n), (o), (q), (s), (t), (u), (v), and (w) redesignated as Rule 1.1(l), (m), (n), (o), (p), (q), (r), (s), (w), (y), (z), (aa), and (bb); Rule 1.1(q), (s), (z), and (aa) amended; Rule 1.1(a), (i), (j), (k), (x), and (cc) added by Order dated May 3, 2017, effective January 1, 2018.)*  
*(Rule 1.1(a) amended by Order dated May 22, 2019, effective September 1, 2019.)*  
*(Rule 1.1(x) added and Rule 1.1 (y), (z), (aa), (bb), and (cc) redesignated as Rule 1.1(y), (z), (aa), (bb), (cc), and (dd) by Order dated December 8, 2020.)*  
*(Rule 1.1(j), (k), (m), (q), (s), and former Rules 1.1 (w) and (y) amended; Rule 1.1(2) added; former Rules 1.1 (w) through (d) redesignated to Rule 1.1 (x) through (ee) by Order dated August 17, 2022, effective July 1, 2023.)*

#### Rule 1.2 Authority.

These “Rules of Procedure” are adopted by the Board and approved by the Supreme Court pursuant to ORS 9.005(8) and ORS 9.542, and govern exclusively the proceedings contemplated in these rules except to the extent that specific reference is made herein to other rules or statutes. These rules may be amended or repealed and new rules may be adopted by the Board at any regular meeting or at any special meeting called for that purpose. No amendment, repeal or new rule shall become effective until approved by the Supreme Court.

*(Rule 1.2 amended by Order dated June 5, 1997, effective July 1, 1997.)*  
*(Rule 1.2 amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Rule 1.3 Nature of Proceedings.

Disciplinary and contested reinstatement proceedings are neither civil nor criminal in nature but are sui generis, and are designed as the means to determine whether an attorney or LP should be disciplined for misconduct, or whether an applicant’s conduct should preclude the applicant from being reinstated to membership in the Bar.

*(Rule 1.3 amended by Order dated October 19, 2009.)*  
*(Rule 1.2 amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### Rule 1.4 Jurisdiction; Choice of Law.

(a) Jurisdiction after Adoption of Rules of Professional Conduct. Conduct occurring on or after January 1, 2005, by an attorney or LP is governed by Rule of Professional Conduct 8.5.

~~AA~~  
~~(b) Jurisdiction. For conduct occurring on or before December 31, 2004, a~~ attorney admitted to the practice of law in Oregon, and any attorney specially admitted by a court or agency in Oregon for a particular case, is subject to the Bar Act and these rules, regardless of where the attorney’s conduct occurs. ~~An LP is subject to these rules regardless of where the LP’s conduct occurred.~~ The Supreme Court’s jurisdiction over matters involving the practice of law by an attorney shall continue whether or not the attorney or LP retains the authority to practice law in Oregon, and regardless of the residence of the attorney or LP. An attorney may be subject to the disciplinary authority of both Oregon and another jurisdiction in which the attorney is admitted for the same conduct.

~~(b)(c)~~ Choice of Law. In any exercise of the disciplinary authority of Oregon involving conduct occurring on or before December 31, 2004, the rules of professional conduct to be applied shall be as follows:

- (1) For conduct in connection with a proceeding in a court before which an attorney or LP has been admitted to practice, either generally or for purposes of that proceeding, the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise; and
- (2) For any other conduct,

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(A) If the attorney is licensed to practice only in Oregon, the rules to be applied shall be the Oregon Code of Professional Responsibility and the Bar Act; and

(B) If the attorney is licensed to practice in Oregon and another jurisdiction, the rules to be applied shall be the rules of the jurisdiction in which the attorney principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the attorney is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.

~~(c) Application. The provisions of BR 1.4 apply to conduct occurring on or before December 31, 2004. Conduct occurring on or after January 1, 2005, by an attorney or LP is governed by Rule of Professional Conduct 9.5.~~

*(Rule 1.4 amended by Order dated September 30, 1996.)*

*(Rule 1.4(c) added by Order dated April 26, 2007.)*

*(Rule 1.4(c) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 1.4(a) through (c) amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### Rule 1.5 Effective Date.

(a) These rules apply to all disciplinary and contested reinstatement proceedings initiated by the service of a formal complaint or statement of objections on a respondent or an applicant on or after January 1, 1984.

(b) The provisions of BR 1.5(a) apply except to the extent that in the opinion of the Supreme Court their application in a particular matter or proceeding would not be feasible or would work an injustice. In that event, the former or current rule most consistent with the fair and expeditious resolution of the matter or proceeding under consideration shall be applied.

*(Rule 1.5(a) amended by Order dated July 22, 1991.)*

*(Rule 1.5(a) amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 1.5(a) and (b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Rule 1.6 Citation of Rules.

These Rules of Procedure may be referred to as Bar Rules and cited, for example, as BR 1.1(a).

#### Rule 1.7 Bar Records.

(a) Property of Bar. The records of the Bar and of its officers, governors, employees and committees, in contested admission, disciplinary and reinstatement proceedings are the property of the Bar.

(b) Public Records Status. Except as exempt or protected by law from disclosure, the records of the Bar relating to contested admission, disciplinary, and reinstatement proceedings are available for public inspection.

#### Rule 1.8 Service Methods.

(a) Except as provided in Rule 4.2 and Rule 8.9, any pleading or document required under these rules to be served on a respondent, applicant, attorney, or LP shall be

(1) Sent to the respondent, applicant, attorney, or LP, or ~~his or her~~their attorney if the respondent, applicant, attorney, or LP is represented, by first class mail addressed to the intended recipient at the recipient's last designated business or residence address on file with the Bar, or

(2) Sent to the respondent, applicant, attorney, or LP or ~~his or her~~their attorney if the respondent, applicant, or attorney is represented, by email addressed to the intended recipient at the recipient's last designated email address on file with the Bar.

(b) Any pleading or document required under these rules to be served on the Bar shall be sent by first class mail addressed to Disciplinary Counsel at the Bar's business address or served by personal or office service as

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provided in ORCP 7 D(2)(a)-(c) or sent by email addressed to the intended recipient at the recipient's last designated email address on file with the Bar.

(c) A copy of any pleading or document served on Bar Disciplinary Counsel shall also be provided to Bar Counsel, if one has been appointed, by first class mail addressed to his or her their last designated business address on file with the Bar or by personal or office service as provided in ORCP 7 D(2)(a)-(c) or sent by email addressed to the intended recipient at the recipient's last designated email address on file with the Bar.

(d) Service by mail shall be complete on deposit in the mail except as provided in BR 1.12.

~~(e)~~ The parties may by mutual agreement serve any document other than the formal complaint and answer by email delivery to the email address identified in the Bar's membership records for the respondent, applicant, or attorney or LP, or his or her their attorney if represented.

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*(Rule 1.8 amended by Order dated June 30, 1987.)*

*(Rule 1.8(a) amended by Order dated February 23, 1988.)*

*(Rule 1.8(a), (b) and (c) amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 1.8(d) amended by Order dated April 26, 2007.)*

*(Rule 1.8(a) amended by Order dated August 12, 2013, effective November 1, 2013.)*

*(Rule 1.8(a), (b), (c) amended; Rule 1.8(e) added by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 1.8(a)(1), (a)(2), (b), and (c) amended by Order dated November 22, 2021.)*

*(Rule 1.8(a) and (e) amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### Rule 1.9 Time.

In computing any period of time prescribed or allowed by these rules, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday or legal holiday. As used in this rule, "legal holiday" means legal holiday as defined in ORS 187.010 (which includes each Sunday) and ORS 187.020.

*(Rule 1.9 amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Rule 1.10 Filing.

(a) Any pleading or document to be filed with the Disciplinary Board Clerk shall be delivered in person to the Disciplinary Board Clerk, Oregon State Bar, 16037 S.W. Upper Boones Ferry Road, Tigard, Oregon 97224, or by mail to the Disciplinary Board Clerk, Oregon State Bar, P. O. Box 231935, Tigard, Oregon 97281-1935 or by email to [dbclerk@osbar.org](mailto:dbclerk@osbar.org). Any pleading or document to be filed with the Supreme Court shall be delivered to the State Court Administrator, Appellate Courts Records Section, 1163 State Street, Salem, Oregon 97301-2563, consistently with the requirements of the Oregon Rules of Appellate Procedure, including Chapter 16 (filing and service by electronic means). Any pleading or document to be filed with the Adjudicator or a regional chair shall be delivered to the intended recipient at his or her their last designated business or residence address on file with the Bar, or by email address on file with the Bar.

(b) Filing by mail is complete on deposit in the mail in the following circumstances: All pleadings or documents, including requests for review, required to be filed within a prescribed time, if mailed on or before the due date by first class mail through the United States Postal Service.

(c) If filing is not done as provided in subsection (b) of this rule, the filing is not timely unless the pleading or document is actually received by the intended recipient within the time fixed for filing.

(d) A copy of any pleading or document filed under these Rules must also be served by the party or attorney delivering it on other parties to the case by first class mail through the United States Postal Service or by email to the address on file with the Bar. All service copies must include a certificate showing the date of filing. "Parties" for the purposes of this rule shall be the respondent or applicant, or his or her their attorney if represented; Disciplinary Counsel; and Bar Counsel, if any.

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(e) Proof of service shall appear on or be affixed to any pleading or document filed. Such proof shall be either an acknowledgement of service by the person served or be in the form of a statement of the date of personal delivery or deposit in the mail or email and the names and addresses of the persons served, certified by the person who has made service.

*(Rule 1.10 amended by Order dated June 30, 1987.)*  
*(Rule 1.10(d) amended by Order dated February 23, 1988.)*  
*(Rule 1.10(d) amended by Order dated February 5, 2001.)*  
*(Rule 1.10(a), (b), (d) and (e) amended by Order dated June 17, 2003, effective July 1, 2003.)*  
*(Rule 1.10(a) amended by Order dated April 26, 2007.)*  
*(Rule 1.10(a) amended by Order dated March 20, 2008.)*  
*(Rule 1.10(f) added by Order dated October 19, 2009.)*  
*(Rule 1.10(a), (b), (c), (d) amended; Rule 1.10(f) deleted by Order dated May 3, 2017, effective January 1, 2018.)*  
*(Rule 1.10(a), (d), and (e) amended by Order dated November 22, 2021.)*

**Rule 1.11 Designation of Contact Information, Service by Email**

~~(a) All Service on attorneys and LPs must designate, on a form approved by the Bar, a current business emailing documents or pleadings to the email address and telephone number, or if no business address is available, a post office or residential address and telephone number. A post office address designation must be accompanied by the county and state in which an attorney or LP has on file with the Bar, unless the lawyer or LP is geographically located.~~

~~(b) All attorneys and LPs must also designate an e-mail address for receipt of bar notices and correspondence except (i) attorneys and LPs whose status is retired and (ii) attorneys and LPs for whom reasonable accommodation is required by applicable law.~~

~~(c) An attorney or LP seeking has obtained an exemption from the e-mail address requirement in paragraph (b)(ii) must submit a written request to the Chief Executive Officer, whose decision on the request will be final. CEO for having an email address on file.~~

~~(d) It is the duty of all attorneys and LPs promptly to notify the Bar in writing of any change in his or her contact information. A new designation is not effective until actually received by the Bar.~~

*(Rule 1.11 amended by Order dated April 18, 1984, effective June 1, 1984. Amended by Order dated June 30, 1987.)*  
*(Rule 1.11(a) and (b) amended by Order dated August 23, 2010, effective January 1, 2011.)*  
*(Rule 1.11(a) amended, (b) and (c) added and former (b) now (d) redesignated by Order dated July 21, 2011.)*  
*(Rule 1.11(a), (b), (c), and (d) amended by Order dated May 3, 2017, effective January 1, 2018.)*  
*(Rule 1.11(a) amended by Order dated January 26, 2021.)*  
*(Rule 1.11 amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 1.12 Service of Bar Pleadings or Documents on Out-of-State Attorney or LP.**

(a) If an attorney or LP, pursuant to BR 1.11, has designated to the Bar an address that is not located within the State of Oregon, a formal complaint filed under BR 4.1 or a statement of objections filed under BR 8.9 may be:

- (1) personally served upon the attorney or LP; or
- (2) served on the attorney or LP by certified mail, return receipt requested, to the attorney's or LP's last designated address on file with the Bar, in which case service shall be complete on the date on which the attorney or LP signs a receipt for the mailing.

(b) If service under either BR 1.12(a)(1) or BR 1.12(a)(2) is attempted but cannot be completed, a formal complaint or a statement of objections may be served on the attorney or LP by first class mail to the attorney's or LP's last designated address on file with the Bar, in which case service shall be complete seven days after such mailing. Proof of such service by mail shall be by certificate showing the date of deposit in the mail.

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(c) Service of all other pleadings or documents on an attorney or LP who has designated an address that is not located within the State of Oregon shall comply with BR 1.8(a).

*(Rule 1.12 amended by Order dated April 18, 1984, effective June 1, 1984. Amended by Order dated June 30, 1987.)*

*(Rule 1.12 amended by Order dated April 26, 2007.)*

*(Rule 1.12(a) and (c) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 1.12 amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### **Rule 1.13 Electronic Signature and Submission.**

(a) For purposes of this rule, “Form” means only a form made available by the Bar on its website for electronic submission to the Bar through the Bar’s website and “filer” means the attorney using the Form and self-identified in the completed Form.

As to any Form obtainable or accessible only by means of a login, the use of a filer’s login constitutes the signature of the filer for purposes of these rules and for any other purpose for which a signature is required. In lieu of a signature, the document shall include an electronic symbol intended to substitute for the signature, such as a scan of the filer’s handwritten signature or a signature block that includes the typed name of the filer preceded by an “s” in the space where the signature would otherwise appear. Example of a signature block with “s/”:

s/ Jane Q. Attorney or LP  
JANE Q. ATTORNEY or LP  
OSB # \_\_\_\_\_  
Email address \_\_\_\_\_

(b) When a Form requires a signature under penalty of perjury, in addition to signing and submitting the Form electronically, the filer shall sign a printed version of the Form and retain the signed Form in its original paper form for no less 30 days.

(c) An attorney or LP may submit a Form through the Bar’s website at any time, except when the Bar’s electronic filing system is temporarily unavailable.

(d) Filing a Form pursuant to this rule shall be deemed complete at the time of electronic submission.

*(Rule 1.13 added by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 1.13(b) and (d) amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### **Rule 1.14 Declarations May Replace Affidavits.**

With the exception of the requirement contained in BR 13.7, Form B Resignation, all Bar Rules of Procedure that require documents or pleadings be supported by a notarized affidavit are amended to allow parties, as an alternative to notarization, to support the documents or pleadings with a declaration that includes the following language:

“I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.”

*(Rule 1.14 added by Order dated November 22, 2021.)*

### **Title 2 — Structure And Duties**

#### **Rule 2.1 Qualifications of Counsel.**

(a) Definition of Respondent. Notwithstanding BR 1.1(a), for the purposes of this rule, “respondent” means an attorney or LP who is the subject of an allegation of misconduct that is under investigation by the Bar, or who has been charged with misconduct by the Bar in a formal complaint.

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(b) Bar Counsel. Any attorney admitted to practice law at least three years in Oregon may serve as Bar Counsel unless the attorney:

- (1) currently represents any respondent or applicant;
- (2) is a current member of the Disciplinary Board or has a firm member currently serving on the Disciplinary Board;
- (3) served as a member of the Disciplinary Board at a time when the formal complaint against the respondent was filed.

(c) Counsel for Respondent. Any attorney admitted to practice law in Oregon may represent a respondent unless the attorney:

- (1) is a current member of the Board or the SPRB;
- (2) served as a member of the Board or the SPRB at a time when the allegations about which the respondent seeks representation were under investigation by the Bar or were authorized to be charged in a formal complaint;
- (3) currently is serving as Bar Counsel;
- (4) is a current member of the Disciplinary Board or has a firm member currently serving on the Disciplinary Board;
- (5) served as a member of the Disciplinary Board at a time when the formal complaint against the respondent was filed.

(d) Counsel for Applicant. Any attorney admitted to practice law in Oregon may represent an applicant unless the attorney:

- (1) is a current member of the Board, the BBX, or the SPRB;
- (2) served as a member of the Board, the BBX, or the SPRB at a time when the investigation of the reinstatement application was conducted by the Bar;
- (3) currently is serving as Bar Counsel;
- (4) is a current member of the Disciplinary Board or has a firm member currently serving on the Disciplinary Board;
- (5) served as a member of the Disciplinary Board at a time when the statement of objections against the applicant was filed.

(e) Vicarious Disqualification. The disqualifications contained in BR 2.1(b), (c), and (d) also apply to firm members of the disqualified attorney's firm.

(f) Exceptions to Vicarious Disqualification.

- (1) Notwithstanding BR 2.1(b), (c), and (d), an attorney may serve as Bar Counsel or represent a respondent or applicant even though a firm member is currently serving on the Disciplinary Board, provided the firm member recuses himself or herself from participation as a trial panel member or regional chairperson in any matter in which a member of the firm is Bar Counsel or counsel for a respondent or applicant.
- (2) Subject to the provisions of RPC 1.7, and notwithstanding the provisions of BR 2.1(b), (c), and (d), an attorney may serve as Bar Counsel or represent a respondent or applicant even though a firm member is currently serving as Bar Counsel or representing a respondent or applicant, provided firm members are not opposing counsel in the same proceeding.

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(3) Notwithstanding BR 2.1(b), (c), and (d), an attorney in a Board member's firm may represent a respondent provided the Board member is screened from any form of participation or representation in the matter. To ensure such screening:

(A) The Board member shall prepare and file an affidavit with the Chief Executive Officer attesting that, during the period ~~his or her~~ their firm is representing a respondent, the Board member will not participate in any manner in the matter or the representation and will not discuss the matter or representation with any other firm member;

(B) The Board member's firm shall also prepare and file an affidavit with the Chief Executive Officer attesting that all firm members are aware of the requirement that the Board member be screened from participation in or discussion of the matter or representation;

(C) The Board member and firm shall also prepare, at the request of the Chief Executive Officer, a compliance affidavit describing the Board member's and the firm's actual compliance with these undertakings;

(D) The affidavits required under subsections (A) and (B) of this rule shall be filed with the Chief Executive Officer no later than ~~fourteen~~ (14) days following the acceptance by a Board member's firm of a respondent as a client, or the date the Board member becomes a member of the Board.

(g) Investigators. Disciplinary Counsel may, from time to time, appoint a suitable person, or persons, to act as an investigator, or investigators, for the Bar with respect to grievances, allegations, or instances of alleged misconduct by attorneys or LPs, and matters of reinstatement of attorneys or LPs. Such investigator or investigators shall perform such duties in relation thereto as may be required by Disciplinary Counsel.

*(Rule 2.1(b) amended by Order dated May 31, 1984, July 27, 1984, nunc pro tunc May 31, 1984.)*

*(Rule 2.1 amended by Order dated June 30, 1987.)*

*(Rule 2.1 amended by Order dated October 1, 1990.)*

*(Rule 2.1(d) amended by Order dated November 6, 1995.)*

*(Rule 2.1 deleted and new Rule 2.1 added by Order dated October 3, 1997.)*

*(Rule 2.1(f)(2) amended by Order dated April 26, 2007.)*

*(Rule 2.1(d)(2), 2.1(f)(3), 2.1(f)(3)(A), and 2.1(f)(3)(D) amended by Order dated October 19, 2009.)*

*(Former Rule 2.1(c)(3) and 2.1(c)(4) deleted; former Rule 2.1(c)(5), 2.1(c)(6), and 2.1(c)(7) redesignated Rule 2.1(c)(3),*

*2.1(c)(4), and 2.1(c)(5); Rule 2.1(a), 2.1(b)(1), 2.1(b)(2), 2.1(b)(3), 2.1(c), 2.1(c)(2), 2.1(c)(3), 2.1(c)(4), 2.1(c)(5), 2.1(d)(4),*

*2.1(e), 2.1(f)(1), 2.1(f)(2), 2.1(f)(3), 2.1(f)(3)(A), 2.1(f)(3)(B), 2.1(f)(3)(C), and 2.1(f)(3)(D) amended; and Rule 2.1(g) added by*

*Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 2.1(a) and (g) amended by Order dated August 17, 2022, effective July 1, 2023.)*

## Rule 2.2 Disciplinary Counsel.

(a) Appointment. Disciplinary Counsel is retained and employed by the Bar.

(b) Duties.

(1) Disciplinary Counsel shall review and investigate, as appropriate, allegations or instances of alleged misconduct on the part of attorneys or LPs, including grievances referred by the ~~Client Assistance~~ Intake Office or the General Counsel and matters arising out of notifications from financial institutions that an instrument drawn against an attorney's or LP's Lawyer Trust Account has been dishonored. ~~In the absence of a grievance or notification through these channels,~~ Disciplinary Counsel may initiate investigation of the conduct of an attorney or LP ~~in the absence of receipt of a grievance referred by the Client Assistance Office~~ based upon reasonable belief that misconduct has occurred, that an attorney or LP is disabled from continuing to practice law, or that an attorney or LP has abandoned a law practice or died leaving no attorney or LP who has undertaken the responsibility of either managing or winding down the law practice.

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(2) Disciplinary Counsel has authority to issue and seek the enforcement of subpoenas to compel the attendance of witnesses, including the attorney or LP being investigated, and the production of books, papers, documents, and other records pertaining to the matter under investigation. Subpoenas issued pursuant to this rule may be enforced by application to any circuit court. The circuit court shall determine what sanction to impose, if any, for noncompliance.

(3) For those grievances not dismissed pursuant to BR 2.6(b), Disciplinary Counsel may, in its discretion, offer diversion pursuant to BR 2.10.

(4) Disciplinary Counsel shall provide advice and counsel to the SPRB on the disposition of all grievances neither dismissed pursuant to BR 2.6(b) nor resolved by diversion pursuant to BR 2.10.

(5) Disciplinary Counsel shall seek, as appropriate, relief provided for in BR 3.1, 3.2, 3.3, 3.4, and 3.5.

(6) Disciplinary Counsel shall prosecute formal proceedings as directed by the SPRB, including any review or other proceeding before the Supreme Court.

(7) Disciplinary Counsel shall represent the Bar in all contested reinstatement proceedings.

(8) Disciplinary Counsel shall represent the Bar before the court in all contested admission proceedings.

*(Rule 2.2 amended by Order dated October 19, 2009.)*

*(Former Rule 2.2 deleted; current Rule 2.2 added by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 2.2(b)(2) amended by Order dated May 22, 2019, effective September 1, 2019.)*

*(Rule 2.2(b)(1) and (b)(2) amended by Order dated August 17, 2022, effective July 1, 2023.)*

### Rule 2.3 State Professional Responsibility Board.

(a) Appointment. Members of the SPRB are nominated by the Board and appointed by the Supreme Court. The SPRB shall be composed of eight resident attorneys and two members of the public who are not attorneys. Two attorney members shall be from Board Region 5 and one attorney member shall be from each of the remaining Board regions located within the state of Oregon. The public members shall be at-large appointees. Members of the SPRB shall be appointed for terms of not more than four years and shall serve not more than four years consecutively. Members are eligible for reappointment to a nonconsecutive term not to exceed four years. Each year the Board shall nominate and the court shall appoint one attorney member of the SPRB as chairperson. In the event the chairperson is unable to carry out any responsibility given to ~~him or her~~ them by these rules, the chairperson may designate another attorney member of the SPRB to do so.

(b) Duties of SPRB. The SPRB shall supervise the investigation of grievances, allegations, or instances of alleged misconduct on the part of attorneys and LPs and act on such matters as it may deem appropriate. A grievance from a client or other aggrieved person shall not be a prerequisite to the investigation of alleged misconduct by attorneys or LPs or the institution of disciplinary proceedings against any attorney or LP.

(c) Authority.

(1) The SPRB has the authority to dismiss grievances, allegations, or instances of alleged misconduct against attorneys or LPs; refer matters to Disciplinary Counsel for further investigation; issue admonitions for misconduct; refer attorneys or LPs to the State Lawyers Assistance Committee; direct Disciplinary Counsel to institute disciplinary proceedings against any attorney or LP; or take other action within the discretion granted to the SPRB by these rules.

(2) The SPRB has the authority to adopt rules dealing with the handling of its affairs, subject to the Board's approval.

(d) Resignation and Replacement. The court may remove, at its discretion, or accept the resignation of, any officer or member of the SPRB and appoint a successor who shall serve the unexpired term of the member

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who is replaced.

*(Rule 2.3(b)(3) amended by Order dated April 4, 1991, effective April 15, 1991.)  
(Rule 2.3(b)(1) amended by Order dated April 4, 1991, effective October 7, 1991. Amended by Order dated June 5, 1997, effective July 1, 1997. Amended by Order dated February 5, 2001.)  
(Rule 2.3(b)(1) amended by Order dated June 17, 2003, effective July 1, 2003.)  
(Rule 2.3(b)(3) amended by Order dated July 9, 2003, effective August 1, 2003.)  
(Rule 2.3(a) amended by Order dated December 8, 2003, effective January 1, 2004.)  
(Rule 2.3(b)(1) amended by Order dated August 23, 2010, effective January 1, 2011.)  
(Former Rule 2.3(a)(1), 2.3(a)(2)(A), 2.3(a)(2)(B), 2.3(a)(2)(C), 2.3(a)(2)(D), 2.3(a)(2)(E), 2.3(a)(2)(F), 2.3(a)(3)(A), 2.3(a)(3)(B), 2.3(a)(3)(C), 2.3(b), 2.3(b)(3)(C), 2.3(b)(3)(D), and 2.3(b)(3)(E) deleted; former Rule 2.3(b)(1), 2.3(b)(2), 2.3(b)(3), 2.3(b)(3)(A), 2.3(b)(3)(B), and 2.3(c) redesignated as Rule 2.3(a), 2.3(b), 2.3(c), 2.3(c)(1), 2.3(c)(2), and 2.3(d) by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 2.3(b) and (c)(1) amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 2.4 Disciplinary Board.**

(a) Composition. The Supreme Court appoints members of the Disciplinary Board. The Disciplinary Board shall consist of the Adjudicator, 7 regional chairpersons, ~~and 6 along with the following additional attorney members for and public members (who are not attorneys or LPs) for~~ each Board region located within the state of Oregon, ~~except for:~~

(1) Region 1 which shall have 9 additional members, Region 5 which shall have 23 additional: 15 attorney members, Region 4 which shall have 10 additional and 3 public members, and;

(2) Region 2: 6 which shall have 11 additional attorney members and 2 public members;

(3) Region 3: 6 attorney members and 2 public members;

(4) Region 4: 16 attorney members and 4 public members;

(5) Region 5: 29 attorney members and 8 public members;

(6) Region 6: 17 attorney members and 4 public members; and

(7) Region 7: 6 attorney members and 2 public members.

~~(a)(b)~~ The regional chairpersons shall be attorneys. ~~Each regional panel shall contain 2 members who are not attorneys, except for Region 1 which shall have appointed to it 3 members who are not attorneys, Region 5 which shall have appointed to it 8 members who are not attorneys, and Region 4 and Region 6 which shall have appointed to it 4 members who are not attorneys. The remaining attorney~~ members of the Disciplinary Board, including the Adjudicator and the regional chairpersons, shall be resident attorneys admitted to practice in Oregon for at least 3 years. Except for the Adjudicator, members of each regional panel shall either maintain their principal office within their respective region or maintain their residence therein. The members of each region shall constitute a regional panel. Trial panels shall consist of the Adjudicator, 1 additional attorney member, and 1 public member, except as provided in BR 2.4(f)(3).

~~(b)(c)~~ Term.

(1) The Adjudicator shall serve pursuant to appointment of the court. Disciplinary Board members other than the Adjudicator shall serve terms of 3 years and may be reappointed. Regional chairpersons shall serve in that capacity for terms of 1 year, subject to reappointment by the court.

(2) Notwithstanding BR 2.4(a) and 2.4(b)(1), the powers, jurisdiction and authority of Disciplinary Board members other than the Adjudicator shall continue beyond the expiration of their appointment or after their relocation to another region for the time required to complete the cases assigned to them during their term of appointment or prior to their relocation, and until a replacement appointment has been made by the court. The regional chairpersons shall serve until a replacement appointment has been made by the court.

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~~(d)~~ Resignation and Replacement. The court may remove, at its discretion, or accept the resignation of, any member of the Disciplinary Board and appoint a successor. Any person so appointed to serve in a position that has time remaining in the unexpired term shall serve the time remaining in the unexpired term of the member who is replaced.

~~(e)~~ Conduct. Disqualifications and Suspension of Service.

(1) ~~The Disciplinary Board members are subject to the Disciplinary Board Code of Conduct, including the rules for~~ disqualifications contained in the ~~Code of Judicial Conduct apply to members Disciplinary Board Code of the Disciplinary Board~~ Conduct.

(2) The following individuals shall not serve on the Disciplinary Board:

(A) A member of the Board or the SPRB shall not serve on the Disciplinary Board during the member's term of office. This disqualification also precludes an attorney or public member from serving on the Disciplinary Board while any member of ~~his or her~~ their firm is serving on the Board or the SPRB.

(B) No member of the Disciplinary Board shall sit on a trial panel with regard to a subject matter considered by the Board or the SPRB while ~~he or she was~~ they were a member thereof or with regard to subject matter considered by any member of ~~his or her~~ their firm while a member of the Board or the SPRB.

(3) A member of the Disciplinary Board against whom charges of misconduct have been approved for filing by the SPRB is suspended from service on the Disciplinary Board until those charges have been resolved by final decision or order. If a Disciplinary Board member is suspended from the practice of law as a result of a final decision or order in a disciplinary proceeding, the member may not resume service on the Disciplinary Board until the member is once again authorized to practice law. For the purposes of this rule, charges of misconduct include authorization by the SPRB to file a formal complaint pursuant to BR 4.1, the determination by the SPRB to admonish an attorney pursuant to BR 2.6(c)(1)(B) or BR 2.6(d)(1)(B) which admonition is thereafter refused by the attorney, Disciplinary Counsel's notification to the court of a criminal conviction pursuant to BR 3.4(a), and Disciplinary Counsel's notification to the court of an attorney's discipline in another jurisdiction pursuant to BR 3.5(a).

~~(f)~~ Duties of Adjudicator.

(1) The Adjudicator shall coordinate and supervise the activities of the Disciplinary Board.

(2) Unless disqualified after a challenge for cause pursuant to BR 2.4(g), the Adjudicator shall serve as trial panel chairperson for each trial panel adjudicating a formal proceeding, a contested reinstatement proceeding, or a proceeding brought pursuant to BR 3.5; and shall preside in every proceeding brought pursuant to BR 3.1 or 3.4. Upon the stipulation of the Bar and a respondent or applicant, the Adjudicator shall serve as the sole adjudicator in a disciplinary proceeding, a contested reinstatement proceeding, or a proceeding brought pursuant to BR 3.5 and shall have the same duties and authority under these rules as a three-member trial panel. In the event the Adjudicator is disqualified or otherwise unavailable to serve as trial panel chairperson, the regional chairperson shall appoint another attorney member of the Disciplinary Board to serve on the trial panel, with all the duties and responsibilities as the Adjudicator as to that proceeding from the date of appointment forward.

(3) The Adjudicator shall rule on all motions for default filed pursuant to BR 5.8.

(4) The Adjudicator shall determine the timeliness of both peremptory challenges and challenges for cause, including challenges for cause as to the Adjudicator, and, as appropriate, grant or deny peremptory challenges and resolve all challenges for cause to the qualifications of all trial panel members other than the Adjudicator appointed pursuant to BR 2.4(e)(2), BR 2.4(e)(9), and BR 2.4(f).

(5) Upon receipt of written notice from the Disciplinary Board Clerk of a Supreme Court referral pursuant to BR 8.8, the Adjudicator shall appoint an attorney member and a public member from an appropriate region to serve on the trial panel with the Adjudicator. The Adjudicator shall give written notice to

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Disciplinary Counsel, Bar Counsel, and the applicant of such appointments and a copy of the notice shall be filed with the Disciplinary Board Clerk.

(6) The Adjudicator shall appoint an attorney member of the Disciplinary Board to conduct prehearing conferences as provided in BR 4.6.

(7) The Adjudicator may appoint Disciplinary Board members from any region to conduct prehearing conferences pursuant to BR 4.6, to participate with the Adjudicator in a show cause hearing pursuant to BR 6.2(d), to serve on trial panels to resolve matters submitted to the Disciplinary Board for consideration by the court, or when an insufficient number of members is available within a region for a particular proceeding.

(8) Upon receiving notice from the Disciplinary Board Clerk of a regional chairperson's appointment of an attorney member and a public member pursuant to BR 2.4(f)(1), and upon determining that either no timely challenge pursuant to BR 2.4(g) was filed or that a timely-filed challenge pursuant to BR 2.4(g) has either been denied or resulted in the appointment of a substitute member or members, the Adjudicator shall promptly establish the date and time of hearing pursuant to BR 5.4 and notify, in writing, the Disciplinary Board Clerk and the parties of the date and place of hearing. The Disciplinary Board Clerk shall provide to the trial panel members a copy of the formal complaint or statement of objections and, if one has been filed, the answer of the respondent or applicant.

(9) The Adjudicator shall rule on all questions of procedure and discovery, including such questions that may arise prior to the filing of a formal complaint, except as specifically provided elsewhere in these rules. The Adjudicator may convene the parties or their counsel before the hearing, to discuss the parties' respective estimates of time necessary to present evidence, the availability and scheduling of witnesses, the preparation of trial exhibits, and other issues that may facilitate an efficient hearing. The Adjudicator may thereafter issue an order regarding agreements or rulings made at such prehearing meeting.

(10) The Adjudicator shall convene the trial panel hearing, oversee the orderly conduct of the same and timely file with the Disciplinary Board Clerk the written opinion of the trial panel. In all trial panels in which the Adjudicator is a member of the majority, the Adjudicator shall author the trial panel opinion. In the event the Adjudicator is not a member of the majority, the attorney member of the panel shall author and timely file the trial panel opinion.

(11) In matters involving final decisions of the Disciplinary Board under BR 10.1, the Adjudicator shall review statements of costs and disbursements and objections thereto and shall fix the amount of actual and necessary costs and disbursements to be recovered by the prevailing party.

(12) The Adjudicator shall preside in all matters involving the filing of a petition for suspension pursuant to BR 7.1.

(13) Upon appointment by the court, the Adjudicator shall perform the duties of the court set forth in BR 3.2.

(14) In the event of the Adjudicator's unavailability to perform the functions set forth above, and upon written request made by General Counsel, the regional chairperson shall exercise the duties and responsibilities of the Adjudicator during the Adjudicator's unavailability. The regional chairperson's authority under this subsection shall cease upon order of the Adjudicator or the court. Unavailability for the purposes of this rule means the Adjudicator has taken a planned leave of more than fourteen (14) days, or is unavailable because of death or then existing physical or mental illness or infirmity.

(15) Notwithstanding requirements for in-person proceedings contained in BR 3.1, 3.2, 3.4, 3.5, 5.3, and 8.8, the Adjudicator may order that any disciplinary hearings or proceedings take place by videoconference, or such other means that allow for remote participation of all parties, if the Adjudicator determines remote participation is necessary to comply with local, state, or national public health orders or recommendations. Such hearings or proceedings may also take place by remote participation by agreement of the parties with the approval of the Adjudicator.

~~(f)~~(g) Duties of Regional Chairperson.

(1) Upon receipt of written notice from Disciplinary Counsel pursuant to BR 4.1(f) or written notice from the Adjudicator pursuant to BR 3.5(g) or 5.8(a), the regional chairperson shall appoint an attorney member and a public member to serve with the Adjudicator on the trial panel from the members of the regional panel. The regional chairperson shall give written notice to Disciplinary Counsel, Bar Counsel, and the respondent of such appointments, and a copy of the notice shall be filed with the Disciplinary Board Clerk. In the event a member is disqualified pursuant to BR 2.4(g) or becomes unavailable to serve, the regional chairperson shall appoint a replacement member, giving written notice of such appointment as is given of initial appointments.

(2) The regional chairperson shall rule on all timely challenges for cause to the Adjudicator or to any attorney appointed to the role of Adjudicator pursuant to this paragraph brought pursuant to BR 2.4(g). In the event the Adjudicator is disqualified for cause or is otherwise unavailable to chair a trial panel, the regional chairperson shall appoint an attorney member from within the region to serve in place of the Adjudicator who has all the duties and responsibilities of the Adjudicator in that proceeding. In the event no attorney member from within the region is available to serve in place of the Adjudicator, the regional chairperson shall so notify the Disciplinary Board Clerk, who will ask another regional chairperson to appoint an attorney member pursuant to the authority granted the Adjudicator in BR 2.4(e)(9). The attorney member so appointed shall have all the duties and responsibilities of the Adjudicator in that proceeding.

(3) The regional chairperson may serve on trial panels during his or her~~their~~ term of office.

~~(5)~~(4) Upon written request from the General Counsel pursuant to BR 2.4(e)(14), the regional chairperson shall exercise the duties and responsibilities of the Adjudicator until such authority is

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[OSB Rules of Procedure \(Revised 9/1/2023\)](#)

19

terminated by order of the Adjudicator or the court.

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~~(e)~~(h) Challenges. The Bar and a respondent or applicant shall be entitled to one peremptory challenge of either the attorney member who is not the Adjudicator or the public member. A peremptory challenge shall be timely if filed in writing within ten days following that member's appointment to the trial panel with the Disciplinary Board Clerk. A challenge for cause as may arise under the Disciplinary Board Code of Judicial Conduct may be filed by the Bar, the respondent, or an applicant as to any member of the trial panel. A challenge for cause shall state the reason for the challenge and is timely if filed in writing within ten days following the date of the member's appointment to the trial panel or the date the trial panel member discloses to the parties Bar, the respondent, or an applicant discovers the information raising a disqualification issue, whichever is later. For purposes of this paragraph, the Adjudicator is deemed appointed to the trial panel on the same date that the regional chairperson appoints the other two members of the trial panel pursuant to BR 2.4(f)(1). A copy of the challenge for cause shall be immediately provided by email to the challenged panel member by the Disciplinary Board Clerk.

The opposing party and the challenged panel member may file a response to the challenge within 10 days of receipt of a copy of the challenge from the Disciplinary Board Clerk. No further written submissions are allowed unless requested by the Adjudicator or the regional chair.

The ruling on any challenge for cause must be in writing. The written ruling shall identify specific findings of fact and conclusions of law if the challenge is allowed. The written ruling on a challenge shall be filed with the Disciplinary Board Clerk, who shall send copies of the ruling to all parties. The Bar and a respondent or applicant may waive a disqualification of a member in the same manner as in the case of a judge under the Code of Judicial Conduct.

~~(h)~~(i) Duties of Trial Panel.

(1) Trial. The trial panel to which a disciplinary or contested reinstatement proceeding has been referred has a duty to promptly try the issues.

(2)

(A) Opinions. The trial panel shall issue a written opinion identifying the concurring members of the trial panel. A dissenting member shall be identified and may file a dissenting opinion attached to the majority opinion. The majority opinion shall include specific findings of fact, conclusions of law, and a disposition. In any matter in which the Adjudicator is not a member of the majority, the other attorney member shall author the trial panel opinion. The Adjudicator author of any opinion shall file the original opinion with the Disciplinary Board Clerk, and the Disciplinary Board Clerk shall send copies to the parties. The opinion shall be filed within 28 days after the conclusion of the hearing, the settlement of the transcript if required under BR 5.3(e), or the filing of briefs if requested by the Adjudicator pursuant to BR 4.8, whichever is later.

(B) Extensions of Time to File Opinions. If the trial panel requires additional time to issue its opinion, the Adjudicator may so notify the parties, indicating the anticipated date by which an opinion shall be issued, not to exceed 90 days after the date originally due. If no opinion has been issued within 90 days after the date originally due, either party may file a motion with the Disciplinary Board, seeking issuance of an opinion. Upon the filing of such a motion, the Adjudicator shall enter an order establishing a date by which the opinion shall be issued, not to exceed 120 days after the date it was originally due. If no opinion has been issued by 120 days after the date originally due, either party may petition the court to enter an order compelling the Disciplinary Board to issue an opinion by a date certain.

(3) Record. The trial panel shall keep a record of all proceedings before it, including a transcript of the proceedings and exhibits offered and received, and shall promptly file the record with the Disciplinary Board Clerk, after the hearing concludes.

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(4) Notice. The Disciplinary Board Clerk shall promptly notify the parties of receipt of the trial panel opinion.

(i)(j) Publications.

(1) Disciplinary Counsel shall cause to be prepared, on a periodic basis, a reporter service containing the full text of all Disciplinary Board decisions not reviewed by the court.

(2) Disciplinary Counsel shall have printed in the Bar Bulletin, on a periodic basis, summaries of the court's disciplinary proceeding, contested admission, and contested reinstatement decisions, and summaries of all Disciplinary Board decisions not reviewed by the court.

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(Rule 2.4(a) amended by Order dated January 2, 1986, further amended by Order dated January 24, 1986 effective January 2, 1986, *nun pro tunc*.)  
(Rule 2.4(d)(2) amended by Order dated September 10, 1986, effective September 10, 1986.)  
(Rules 2.1, 2.6, 2.7 and 2.8 amended by Order dated June 30, 1987.)  
(Rule 2.4(j) amended by Order dated October 1, 1987, effective October 1, 1987.)  
(Rule 2.4(f)(1) amended by Order dated February 22, 1988.)  
(Rule 2.4(d), (h) and (i) amended by Order dated February 23, 1988.)  
(Rule 2.4(e) amended by Order dated March 13, 1989, effective April 1, 1989, corrected June 1, 1989.)  
(Rule 2.4(i)(3) amended by Order dated March 20, 1990, effective April 2, 1990.)  
(Rule 2.4(a) amended by Order dated January 10, 1991.)  
(Rule 2.4(d), (e) and (i) amended by Order dated July 22, 1991.)  
(Rule 2.4(b) amended by Order dated December 22, 1992.)  
(Rule 2.4(a), (e) and (f) amended by Order dated December 13, 1993.)  
(Rule 2.4(i)(3) amended by Order dated June 5, 1997, effective July 1, 1997.)  
(Rule 2.4 (a) amended by Order dated July 10, 1998.)  
(Rule 2.4(e), (f), (g), (h), (i) and (j) amended by Order dated February 5, 2001.)  
(Rule 2.4(b)(2) and (i)(2)(a) and (b) amended by Order dated June 28, 2001.)  
(Rule 2.4(b)(1) and (2);(e)(4); (f)(1); (g); (h); and (i)(2)(a) and (b), (3) and (4) amended by Order dated June 17, 2003, effective July 1, 2003.)  
(Rule 2.4(d)(3) added by Order dated January 21, 2005.)  
(Rule 2.4(b)(2) amended by Order dated April 26, 2007.)  
(Rule 2.4(g) and 2.4(h) amended by Order dated October 19, 2009.)  
(Rule 2.4(a) amended by Order dated August 23, 2010, effective January 1, 2011.)  
(Rule 2.4(e)(8) added by Order dated August 12, 2013, effective November 1, 2013.)  
(Former Rule 2.4(f)(3), 2.4(f)(5), and 2.4(h) deleted; former Rule 2.4(e)(3), 2.4(e)(4), 2.4(e)(5), 2.4(e)(6), 2.4(e)(7), 2.4(e)(8), 2.4(f)(4), 2.4(i), and 2.4(j) redesignated as Rule 2.4(e)(4), 2.4(e)(5), 2.4(e)(6), 2.4(e)(7), 2.4(e)(11), 2.4(e)(12), 2.4(f)(3), 2.4(h), and 2.4(i); Rule 2.4(a), 2.4(b)(1), 2.4(b)(2), 2.4(c), 2.4(d)(1), 2.4(d)(2)(A), 2.4(d)(2)(B), 2.4(d)(3), 2.4(e), 2.4(e)(1), 2.4(e)(2), 2.4(e)(4), 2.4(e)(5), 2.4(e)(6), 2.4(e)(7), 2.4(e)(11), 2.4(e)(12), 2.4(f)(1), 2.4(f)(2), 2.4(h)(1), 2.4(h)(2)(A), 2.4(h)(2)(B), 2.4(h)(3), 2.4(h)(4), 2.4(i)(1), and 2.4(i)(2) amended; Rule 2.4(e)(3), 2.4(e)(8), 2.4(e)(9), and 2.4(e)(10) added by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 2.4(e)(8) and 2.4(e)(9) amended; Rule 2.4(e)(13), 2.4(e)(14), and 2.4(f)(4) added by Order dated May 22, 2019, effective September 1, 2019.)  
(Rule 2.4(a) amended by Order dated October 27, 2019, effective December 1, 2019.)  
(Rule 2.4(a) amended by Order dated January 9, 2020, effective January 15, 2020.)  
(Rule 2.4(e)(15) added by Order dated November 22, 2021.)

**Rule 2.5 Intake and Review of Inquiries and Complaints by ~~Client Assistance~~the Intake Office.**

(a) ~~Client Assistance~~Intake Office. The Bar shall maintain a ~~Client Assistance~~an Intake Office, separate from that of Disciplinary Counsel. The ~~Client Assistance~~Intake Office shall, to the extent possible and resources permitting, receive, review, and respond to all inquiries ~~from received by the public Bar~~ concerning the conduct of attorneys and LPs ~~and may refer inquirers to other resources. The Client Assistance Office will consider inquiries submitted in person, by telephone or by e-mail, but may require the complainant to submit the matter in writing before taking any action.~~ The Client Assistance Office will determine the manner and extent of review required for the appropriate disposition of any inquiry, ~~and may refer inquiries to other resources as it deems appropriate.~~

(b) Disposition by ~~Client Assistance~~Intake Office.

- (1) If the ~~Client Assistance~~Intake Office determines that, even if true, an inquiry does not allege misconduct, it shall dismiss the inquiry with written notice to the complainant and to the attorney or LP named in the inquiry.
- (2) If the ~~Client Assistance~~Intake Office determines, after reviewing the inquiry and any other information deemed relevant, that there is sufficient evidence to support a reasonable belief that misconduct may have occurred, the inquiry shall be referred to Disciplinary Counsel as a grievance. Otherwise, the inquiry shall be dismissed with written notice to the complainant and the attorney or LP.

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(3) The ~~Client Assistance~~Intake Office may, ~~at the request of the complainant as it deems appropriate,~~ contact the involved attorney or LP and attempt to assist the parties in resolving the complainant's concerns, ~~but the upon receipt of an inquiry. The~~ provision of such assistance does not preclude a referral of a grievance to Disciplinary Counsel ~~of any matter brought to the attention of the Client Assistance Office.~~

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(c) Review by General Counsel. Any ~~inquiry~~ dismissed by the Client Assistance Office inquiry may be reviewed by General Counsel upon written request of the complainant. General Counsel may request additional information from the complainant or the attorney or LP and, after review, shall either affirm the ~~Client Assistance Office~~ dismissal or refer the inquiry to Disciplinary Counsel as a grievance. General Counsel may affirm the dismissal by adopting the reasoning of the Client Assistance Intake Office without additional discussion. The decision of General Counsel is final.

*(Rule 2.5 amended by Order dated January 17, 1992.)*

*(Rule 2.5(g) amended by Order dated October 10, 1994.)*

*(Rule 2.5(c), (f), (g), and (h) amended by Order dated June 5, 1997, effective July 1, 1997.)*

*(Rule 2.5(a), (b), (c), (d), (f), (h) and (i) amended by Order dated February 5, 2001.)*

*(Rule 2.5(a) and (b) added and former Rule 2.5(b) through (i) renumbered 2.6 by Order dated July 9, 2003, effective August 1, 2003.)*

*(Rule 2.5(a) and (b) amended and 2.5(c) added by Order dated August 29, 2007.)*

*(Rule 2.5(a), 2.5(b)(1), 2.5(b)(2), and 2.5(c) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 2.5(c) amended by Order dated May 22, 2019, effective September 1, 2019.)*

*(Rule 2.5 amended by Order dated August 17, 2022, effective July 1, 2023.)*

## Rule 2.6 Investigations

(a) Review of Grievance by Disciplinary Counsel.

(1) For grievances referred to Disciplinary Counsel by the ~~Client Assistance~~Intake Office ~~pursuant to BR 2.5(a)(2),~~ Disciplinary Counsel shall, within fourteen (14) days after receipt of the grievance, mail a copy of the grievance to the attorney or LP, if the ~~Client Assistance~~Intake Office has not already done so, and notify the attorney or LP that ~~he or she~~they must respond to the grievance in writing to Disciplinary Counsel within 21 days of the date Disciplinary Counsel requests such a response. Disciplinary Counsel may grant an extension of time to respond for good cause shown upon the written request of the attorney or LP. An attorney or LP need not respond to the grievance if ~~he or she provided a response to the Client Assistance Office and is notified by~~ Disciplinary Counsel notifies the attorney or LP that further information from the attorney or LP is not necessary.

(2) If the attorney or LP fails to respond to Disciplinary Counsel or to provide records requested by Disciplinary Counsel within the time allowed, Disciplinary Counsel may file a petition with the Disciplinary Board to suspend the attorney or LP from the practice of law, pursuant to the procedure set forth in BR 7.1. Notwithstanding the filing of a petition under this rule, Disciplinary Counsel may investigate the grievance.

(3) Disciplinary Counsel may, if appropriate, offer to enter into a diversion agreement with the attorney or LP pursuant to BR 2.10. If Disciplinary Counsel chooses not to offer a diversion agreement to the attorney or LP pursuant to BR 2.10 and does not dismiss the grievance pursuant to BR 2.6(b), Disciplinary Counsel shall refer the grievance to the SPRB at a scheduled meeting.

(b) Dismissal of Grievance by Disciplinary Counsel. If, after considering a grievance, the response of the attorney or LP, and any additional information deemed relevant, Disciplinary Counsel determines that probable cause does not exist to believe misconduct has occurred, Disciplinary Counsel shall dismiss the grievance. Disciplinary Counsel shall notify the complainant and the attorney or LP of the dismissal in writing. A complainant may contest in writing the action taken by Disciplinary Counsel in dismissing ~~his or her~~their grievance, in which case Disciplinary Counsel shall submit a report on the grievance to the SPRB at a scheduled meeting. The SPRB shall thereafter take such action as it deems appropriate.

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[OSB Rules of Procedure \(Revised 9/1/2023\)](#)

24

(c) Review of Grievance by SPRB.

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(1) The SPRB shall evaluate a grievance based on the report of Disciplinary Counsel to determine whether probable cause exists to believe misconduct has occurred. The SPRB shall either dismiss the grievance, admonish the attorney or LP, direct Disciplinary Counsel to file a formal complaint by the Bar against the attorney or LP, or take action within the discretion granted to the SPRB by these rules.

(A) If the SPRB determines that probable cause does not exist to believe misconduct has occurred, the SPRB shall dismiss the grievance and Disciplinary Counsel shall notify the complainant and the attorney or LP of the dismissal in writing.

(B) If the SPRB determines that the attorney or LP should be admonished, Disciplinary Counsel shall so notify the attorney or LP within fourteen (14) days of the SPRB's meeting. If an attorney or LP refuses to accept the admonition within the time specified by Disciplinary Counsel, Disciplinary Counsel shall file a formal complaint against the attorney or LP on behalf of the bar. Disciplinary Counsel shall notify the complainant in writing of the admonition of the attorney or LP.

(C) If the SPRB determines that the complaint should be investigated further, Disciplinary Counsel shall conduct the investigation and notify the complainant and the attorney or LP in writing of such action.

(d) Reconsideration; Discretion to Rescind.

(1) An SPRB decision to dismiss a grievance or allegation of misconduct against an attorney or LP shall not preclude reconsideration or further proceedings on such grievance or allegation, if evidence that is not available or submitted at the time of such dismissal justifies, in the judgment of not less than a majority of SPRB, such reconsideration or further proceedings.

(2) The SPRB may rescind a decision to file a formal complaint against an attorney or LP only when, to the satisfaction of a majority of the entire SPRB, good cause exists. Good cause is:

(A) new evidence that would have clearly affected the SPRB's decision to file a formal complaint; or

(B) legal authority, not known to the SPRB at the time of its last consideration of the matter, that establishes that the SPRB's decision to file a formal complaint was incorrect.

(e) Approval of Filing of Formal Complaint.

(1) If the SPRB determines that a formal complaint should be filed against an attorney or LP, or if an attorney or LP rejects an admonition offered by the SPRB, Disciplinary Counsel may appoint Bar Counsel. Disciplinary Counsel shall notify the attorney or LP and the complainant in writing of such action.

(2) Notwithstanding an SPRB determination that probable cause exists to believe misconduct has occurred, the SPRB shall have the discretion to direct that the Bar take no further action on a grievance or allegation of misconduct if one or more of the following circumstances exist:

(A) the attorney or LP is no longer an active member of the Bar or is not engaged in the practice of law, and is required under BR 8.1 to demonstrate good moral character and general fitness to practice law before resuming active membership status or the practice of law in Oregon;

(B) other disciplinary proceedings are pending that are likely to result in the attorney's or LP's disbarment;

(C) other disciplinary charges are authorized or pending and the anticipated sanction, should the Bar prevail on those charges, is not likely to be affected by a finding of misconduct in the new matter or on an additional charge; or

(D) formal disciplinary proceedings are impractical in light of the circumstances or the likely outcome of the proceedings.

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An exercise of discretion under this rule to take no further action on a grievance or allegation of misconduct shall not preclude further SPRB consideration or proceedings on such grievance or allegation in the future.

(3) Notwithstanding an SPRB determination that probable cause exists to believe misconduct has occurred, the SPRB shall have the discretion to dismiss a grievance or allegation of misconduct if the SPRB, considering the facts and circumstances as a whole, determines that dismissal would further the interests of justice and would not be harmful to the interests of clients or the public. Factors the SPRB may take into account in exercising that discretion include, but are not limited to:

- (A) the attorney's or LP's mental state;
- (B) whether the misconduct is an isolated event or part of a pattern of misconduct;
- (C) the potential or actual injury caused by the attorney's or LP's misconduct;
- (D) whether the attorney or LP fully cooperated in the investigation of the misconduct; and
- (E) whether the attorney or LP previously was admonished or disciplined for misconduct.

Misconduct that adversely reflects on the attorney's or LP's honesty, trustworthiness, or fitness to practice law shall not be subject to dismissal under this rule.

~~(f)~~ Investigation of Inquiries Involving Disciplinary Counsel, General Counsel, or other Bar agents. Inquiries that allege misconduct concerning Disciplinary Counsel or General Counsel of the Bar, or agents thereof; or that Bar Counsel has (f) engaged in misconduct while acting on the Bar's behalf, shall be referred to the chairperson of the SPRB within seven days of their receipt by the Bar.

(1) If the SPRB chairperson determines that probable cause does not exist to believe misconduct has occurred, the SPRB chairperson shall dismiss the inquiry and notify the parties of the dismissal in writing. A complainant may contest the dismissal in writing, in which case the matter shall be submitted to the SPRB at a scheduled meeting. The SPRB shall thereafter take such action as it deems appropriate.

(2) If the SPRB chairperson determines the inquiry should be investigated, the SPRB chairperson may appoint an investigator of ~~his or her~~ their choice to investigate the matter and to report on the matter directly to the SPRB. The same procedure shall, as far as practicable, apply to the investigation of such grievances as apply to members of the Bar generally.

*(Rule 2.6 amended and 2.6(g)(3) added by Order dated July 9, 2003, effective August 1, 2003.)  
(Rule 2.6 amended by Order dated December 8, 2003, effective January 1, 2004.)  
(Rule 2.6(g)(1) amended by Order dated March 20, 2008.)  
(Rule 2.6(f)(2) amended by Order dated October 19, 2009.)  
(Rule 2.6(a)(2) amended by Order dated August 12, 2013, effective November 1, 2013.)  
(Former Rule 2.6(e), 2.6(f), and 2.6(g) redesignated as 2.6(d), 2.6(e), and 2.6(f); former Rule 2.6(d) deleted; Rule 2.6(a)(3), Rule 2.6(e)(2)(A), 2.6(e)(2)(B), 2.6(e)(2)(C), 2.6(e)(2)(D), 2.6(e)(3)(A), 2.6(e)(3)(B), 2.6(e)(3)(C), 2.6(e)(3)(D), and 2.6(e)(3)(E) added; and 2.6(a), 2.6(a)(1), 2.6(a)(2), 2.6(b), 2.6(c), 2.6(c)(1), 2.6(c)(1)(A), 2.6(c)(1)(B), 2.6(c)(1)(C), 2.6(d)(1), 2.6(d)(2), 2.6(d)(2)(A), 2.6(d)(2)(B), 2.6(e), 2.6(e)(1), 2.6(e)(2), 2.6(e)(2)(C), 2.6(e)(3), 2.6(e)(3)(D), 2.6(f), 2.6(f)(1), and 2.6(f)(2) amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 2.6(a) through (e) amended by Order dated August 17, 2022, effective July 1, 2023.)*

### Rule 2.7 Investigations ~~Of~~ Alleged Misconduct Other Than ~~By~~ Inquiry.

Allegations or instances of alleged misconduct that are brought or come to the attention of the Bar other than through the receipt of a written inquiry shall be evaluated using the procedure specified in BR 2.6 except as that rule may be inapplicable due to the lack of a written grievance or a complainant with whom to communicate.

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27

*(Rule amended and renumbered by Order dated July 9, 2003, effective August 1, 2003.)*

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*(Rule 2.7 amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 2.8 Proceedings Not ~~To~~ Stop On Compromise.**

Neither unwillingness nor neglect of the complainant to pursue a grievance or to participate as a witness, nor settlement, compromise or restitution of any civil claim, shall, in and of itself, justify any failure to undertake or complete the investigation or the formal resolution of a disciplinary or contested reinstatement matter or proceeding.

*(Rule 2.7 amended by Order dated July 22, 1991.)*

*(Rule renumbered by Order dated July 9, 2003, effective August 1, 2003.)*

*(Rule 2.8 amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 2.9 Requests For Information And Assistance.**

The Bar may request a complainant or applicant to supply and disclose to the investigating authorities of the Bar all documentary and other evidence in ~~his or her~~their possession, and the names and addresses of witnesses relating to ~~his or her~~their inquiry, and may otherwise request the complainant to assist such investigating authorities in obtaining evidence in support of the facts surrounding ~~his or her~~their inquiry.

*(Rule renumbered by Order dated July 9, 2003, effective August 1, 2003.)*

*(Rule 2.9 amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 2.10 Diversion.**

(a) Diversion Offered by Disciplinary Counsel. As an alternative to seeking authority from the SPRB to offer an attorney or LP an admonition or to file a formal complaint, Disciplinary Counsel may offer to the attorney or LP to divert a grievance on the condition that the attorney or LP enter into a diversion agreement in which the attorney or LP agrees to participate in a remedial program as set forth in the agreement. An attorney or LP does not have a right to have a grievance diverted under this rule.

(b) Diversion Eligibility. Disciplinary Counsel may consider diversion of a grievance if:

(1) The misconduct does not involve the misappropriation of funds or property; fraud, dishonesty, deceit or misrepresentation; or the commission of a misdemeanor involving moral turpitude or a felony under Oregon law;

(2) The misconduct appears to be the result of inadequate law office management, chemical dependency, a physical or mental health condition, negligence, or a lack of training, education or other similar circumstance; and

(3) There appears to be a reasonable likelihood that the successful completion of a remedial program will prevent the recurrence of conduct by the attorney or LP similar to that under consideration for diversion.

(c) Offer of Diversion.

(1) If, after investigation, Disciplinary Counsel determines that an attorney or LP may have committed misconduct and that the matter is appropriate for diversion under this rule, Disciplinary Counsel may offer a diversion agreement to the attorney or LP. The attorney or LP has 30 days from the date diversion is offered to accept and enter into the diversion agreement. Disciplinary Counsel may grant an extension of time to the attorney or LP for good cause shown.

(2) An attorney or LP may decline to enter into a diversion agreement, in which case Disciplinary Counsel shall refer the grievance to the SPRB for review pursuant to Rule 2.6.

(d) Diversion Agreement.

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(1) A diversion agreement shall require the attorney or LP to participate in a specified remedial program to address the apparent cause of the misconduct. Such a remedial program may include, but is not limited to: appointment of a diversion supervisor; assistance or training in law office management; chemical dependency treatment; counseling or peer support meetings; oversight by an experienced practicing attorney; voluntary limitation of areas of practice for the period of the diversion agreement; restitution; or a prescribed course of continuing legal education. The attorney or LP shall pay the costs of a remedial program.

(2) A diversion agreement shall require the attorney or LP to stipulate to a set of facts concerning the complaint or allegation of misconduct being diverted and to agree that, in the event the attorney or LP fails to comply with the terms of the diversion agreement, the stipulated facts shall be deemed true in any subsequent disciplinary proceeding.

(3) A diversion agreement may be amended at any time by agreement between Disciplinary Counsel and the attorney or LP. Disciplinary Counsel is not obligated to amend a diversion agreement to incorporate additional complaints or allegations of misconduct made against the attorney or LP subsequent to the date of the original agreement.

(4) The term of a diversion agreement shall be no more than 24 months following the date of the last amendment to the agreement.

(5) In a diversion agreement, the attorney or LP shall agree that a diversion supervisor, treatment provider or any other person to whom the attorney or LP has been referred pursuant to the remedial program specified in the agreement shall report to Disciplinary Counsel any failure by the attorney or LP to comply with the terms of the agreement.

(6) If a diversion agreement is entered into between Disciplinary Counsel and the attorney or LP, Disciplinary Counsel shall so notify the complainant in writing.

(e) Compliance and Disposition.

(1) If it appears to Disciplinary Counsel that an attorney or LP has failed to comply with the terms of a diversion agreement and Disciplinary Counsel determines that the allegation of noncompliance, if true, warrants the termination of the diversion agreement, Disciplinary Counsel shall provide the attorney or LP an opportunity to be heard, through written submission, concerning the alleged noncompliance. Thereafter, Disciplinary Counsel shall determine whether to terminate the diversion agreement and, if so, shall refer the matter to the SPRB for review pursuant to BR 2.6.

(2) If an attorney or LP fulfills the terms of a diversion agreement, Disciplinary Counsel thereafter shall dismiss the grievance with written notice to the complainant and the attorney or LP. The dismissal of a grievance after diversion shall not be considered a prior disciplinary offense in any subsequent proceeding against the attorney or LP.

(f) Public Records Status. The Bar shall treat records relating to a grievance diverted under this rule, a diversion agreement, or a remedial program as official records of the Bar, subject to the Oregon Public Records Law and also subject to any applicable exemption.

*(Rule 2.10 added by Order dated July 9, 2003, effective August 1, 2003.)*

*(Rule 2.10(a), 2.10(c)(2), and 2.10(d)(4) amended by Order dated October 19, 2009.)*

*(Rule 2.10(a), 2.10(b), 2.10(c)(1), 2.10(c)(2), 2.10(d)(1), 2.10(d)(2), 2.10(d)(3), 2.10(d)(6), 2.10(e)(1), 2.10(e)(2), and 2.10(f) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 2.10(a) and (d) amended by Order dated August 17, 2022, effective July 1, 2023.)*

### Title 3 — Special Proceedings

#### Rule 3.1 ~~Interlocutory~~Interim Suspension During Pendency ~~Of~~ Disciplinary Proceedings.

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(a) Petition for ~~Interlocutory~~Interim Suspension. At any time after Disciplinary Counsel has determined probable cause exists that an attorney or LP has engaged in misconduct, has evidence sufficient to establish a probable violation of one or more rules of professional conduct or the Bar Act, and reasonably believes that clients or others will suffer immediate and irreparable harm by the continued practice of law by the attorney or LP, Disciplinary Counsel shall petition the Adjudicator for an order for ~~interlocutory~~interim suspension of the attorney's or LP's license to practice law pending the outcome of the disciplinary proceeding.

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(b) Contents of Petition; Notice to Answer; Service. A petition for the suspension of an attorney or LP under this rule shall set forth the acts and violations of the rules of professional conduct or statutes submitted by the Bar, together with an explanation of why ~~interlocutory~~interim suspension is warranted under BR 3.1(a). If a formal complaint has been filed against the attorney or LP, a copy shall be attached. The petition may be supported by documents or affidavits. The notice to answer shall provide that an answer to the petition must be filed with the Disciplinary Board Clerk within fourteen (14) days of service and that, absent the timely filing of an answer with the Disciplinary Board Clerk, the relief sought can be obtained. Disciplinary Counsel shall file the petition with the Disciplinary Board Clerk and shall serve a copy, along with the notice of answer, on the attorney or LP pursuant to BR 1.8.

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(c) Answer by Attorney or LP. The attorney or LP shall file an answer to the Bar's petition with the Disciplinary Board Clerk within fourteen (14) days of service. The attorney or LP shall mail a copy of the answer to Disciplinary Counsel and file proof of mailing with the Disciplinary Board Clerk.

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(d) Default; Entry of Order. The failure of the attorney or LP to answer the Bar's petition within the time provided in BR 3.1(c) constitutes a waiver of the attorney's or LP's right to contest the Bar's petition, and all factual allegations contained in the petition shall be deemed true. Not earlier than fourteen (14) days after service of the petition and in the absence of an answer filed by the attorney or LP named in the petition, the Adjudicator shall review the sufficiency of the petition. If the petition establishes a probable violation of one or more rules of professional conduct or the Bar Act, and a reasonable belief that clients or others will suffer immediate or irreparable harm by the continued practice of law by the attorney or LP, the Adjudicator shall enter an appropriate ~~interlocutory~~interim order suspending the attorney's or LP's license to practice law until further order of the Adjudicator or the Supreme Court. The Disciplinary Board Clerk shall send copies of the order to the parties.

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(e) Answer filed; Setting hearing on ~~interlocutory~~interim suspension. Upon the timely filing of the attorney's or LP's answer pursuant to BR 3.1(c), the Adjudicator shall hold a hearing on the Bar's petition not less than 30 days nor more than 60 days after the date the answer is filed. The Disciplinary Board Clerk shall promptly notify Disciplinary Counsel and the attorney or LP named in the petition of the date, time, and location of the hearing. The hearing shall take place consistently with BR 5.3(a), (b), (c), and (d). At the hearing, the Bar must prove by clear and convincing evidence that one or more rules of professional conduct or provision of the Bar Act has been violated by the attorney or LP named in the petition and that clients or others will suffer immediate or irreparable harm by the continued practice of law by the attorney or LP. Proof that clients or others will suffer immediate or irreparable harm by the continued practice of law by the attorney or LP may include, but is not limited to, establishing within the preceding 12-month period:

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(1) theft or knowing conversion of funds held by the attorney or LP in any fiduciary capacity, including but not limited to funds that should have been maintained in a lawyer or LP trust account;

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(2) three or more instances of failure to appear in court on behalf of a client notwithstanding having notice of the setting; or

(3) abandoning a practice with no provision of new location or contact information to three (3) or more clients.

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If the attorney or LP, having been notified of the date, time, and location of the hearing, fails to appear, the Adjudicator may enter an order finding the attorney or LP in default, deeming the allegations contained in the petition to be true, proceed on the basis of that default consistent with BR 3.1(d), and enter an appropriate order. The Disciplinary Board Clerk shall send copies of the order to the parties.

(f) Order of Adjudicator; Suspension; Restrictions on Trust Account; Notice to Clients; Custodian; Other Orders. The Adjudicator, upon the record pursuant to BR 3.1(d) or after the hearing provided in 3.1(e), shall enter an appropriate order. If the Adjudicator grants the Bar's petition and ~~interlocutorily suspends~~ grants an interim suspension of the attorney's or LP's license to practice law, the order of suspension shall state an effective date. The suspension shall remain in effect until further order of the Adjudicator or the court. The Adjudicator may enter such other orders as appropriate to protect the interests of the suspended attorney or LP, the suspended attorney's or LP's clients, and the public, including, but not limited to:

(1) an order that, when served upon a financial institution, serves as an injunction prohibiting withdrawals from the attorney's or LP's trust account or accounts except in accordance with restrictions set forth in the Adjudicator's order.

(2) an order directing the attorney or LP to notify current clients and any affected courts of the attorney's or LP's suspension; and to take such steps as are necessary to deliver client property, withdraw from pending matters, and refund any unearned fees.

(3) an order appointing another attorney or LP as custodian to take possession of and inventory the files of the suspended attorney or LP and take such further action as necessary to protect the interests of the suspended attorney's or LP's clients. Any attorney or LP so appointed by the court shall not disclose any information contained in any file without the consent of the affected client, except as is necessary to carry out the order of the Adjudicator.

The Disciplinary Board Clerk shall send copies of the order to the parties.

(g) Costs and Expenses. The Adjudicator may direct that the costs and expenses associated with any proceeding under this rule be allowed to the prevailing party. The procedure for the recovery of such costs shall be governed by BR 10.7 as practicable.

(h) Duties of Attorney or LP. An attorney or LP suspended from practice under this rule shall comply with the requirements of BR 6.3(a) and (b). An attorney or LP whose suspension under this rule exceeds 6 months must comply with BR 8.1 to be reinstated. An attorney or LP whose suspension under this rule is 6 months or less must comply with BR 8.2 in order to be reinstated.

(i) Application of Other Rules. Except as specifically provided herein, Title 4, Title 5, and Title 6 of the Rules of Procedure do not apply to proceedings brought pursuant to BR 3.1.

(j) Accelerated Proceedings Following ~~Interlocutory~~ Interim Suspension. When an attorney or LP has been ~~interlocutorily~~ suspended by order entered pursuant to BR 3.1(f), the related formal complaint filed by the Bar shall thereafter proceed and be determined as an accelerated case, without unnecessary delay. ~~The interlocutory~~ If no formal complaint has been filed against the attorney subject to suspension under this Rule, notwithstanding the provisions of this Rule, the interim suspension shall expire 45 days after date of entry, unless the SPRB authorizes the filing of. If a formal complaint against the attorney or LP for one or more acts described in the petition as a basis for seeking the interlocutory petition. Unless extended by stipulation of the Bar has been filed, and the attorney or LP, and approved by files a timely answer contesting the charges in the formal complaint, the Adjudicator, the further order contemplated by BR 3.1(f) shall be entered not later than 270 direct the Disciplinary Board Clerk to schedule the trial on the Bar's formal complaint (and any amendments thereto) within 120 days following the entry of the order of interlocutory suspension, subject to continuance for an additional period not to exceed 90 days upon motion filed by of the filing of the Bar, served upon attorney's answer to the attorney or LP, and granted by the Adjudicator, formal complaint.

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(k) Supreme Court Review. No later than fourteen (14) days after the entry of an order pursuant to BR 3.1(f), Disciplinary Counsel or the attorney or LP who is the subject of an order entered pursuant to BR 3.1(f) may request the Supreme Court to review the Adjudicator's order, including conducting a *de novo* review on the record, on an expedited basis. Unless otherwise ordered by the court, an interlocutory/interim order of suspension, if entered, shall remain in effect until the court issues its decision.

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~~(h) Termination of Interlocutory Suspension. In the event the further order of the court contemplated by BR 3.1(f) is not entered within the time provided by BR 3.1(j), the order of interlocutory suspension shall automatically terminate without prejudice to any pending or further disciplinary proceeding against the attorney or LP.~~

(l) Termination of Interim Suspension. An order for interim suspension will only terminate upon further order of the Adjudicator or the Supreme Court, or upon the final disposition of the Bar's charges in the formal complaint as determined by the Disciplinary Board or the Supreme Court, if the Bar or the attorney appeals the Disciplinary Board's decision as provided in BR 10.2. For purposes of this rule, "final disposition" means the date upon which the time to appeal the Disciplinary Board's decision has expired, or, in the case of an appeal, the effective date of the Supreme Court's decision.

*(Rule 3.1(h) amended by letter dated December 10, 1987.)*

*(Rule 3.1 amended by Order dated February 23, 1988.)*

*(Rule 3.1(f) amended by Order dated March 13, 1989, effective April 1, 1989, corrected June 1, 1989.)*

*(Rule 3.1(a) and (g) amended by Order dated May 15, 1995.)*

*(Rule 3.1(g)(3) added and 3.1(h)-3.1(j) amended by Order dated October 19, 2009.)*

*(Former Rule 3.1(d), 3.1(f), 3.1(g) and 3.1(g)(1) deleted; former Rule 3.1(c), 3.1(e), 3.1(g)(2), 3.1(g)(3), 3.1(h), 3.1(i), and 3.1(j) redesignated 3.1(e), 3.1(f), 3.1(f)(1), 3.1(f)(3), 3.1(g), 3.1(j), and 3.1(l); Rule 3.1(c), 3.1(d), 3.1(e)(1), 3.1(e)(2), 3.1(e)(3), 3.1(f)(2), 3.1(h), 3.1(i), and 3.1(k) added; and Rule 3.1(a), 3.1(b), 3.1(e), 3.1(f), 3.1(f)(1), 3.1(f)(3), 3.1(g), 3.1(j), and 3.1(l) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 3.1(a) through (f) and (k) through (H)a) and (e) amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 3.2 Mental Incompetency ~~Or~~ Addiction—  
Involuntary Transfer ~~To~~ Inactive Membership  
Status.**

(a) Summary Transfer to Inactive Status.

(1) The Supreme Court may summarily order, upon ex parte application by the Bar, that an attorney or LP be placed on inactive membership status until reinstated by the court if the attorney or LP has been adjudged by a court of competent jurisdiction to be mentally ill or incapacitated.

(2) A copy of the order shall be personally served on the attorney or LP in the same manner as provided by the Oregon Rules of Civil Procedure for service of summons and mailed to his or her guardian, conservator and attorney of record in any guardianship or conservatorship proceeding.

(b) Petition by Bar.

(1) The Bar may petition the court to determine whether an attorney or LP is disabled from continuing to practice law due to:

- (A) a personality disorder; or
- (B) mental infirmity or illness; or
- (C) diminished capacity; or
- (D) addiction to drugs, narcotics or intoxicants.

The Bar's petition shall be mailed to the attorney or LP and to his or her guardian, conservator, and attorney of record in any guardianship or conservatorship proceeding.

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(2)

(A) On the filing of such a petition, the court may take or direct such action as it deems necessary or proper to determine whether an attorney or LP is disabled. Such action may include, but is not limited to, examination of such attorney or LP by ~~the~~ qualified experts as the court shall designate.

(B) A copy of an order requiring an attorney or LP to appear, for examination or otherwise, shall be mailed by the State Court Administrator to the attorney or LP and to ~~his or her~~their guardian, conservator and attorney of record in any guardianship or conservatorship proceeding and to Disciplinary Counsel.

(C) In the event of a failure by the attorney or LP to appear at the appointed time and place for examination, the court may place the attorney or LP on inactive membership status until further order of the court.

(D) If, upon consideration of the reports of the designated experts or otherwise, the court finds that probable cause exists that the attorney or LP is disabled under the criteria set forth in BR 3.2(b)(1) from continuing to practice law, the court may order the attorney or LP to appear before the court or its designee to show cause why the attorney or LP should not be placed by the court on inactive membership status until reinstated by the court. The State Court Administrator shall mail such a show cause order to the attorney or LP and his or her guardian, conservator and attorney of record in any guardianship or conservatorship proceeding and to Disciplinary Counsel.

(E) After any show cause hearing as the court deems appropriate, if the court finds that the attorney or LP is disabled from continuing to practice law, the court may order the attorney or LP placed on inactive membership status. The State Court Administrator shall mail a copy of an order placing the attorney or LP on inactive membership status to the attorney or LP and his or her guardian, conservator, and attorney of record in any guardianship or conservatorship proceeding, and to Disciplinary Counsel.

(3) Any disciplinary investigation or proceeding pending against an attorney or LP placed by the court on inactive membership status under this rule shall be suspended and held in abeyance until further order of the court.

(c) Disability During Disciplinary Proceedings.

(1) The court may order that an attorney or LP placed on inactive membership status until reinstated by the court if, during the course of a disciplinary investigation or disciplinary proceeding, the attorney or LP files a petition with the court, with notice to Disciplinary Counsel, alleging that he or she is they are disabled from understanding the nature of the proceeding against him or her them, assisting and cooperating with his or her their attorney, or from participating in his or her their defense due to:

- (A) a personality disorder; or
- (B) mental infirmity or illness; or
- (C) diminished capacity; or
- (D) addiction to drugs, narcotics or intoxicants.

(2) The court shall take or direct such action as it deems necessary or proper as provided in BR 3.2(b) to determine if the attorney or LP is disabled.

(3) The State Court Administrator shall mail a copy of the court's order to Disciplinary Counsel, Bar Counsel, and the attorney or LP and his or her their guardian, conservator, and attorney of record in any guardianship or conservatorship proceeding, and the attorney of record in the Bar's disciplinary proceeding.

(4) Any disciplinary investigation or proceeding against an attorney or LP who the court places on inactive membership status under this rule shall be suspended and held in abeyance until further order by the court.

(5) If the court determines that the attorney or LP is not disabled under the criteria set forth in BR 3.2(c)(1), it may take such action as it deems necessary or proper, including the issuance of an order that any disciplinary investigation or proceeding against the attorney or LP that is pending or held in abeyance be continued or resumed.

(d) Appointment of Attorney. In any proceeding under this rule, the court may, on such notice as the court shall direct, appoint an attorney or attorneys to represent the attorney or LP if ~~he or she is~~they are without representation.

(e) Custodians. In any proceeding under this rule, the court may, on such notice as the court shall direct, appoint an attorney or attorneys to inventory the files of the attorney or LP and to take such action as seems necessary to protect the interests of ~~his or her~~their clients. Any attorney so appointed by the court shall not disclose any information contained in any file without the consent of the affected client, except as is necessary to carry out the order of the court.

(f) Costs and Expenses. The court may direct that the costs and expenses associated with any proceeding under this rule be paid by the attorney or LP, or ~~his or her~~their estate, including compensation fixed by the court to be paid to any attorney or ~~medical~~ expert appointed under this rule. The court may order such hearings as it deems necessary or proper to determine the costs and expenses to be paid under this rule.

(g) Waiver of Privilege.

(1) Under this rule, an attorney's or LP's claim of disability in a disciplinary investigation or disciplinary proceeding, or the filing of an application for reinstatement as an active member by an attorney or LP placed on inactive membership status under this rule for disability, shall be deemed a waiver of any privilege existing between the attorney or LP and any doctor or hospital treating ~~him or her~~them during the period of the alleged disability.

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(2) The attorney or LP shall, in ~~his or her~~their claim of disability or in ~~his or her~~their application for reinstatement, disclose the name of every doctor or hospital by whom ~~he or she has~~they have been treated during ~~his or her~~their disability or since ~~his or her~~their placement on inactive membership status and shall furnish written consent to divulge all such information and all such doctor and hospital records as the Bar or the court may request.

(h) Application of Other Rules.

(1) The Rules of Procedure that apply to the resolution of a formal complaint or statement of objections do not apply to transfers from active to inactive membership status under BR 3.2. The placement of an attorney or LP on inactive membership status under BR 3.2 does not preclude the Bar from filing a formal complaint against the attorney or LP. An attorney or LP placed on inactive membership status under BR 3.2 must comply with the applicable provisions of Title 8 of these rules to obtain reinstatement to active membership status.

(2)

(A) An attorney or LP transferred to inactive status under this rule shall not practice law after the effective date of the transfer. This rule shall not preclude the attorney or LP from providing information on the facts of a case and its status to a succeeding attorney or LP, and such information shall be provided on request.

(B) An attorney or LP transferred to inactive status under this rule shall immediately take all reasonable steps to avoid foreseeable prejudice to any client and to comply with all applicable laws and disciplinary rules.

(C) Notwithstanding BR 3.2(b)(3) and BR 3.2(c)(4), Disciplinary Counsel may petition the court to hold an attorney or LP transferred to inactive status under this rule in contempt for failing to comply with the provisions of BR 3.2(h)(2)(i) and (ii). The court may order the attorney or LP to appear and show cause, if any, why the attorney or LP should not be held in contempt of court and sanctioned accordingly.

(i) At the direction of the court, the duties of the court set forth in this rule may be fulfilled by the Adjudicator.

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In such instances the duties of the State Court Administrator shall be performed by the Disciplinary Board Clerk.

*(Rule 3.2(h) amended by Order dated March 13, 1989, effective April 1, 1989, corrected June 1, 1989.)  
(Former Rule 3.2(b)(1)(i), 3.2(b)(1)(ii), 3.2(b)(1)(iii), 3.2(b)(1)(iv), 3.2(c)(1)(i), 3.2(c)(1)(ii), 3.2(c)(1)(iii), 3.2(c)(1)(iv), (c)(4), 3.2(h)(2)(i), 3.2(h)(2)(ii), and 3.2(h)(2)(iii) redesignated as Rule 3.2(b)(1)(A), 3.2(b)(1)(B), 3.2(b)(1)(C), 3.2(b)(1)(D), 3.2(c)(1)(A), 3.2(c)(1)(B), 3.2(c)(1)(C), 3.2(c)(1)(D), 3.2(c)(5), 3.2(h)(2)(A), 3.2(h)(2)(B), and 3.2(h)(2)(C); Rule 3.2(c)(4) added; and Rule 3.2(a)(2), 3.2(b), 3.2(b)(1)(C), 3.2(b)(2)(A), 3.2(b)(2)(D), 3.2(b)(2)(E), 3.2(b)(3), 3.2(c)(1), 3.2(c)(1)(C), 3.2(c)(2), 3.2(c)(3), 3.2(c)(5), 3.2(g)(1), 3.2(g)(2), 3.2(h)(1), 3.2(h)(2)(A), 3.2(h)(2)(B), and 3.2(h)(2)(C) amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 3.2(a)(2) amended and Rule 3.2(h)(2)(C)(i) added by Order dated May 22, 2019, effective September 1, 2019.)  
(Rule 3.2(a) through (h) amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 3.3 Allegations ~~Of~~ Criminal Conduct Involving Attorneys and LPs.**

- (a) If the SPRB directs the filing of a formal complaint that alleges acts involving the possible commission of a crime that do not appear to have been the subject of a criminal prosecution, Disciplinary Counsel shall report the possible crime to the appropriate investigatory authority.
- (b) On the filing of an accusatory instrument against an attorney or LP for the commission of a misdemeanor that may involve moral turpitude or of a felony, Disciplinary Counsel shall determine whether a disciplinary investigation should be initiated against such attorney or LP.

*(Rule 3.3 amended by Order dated March 31, 1989.)  
(Rule 3.3(a) and 3.3(b) amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Title for Rule 3.3 and 3.3(b) amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 3.4 Conviction ~~Of~~ Attorneys or LPs.**

- (a) Petition for ~~Interlocutory~~Interim Suspension; Notice to Answer. Upon learning that an attorney or LP has been convicted in any jurisdiction of an offense that is a misdemeanor that may involve moral turpitude, a felony under the laws of this state, or a crime punishable by death or imprisonment under the laws of the United States and determining that immediate and irreparable harm to the attorney's or LP's clients or the public is likely to result if a suspension of the attorney's or LP's license to practice law is not ordered, Disciplinary Counsel shall petition the Disciplinary Board to ~~interlocutorily~~suspend the attorney's or LP's license to practice law on an interim basis. The petition shall describe the conviction and explain the basis upon Disciplinary Counsel believes that immediate and irreparable harm to the attorney's or LP's clients or the public is likely to result if a suspension is not ordered. The petition shall include a copy of the documents that show the conviction and may be supported by documents or affidavits. A "conviction" for purposes of this rule shall be considered to have occurred upon entry of a plea of guilty or no contest or upon entry of a finding or verdict of guilty. The notice to answer shall provide that an answer to the petition must be filed with the Disciplinary Board Clerk within fourteen (14) days of service and that, absent the timely filing of an answer with the Disciplinary Board Clerk, the relief sought can be obtained. Disciplinary Counsel shall file the petition with the Disciplinary Board Clerk and shall serve a copy, along with the notice to answer, on the attorney or LP pursuant to BR 1.8.
- (b) Answer by Attorney or LP. The attorney or LP shall file an answer to the Bar's petition with the Disciplinary Board Clerk within fourteen (14) days of service. The attorney or LP shall mail a copy of the answer to Disciplinary Counsel and file proof of mailing with the Disciplinary Board Clerk.
- (c) Default; Entry of Order. The failure of the attorney or LP to answer the Bar's petition within the time provided in BR 3.4(b) constitutes a waiver of the attorney's or LP's right to contest the Bar's petition, and all factual allegations contained in the petition shall be deemed true. Not earlier than fourteen (14) days after service of the petition and in the absence of an answer filed by the attorney or LP named in the petition, the Adjudicator shall review the sufficiency of the petition. If the petition establishes the attorney's or LP's

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conviction of a category of offense described in BR 3.4(a) and a reasonable belief that clients or others will suffer immediate or irreparable harm by the attorney's or LP's continued practice of law, the Adjudicator shall enter an appropriate ~~interlocutory~~ interim order suspending the attorney's or LP's license to practice law until further order of the Adjudicator or the Supreme Court. The Disciplinary Board Clerk shall send copies of the order to the parties.

(d) Answer filed; Setting hearing on ~~interlocutory~~ interim suspension. Upon the timely filing of the attorney's or LP's answer pursuant to BR 3.4(b), the Adjudicator shall hold a hearing on the Bar's petition not less than 30 days nor more than 60 days after the date the answer is filed. The Disciplinary Board Clerk shall promptly notify Disciplinary Counsel and the attorney or LP of the date, time, and location of the hearing. The hearing shall take place consistently with BR 5.3(a), (b), (c), and (d). At the hearing, the Bar must prove by clear and convincing evidence that the attorney or LP has been convicted of a category of offense described in BR 3.4(a) and that clients or others will suffer immediate or irreparable harm by the attorney's continued practice of law. Proof that clients or others will suffer immediate or irreparable harm by the attorney's or LP's continued practice of law may include, but is not limited to, establishing that a period of incarceration was imposed on the attorney or LP as a result of the conviction. If the attorney or LP, having been notified of the date, time, and location of the hearing, fails to appear, the Adjudicator may enter an order finding the attorney or LP in default, deeming the allegations contained in the petition to be true, proceed on the basis of that default consistent with BR 3.4(c), and enter an appropriate order.

(e) Order of Adjudicator; Suspension; Restrictions on Trust Account; Notice to Clients; Custodian; Other Orders. The Adjudicator, upon the record pursuant to BR 3.4(c) or after the hearing provided in BR 3.4(d), shall enter an appropriate order. If the Adjudicator grants the Bar's petition and ~~interlocutorily~~ suspends the attorney's license to practice law, the order of suspension shall state an effective date. The suspension shall remain in effect until further order of the Adjudicator or the court. The Adjudicator may enter such other orders as appropriate to protect the interests of the suspended attorney, the suspended attorney's clients, and the public, including, but not limited to:

(1) an order that, when served upon a financial institution, serves as an injunction prohibiting withdrawals from the attorney's trust account or accounts except in accordance with restrictions set forth in the Adjudicator's order.

(2) an order directing the attorney to notify current clients and any affected courts of the attorney's suspension; and to take such steps as are necessary to deliver client property, withdraw from pending matters, and refund any unearned fees.

(3) an order appointing an attorney as custodian to take possession of and inventory the files of the suspended attorney and take such further action as necessary to protect the interests of the suspended attorney's clients. Any attorney so appointed by the Adjudicator shall not disclose any information contained in any file without the consent of the affected client, except as is necessary to carry out the order of the Adjudicator.

The Disciplinary Board Clerk shall send copies of the order to the parties.

(f) Costs and Expenses. The Adjudicator may direct that the costs and expenses associated with any proceeding under this rule be allowed to the prevailing party. The procedure for the recovery of such costs shall be governed by BR 10.7 as practicable.

(g) Duties of Attorney or LP. An attorney or LP suspended from practice under this rule shall comply with the requirements of BR 6.3(a), (b), and (c). An attorney or LP whose suspension under this rule exceeds 6 months must comply with BR 8.1 to be reinstated. An attorney or LP whose suspension under this rule is 6 months or less must comply with BR 8.2 to be reinstated.

(h) Application of Other Rules. Except as specifically provided herein, Title 4, Title 5, and Title 6 of the Rules of Procedure do not apply to proceedings brought pursuant to BR 3.4.

(i) Supreme Court Review. No later than fourteen (14) days of the entry of an order pursuant to BR 3.4(e),

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Disciplinary Counsel or the attorney or LP who is the subject of an order entered pursuant to BR 3.4(e) may request the Supreme Court to review the Adjudicator's order, including conducting a *de novo* review on the record, on an expedited basis. Unless otherwise ordered by the court, an interlocutoryinterim order of suspension, if entered, shall remain in effect until the court issues its decision.

(j) Independent Charges. Whether or not interlocutoryan interim suspension is sought pursuant to BR 3.4(a), the SPRB may direct Disciplinary Counsel to file a formal complaint against the attorney or LP based upon the fact of the attorney's or LP's conviction or the underlying conduct.

(k) Relief From Suspension. If an attorney's or LP's conviction is reversed on appeal, and such reversal is not subject to further appeal or review, or the attorney or LP has been granted a new trial and the order granting a new trial has become final, any suspension or discipline previously ordered based solely on the conviction shall be vacated upon the Disciplinary Board's receipt of the judgment of reversal or order granting the attorney or LP a new trial. Reversal of the attorney's or LP's conviction on appeal or the granting of a new trial does not require the termination of any disciplinary proceeding based upon the same facts which gave rise to the conviction.

*(Rule 3.4(d) amended by Order dated March 13, 1989, effective April 1, 1989.)*

*(Rule 3.4(e) amended by Order dated February 5, 2001. Amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 3.4(e) amended by Order dated October 19, 2009.)*

*(Former Rule 3.4(d), 3.4(e), 3.4(g), and 3.4(h) deleted; former Rule 3.4(f) and 3.4(i) redesignated as 3.4(j) and 3.4(k); Rule 3.4(d), 3.4(e), 3.4(f), 3.4(g), 3.4(h), and 3.4(i) added; Rule 3.4(a), 3.4(b), 3.4(c), 3.4(j), and 3.4(k) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 3.4(a) through (e), (g), and (i) through (k) amended by Order dated August 17, 2022, effective July 1, 2023.)*

### Rule 3.5 Reciprocal Discipline.

(a) Petition; Notice to Answer. Upon learning that an attorney or LP has been disciplined for misconduct in another jurisdiction not predicated upon a prior discipline of the attorney or LP pursuant to these rules, Disciplinary Counsel shall file with the Disciplinary Board Clerk a petition seeking reciprocal discipline of the attorney or LP. The petition shall include a copy of the judgment, order, or determination of discipline in the other jurisdiction; may be supported by other documents or affidavits; and shall contain a recommendation as to the imposition of discipline in Oregon, based on the discipline in the jurisdiction whose action is reported, and such other information as the Bar deems appropriate. A plea of no contest, a stipulation for discipline, or a resignation while formal charges are pending is considered a judgment or order of discipline for the purposes of this rule. If the Bar seeks imposition of a sanction greater than that imposed in the other jurisdiction, it shall state with specificity the sanction sought and provide applicable legal authority to support its position. The notice to answer shall provide that an answer to the petition must be filed with the Disciplinary Board Clerk within 21 days of service and that, absent the timely filing of an answer with the Disciplinary Board Clerk, the relief sought can be obtained. Disciplinary Counsel shall file the petition with the Disciplinary Board Clerk and shall serve a copy, along with the notice to answer, on the attorney or LP pursuant to BR 1.8.

(b) Order of Judgment; Sufficient Evidence of Misconduct; Rebuttable Presumption. A copy of the judgment, order, or determination of discipline shall be sufficient evidence for the purposes of this rule that the attorney or LP committed the misconduct on which the other jurisdiction's discipline was based. There is a rebuttable presumption that the sanction to be imposed shall be equivalent, to the extent reasonably practicable, to the sanction imposed in the other jurisdiction.

(c) Answer of Attorney or LP. The attorney or LP has 21 days from service to file with the Disciplinary Board an answer addressing whether:

- (1) The procedure in the jurisdiction which disciplined the attorney or LP was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

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(2) The conduct for which the attorney or LP was disciplined in the other jurisdiction is conduct that should subject the attorney or LP to discipline in Oregon; and

(3) The imposition of a sanction equivalent to the sanction imposed in the other jurisdiction would result in grave injustice or be offensive to public policy.

The attorney or LP shall mail a copy of ~~his or her~~their answer to Disciplinary Counsel and file proof of mailing with the Disciplinary Board Clerk.

(d) Default; Hearing. If no answer is timely filed, the Adjudicator may proceed to the entry of an appropriate judgment based upon review of the record. If an answer is timely filed that asserts a defense pursuant to BR 3.5(c)(1), (2), or (3), the Adjudicator, in ~~his or her~~their discretion, based upon a review of the petition, answer, and any supporting documents filed by either the Bar or the attorney or LP, may either determine on the basis of the record whether the attorney or LP should be disciplined in Oregon for misconduct in another jurisdiction and if so, in what manner, or may determine that testimony will be taken solely on the issues set forth in the answer pertaining to BR 3.5(c)(1), (2), and (3). The Adjudicator shall enter an appropriate order. The Disciplinary Board Clerk shall send copies of the order to the parties. The Adjudicator's decision shall be subject to review by the Supreme Court, as authorized in Title 10 of these rules. On review by the court, the sanction imposed in the other jurisdiction may be a factor for consideration but does not operate as a rebuttable presumption.

(e) Burden of Proof. The attorney or LP has the burden of proving in any hearing held pursuant to BR 3.5(f) that due process of law was not afforded the attorney in the other jurisdiction.

(f) Hearing by Trial Panel; Review by Supreme Court. If the Adjudicator decides to take testimony pursuant to BR 3.5(e), the Adjudicator shall request the regional chairperson to appoint an attorney member and a public member to serve on the trial panel. Upon receiving notice from the Disciplinary Board Clerk of a regional chairperson's appointment of an attorney member and a public member pursuant to BR 2.4(f)(1), and upon determining that either no timely challenge pursuant to BR 2.4(g) was filed or that a timely filed challenge pursuant to BR 2.4(g) has either been denied or resulted in the appointment of a substitute member or members, the Adjudicator shall promptly establish the date and place of the evidentiary hearing no less than 21 days and no more than 42 days thereafter. BR 5.1 and BR 5.3 apply to the evidentiary hearing. The trial panel shall make a decision concerning the issues submitted to it. The Disciplinary Board Clerk shall send copies of the order to the parties. The trial panel's decision shall be subject to review by the Supreme Court as authorized in Title 10 of these rules. On review by the court, the sanction imposed in the other jurisdiction may be a factor for consideration but does not operate as a rebuttable presumption.

(g) Application of Other Rules. Except as specifically provided herein, Title 4, Title 5, and Title 6 of the Rules of Procedure do not apply to proceedings brought pursuant to BR 3.5.

(h) Suspension or Disbarment. An attorney or LP suspended or disbarred under this rule shall comply with the requirements of BR 6.3(a), (b), and (c).

(i) Reinstatement Rules Apply. The rules on reinstatement apply to attorneys or LPs suspended or disbarred pursuant to the procedure set forth in BR 3.5(d), (e), and (f).

(j) Independent Charges. Nothing in this rule precludes the Bar from filing a formal complaint against an attorney or LP for misconduct in any jurisdiction.

*(Rule 3.5 amended by Order dated July 16, 1984, effective August 1, 1984.)*

*(Rule 3.5(h) amended by Order dated March 13, 1989, effective April 1, 1989.)*

*(Rule 3.5(e) amended by Order dated February 5, 2001. Amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Former Rule 3.5(d) deleted; former Rule 3.5(e), 3.5(f), and 3.5(g) redesignated 3.5(d), 3.5(e), and 3.5(f); Rule 3.5(c)(3) and 3.5(g) added; Rule 3.5(a), 3.5(b), 3.5(c), 3.5(c)(1), 3.5(c)(2), 3.5(d), 3.5(e), 3.5(f), 3.5(h), 3.5(i), and 3.5(j) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 3.5(e) amended by Order dated May 22, 2019, effective September 1, 2019.)*

*(Rule 3.5(a) through (e), and (h) through (j) amended by Order dated August 17, 2022, effective July 1, 2023.)*

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**Rule 3.6 Discipline By Consent.**

(a) Application. Any allegation of misconduct that is neither dismissed nor disposed of pursuant to BR 2.10 may be disposed of by a no contest plea, or by a stipulation for discipline, entered into at any time after the SPRB finds probable cause that misconduct has occurred.

(b) No Contest Plea. A plea of no contest to all causes or any cause of a formal complaint, or to allegations of misconduct if a formal complaint has not been filed, shall be verified by the respondent and shall include:

- (1) A statement that the respondent freely and voluntarily make the plea;
- (2) A statement that the respondent does not desire to defend against the formal complaint or any designated cause thereof, or against an allegation of misconduct not yet pled;
- (3) A statement that the respondent agrees to accept a designated form of discipline in exchange for the no contest plea; and
- (4) A statement of the respondent's prior record of reprimand, suspension or disbarment, or absence of such record.

(c) Stipulation for Discipline. A stipulation for discipline shall be verified by the respondent and shall include:

- (1) A statement that the respondent has freely and voluntarily entered into the stipulation;
- (2) A statement that explains the particular facts and violations to which the Bar and the respondent are stipulating;
- (3) A statement that the respondent agrees to accept a designated form of discipline in exchange for the stipulation; and
- (4) A statement of the respondent's prior record of reprimand, suspension or disbarment, or absence of such record.

(d) Approval of SPRB. Pleas of no contest and stipulations shall be approved as to form by Disciplinary Counsel and approved in substance by the chairperson of the SPRB or a member of the SPRB designated by the chairperson. If the plea or stipulation is acceptable to the respondent and the SPRB chairperson or designated member, and if the full term of the discipline agreed upon does not exceed a 6-month suspension, Disciplinary Counsel shall submit it to the Disciplinary Board Clerk for review by the Adjudicator, acting on behalf of the Disciplinary Board. Otherwise, Disciplinary Counsel shall file the stipulation with the State Court Administrator for review by the Supreme Court.

(e) Review by Adjudicator or Supreme Court. The Adjudicator or the court, as the case may be, shall review the plea or stipulation. If the Adjudicator approves the plea or stipulation, an order shall be issued so stating and filed with the Disciplinary Board Clerk, and the Clerk shall provide copies to Disciplinary Counsel and the respondent. If the court approves the plea or stipulation, an order shall be issued so stating. If the plea or stipulation is rejected by the Adjudicator or the court, it may not be used as evidence of misconduct against the respondent in the pending or in any subsequent disciplinary proceeding.

(f) Costs. In matters submitted under this rule that are resolved by a decision of the Disciplinary Board, the Bar may file a cost bill with the Disciplinary Board Clerk within 21 days of the filing of the decision of the Disciplinary Board. The Bar must serve a copy of the cost bill on the respondent pursuant to BR 1.8. To contest the Bar's statement of costs, the respondent must file an objection supported by a declaration under penalty of perjury with the Disciplinary Board Clerk within 7 days from the date of service. The respondent shall mail a copy of the objection to Disciplinary Counsel and file proof of mailing with the Disciplinary Board Clerk. If the

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matter is resolved by a decision of the court, the Bar's cost bill and the respondent's objections must be filed with the court within the same time period, accompanied by proof of service on the other party. The Adjudicator or the court, as the case may be, may fix the amount of the Bar's actual and necessary costs and disbursements incurred in the proceeding to be paid by the respondent.

(g) Supplementing Record. If the Adjudicator or the court concludes that facts are not set forth in sufficient detail to enable forming an opinion as to the propriety of the discipline agreed upon, the Adjudicator or the court may request that additional stipulated facts be submitted or may disapprove the plea or stipulation.

(h) Confidentiality. A plea or stipulation prepared for the Adjudicator or the court's consideration shall not be subject to public disclosure or used as evidence in a disciplinary proceeding:

- (1) prior to Adjudicator or court approval of the plea or stipulation; or
- (2) if rejected by the Adjudicator or court.

*(Rule 3.6(d) and (e) amended by Order dated February 23, 1988.)*

*(Rule 3.6(d) amended by Order dated December 13, 1993. Amended by Order dated June 5, 1997, effective July 1, 1997.)*

*(Rule 3.6(a), (b), (d) and (e) amended by Order dated February 5, 2001.)*

*(Rule 3.6(d), (e) and (f) amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Former Rule 3.6(b)(i), 3.6(b)(ii), 3.6(b)(iii), 3.6(b)(iv), 3.6(c)(i), 3.6(c)(ii), 3.6(c)(iii), 3.6(c)(iv), and 3.6(h) redesignated as Rule 3.6(b)(1), 3.6(b)(2), 3.6(b)(3), 3.6(b)(4), 3.6(c)(1), 3.6(c)(2), 3.6(c)(3), 3.6(c)(4), 3.6(h)(1), and 3.6(h)(2); Rule 3.6(a), 3.6(b), 3.6(b)(1), 3.6(b)(2), 3.6(b)(3), 3.6(b)(4), 3.6(c), 3.6(c)(1), 3.6(c)(2), 3.6(c)(3), 3.6(c)(4), 3.6(d), 3.6(e), 3.6(f), 3.6(g), 3.6(h), 3.6(h)(1), and 3.6(h)(2) amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Title 4 — Prehearing Procedure

##### Rule 4.1 Formal Complaint.

(a) Designation of Counsel and Region. If the SPRB determines that probable cause exists to believe an attorney or LP has engaged in misconduct and that formal proceedings are warranted, it shall refer the matter to Disciplinary Counsel with instructions to file a formal complaint against the attorney or LP, who then becomes the respondent. Disciplinary Counsel, being so advised, may appoint Bar Counsel.

(b) Filing. Disciplinary Counsel shall prepare and file with the Disciplinary Board Clerk a formal complaint against the respondent on behalf of the Bar. The formal complaint shall be in substantially the form set forth in BR 13.1.

(c) Substance of Formal Complaint. A formal complaint shall be signed by Disciplinary Counsel, or ~~his or her~~ their designee, and shall set forth succinctly the acts or omissions of the respondent, including the specific statutes or rules of professional conduct violated, so as to enable the respondent to know the nature of the charge or charges against the respondent. When more than one act or transaction is relied upon, the allegations shall be separately stated and numbered. The formal complaint need not be verified.

(d) Amendment of Formal Complaint. Disciplinary Counsel may amend the formal complaint on behalf of the Bar subject to the requirements of BR 4.4(b) as to any grievance the SPRB has instructed Disciplinary Counsel to file a formal complaint pursuant to BR 4.1(a) and BR 4.1(e).

(e) Consolidation of Charges and Proceedings. The Bar, at the SPRB's direction, may consolidate in a formal complaint two or more causes of complaint against the same attorney or LP or attorneys or LPs, but shall file a separate formal complaint against each respondent. The findings and conclusions thereon may be either joint or separate, as the trial panel, in its discretion, may determine. The Bar, at the discretion of the SPRB, may also consolidate formal complaints against two or more attorneys or LPs for hearing before one trial panel.

(f) Appointment of Trial Panel. Within 30 days following respondent's timely filing of an answer pursuant to BR 4.3, Disciplinary Counsel shall file a request with the Disciplinary Board Clerk that the regional chairperson appoint an attorney and a public member to serve on the trial panel with the Adjudicator.

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*(Rule 4.1(a) amended by Order dated January 5, 1988. Amended by Order dated June 5, 1997, effective July 1, 1997.)*  
*(Rule 4.1(b) amended by Order dated February 23, 1988.)*  
*(Rule 4.1(a) and (c) amended by Order dated February 5, 2001.)*  
*(Rule 4.1(b) amended by Order dated June 17, 2003, effective July 1, 2003.)*  
*(Former Rule 4.1(d) redesignated as Rule 4.1(e); Rule 4.1(a), 4.1(b), 4.1(c) and 4.1(e) amended; Rule 4.1(d) and 4.1(f) added by Order dated May 3, 2017, effective January 1, 2018.)*  
*(Rule 4.1(a), (e), and (f) amended by Order dated August 17, 2022, effective July 1, 2023.)*

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**Rule 4.2 Service of Formal Complaint.**

(a) Manner of Service of Formal Complaint. A copy of the formal complaint, accompanied by a notice to file an answer within fourteen (14) days, may be personally served on the respondent or as otherwise permitted by BR 1.12. The notice to answer shall be in substantially the form set forth in BR 13.2.

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(b) Alternative Service of Formal Complaint. The Bar may request the Adjudicator to authorize the service of a formal complaint and notice to answer on the respondent pursuant to ORCP 7 D(6).

(c) Proof of Service of Complaint. Proof of personal service shall be made in the same manner as in a case pending in a circuit court.

(d) Service of Amended Formal Complaint. An amended formal complaint may be served by mail, provided the original formal complaint was served on the respondent in the manner provided by BR 4.2(a) or (b).

(e) Disregard of Error. Failure to comply with any provision of this rule or BR 1.12 shall not affect the validity of service if the respondent received actual notice of the substance and pendency of the disciplinary proceedings.

*(Rule 4.2 amended by Order dated June 30, 1987.)*

*(Rule 4.2(d) added by Order dated February 5, 2001.)*

*(Rule 4.2(a) amended by Order dated April 26, 2007.)*

*(Rule 4.2(a), 4.2(b), 4.2(d), and 4.2(e) amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 4.3 Answer.**

(a) Time to Answer. The respondent shall answer the formal complaint within fourteen (14) days of service of the formal complaint.

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(b) Extensions. The respondent may, in writing, request an extension of time to file ~~his or her~~ their answer from the Adjudicator. The request for extension must be received by the Adjudicator within the time the respondent is required to file an answer. The Adjudicator shall respond to the request in writing and shall file a copy of the response with the Disciplinary Board Clerk. Alternatively, if Respondent and Disciplinary Counsel stipulate to one or more extensions of time, such extension is deemed granted by the Adjudicator upon submission of the stipulation to the Disciplinary Board Clerk, unless the Adjudicator files a response within two(2) days.

(c) Form of Answer. The respondent's answer shall be responsive to the formal complaint filed. General denials are not allowed. The answer shall be substantially in the form set forth in BR 13.3 and shall be supported by a declaration under penalty of perjury by the respondent. The original shall be filed with the Disciplinary Board Clerk with proof of service on Disciplinary Counsel.

*(Rule 4.3(b) and (c) amended by Order dated February 5, 2001.)*

*(Rule 4.3(b) and (d) amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Former Rule 4.3(c) deleted; former Rule 4.3(d) redesignated as Rule 4.3(c); Rule 4.3(a), 4.3(b), and 4.3(c) amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 4.4 Pleadings, Amendments, and Motions.**

(a) Pleadings. The only permissible pleadings shall be a formal complaint and an answer, and amendments thereto, ~~except for a motion to require a formal complaint to comply with BR 4.1(c) and an answer to comply with BR 4.3(c).~~ The Adjudicator may request additional pleadings from parties if deemed necessary.

(b) Amendments.

(1) Disciplinary Counsel may amend a formal complaint at any time after filing, subject to any limitation that may be imposed by the Adjudicator as to timing or content in any prehearing order entered pursuant to BR 4.7, in amplification of the original charges, to add new charges, or to withdraw charges. If an amendment is made, the respondent shall file an answer to the amended formal complaint within

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fourteen (14) days of service. Upon request by respondent for good cause shown, the Adjudicator may give the respondent a

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reasonable time to procure evidence and to prepare to meet the matters raised by the amended formal complaint.

(2) The respondent may amend an answer at any time after filing, subject to any limitations that may be imposed by the Adjudicator as to timing or content in any prehearing order entered pursuant to BR 4.7. If an answer is amended, the Bar shall be given a reasonable time, set by the Adjudicator, to procure evidence and to prepare to meet the matters raised by the amended answer.

(c) Motions.

(1) An application for an order from the Adjudicator shall be submitted as a motion. Every motion, unless made during the trial, shall state with particularity the reason for the motion and the relief or order sought.

(2) Parties shall not submit motions seeking to dismiss a formal complaint, motion for judgment on the pleadings, motion to make more definite and certain, and motion seeking summary judgment without leave of the Adjudicator.

(3) All motions, and any responses, shall be filed with the Disciplinary Board Clerk with proof of service on the other Party. Upon expiration of the time for response, the Adjudicator shall promptly rule on the motion. The Adjudicator shall file rulings on motions with the Disciplinary Board Clerk, and the Clerk shall mail copies to the parties.

Oral Argument. The Adjudicator shall decide whether to hear oral argument on motions. Oral argument on any motion may be conducted in person, or by conference telephone/video call.

(4)

(5) If a party objects to a non-discovery motion, the opposing party may submit a written opposition within fourteen (14) days of service of the motion unless the Adjudicator shortens the time for good cause shown. Opposing parties must submit a written opposition to discovery motions within seven (7) days of service of the motion.

(6) No reply is allowed unless ordered by the Adjudicator.

(7) Discovery motions, including motions for limitation of discovery, shall be in writing and shall state "Discovery Motion" in the caption.

(8) Unopposed motions shall include "unopposed" in the caption heading. Stipulated motions shall include "stipulated" in the caption heading.

(9) Motions seeking immediate action or expedited relief shall state in the caption: "Expedited Consideration Requested." If the Adjudicator grants expedited consideration, the Adjudicator shall set an expedited time for filing written opposition to the motion and notify all parties.

~~(e)~~ (d) Adjudicator Authority. Upon application of either the Bar or the respondent, the Adjudicator may extend or shorten the time for filing any pleading, motion, or for filing any document required or permitted to be submitted to the trial panel, except as otherwise provided in these rules.

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*(Rule 4.4(b) amended by Order dated February 5, 2001.)*

*(Rule 4.4(b)(1) and 4.4(b)(2) amended; Rule 4.4(c) added by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 4.4(a) and 4.4(b)(1) amended by Order dated May 22, 2019, effective September 1, 2019.)*

**Rule 4.5 Discovery.**

(a) General. ~~Discovery in disciplinary proceedings is intended to promote identification of issues and a prompt and fair hearing on the charges.~~ Discovery shall be conducted expeditiously by the parties, and shall be Current versions of this document are maintained on the OSB website: [www.osbar.org](http://www.osbar.org)

completed within fourteen (14) days prior to the date of hearing, unless the Adjudicator extends the time either by stipulated motion, or for good cause shown.

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(b) Permitted Discovery.

(1) Requests for admission, requests for production of documents, and depositions may be utilized in disciplinary proceedings.

(2) The manner of taking depositions shall conform as nearly as practicable to the procedure set forth in the Oregon Rules of Civil Procedure. Subpoenas may be issued when necessary by the Adjudicator, Bar Counsel, Disciplinary Counsel, the respondent or ~~his or her~~their attorney of record. Depositions may be taken any time after service of the formal complaint.

(3) Transcripts of depositions in disciplinary proceedings shall comply with the Oregon Rules of Appellate Procedure as to form. A person who is deposed may request at the time of deposition to examine the person's transcribed testimony. In such case, the procedure set forth in the Oregon Rules of Civil Procedure shall be followed as practicable.

(4) The manner of making requests for the production of documents shall conform as nearly as practicable to the procedure set forth in the Oregon Rules of Civil Procedure. Requests for production may be served any time after service of the formal complaint with responses due within 21 days.

(5) The manner of making requests for admission shall conform as nearly as practicable to the procedure set forth in the Oregon Rules of Civil Procedure. Requests for admission may be served any time after service of the formal complaint with responses due within 21 days.

(c) Discovery Procedure. The Adjudicator shall resolve all discovery questions. ~~Discovery motions, including motions for limitation of discovery, shall be in writing. All such motions, and any responses, shall be filed with the Disciplinary Board Clerk with proof of service on the other party. The Bar or the respondent has 7 days from the filing of a motion in which to file a response, unless the Adjudicator shortens the time for good cause shown. Upon expiration of the time for response, the Adjudicator shall promptly rule on the motion, with or without argument at the Adjudicator's discretion. Argument on any motion may be heard by conference telephone ~~call~~. The Adjudicator shall file rulings on discovery motions with the Disciplinary Board Clerk, and the Clerk shall mail copies to the parties.~~

(d) Limitations on Discovery. In the exercise of ~~his or her~~their discretion, the Adjudicator shall impose such terms or limitations on the exercise of discovery as may appear necessary to prevent undue delay or expense in bringing the matter to hearing and to promote the interests of justice.

(e) Discovery Sanctions. For failure to provide discovery as required under BR 4.5, the Adjudicator may make such rulings as are just, including, but not limited to, the following:

(1) A ruling that the matters regarding which the ruling was made or any other designated fact are taken to be established for the purposes of the proceeding in accordance with the claim of the party obtaining the ruling; or

(2) A ruling refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the disobedient party from introducing designated matters in evidence.

Any witness who testifies falsely, fails to appear when subpoenaed, or fails to produce any documents pursuant to subpoena is subject to the same orders and penalties to which a witness before a circuit court is subject. Subpoenas issued pursuant to this rule may be enforced by application of the Bar or the respondent to any circuit court. The circuit court shall determine what sanction to impose, if any, for noncompliance.

(f) Rulings Interlocutory. Discovery rulings are interlocutory.

*(Rule 4.5(c) amended by Order dated February 23, 1988. Rule 4.5(b) amended by Order April 4, 1991, effective April 15, 1991.)*

*(Rule 4.5(a) and (c) amended by Order dated February 5, 2001.)*

*(Rule 4.5(c) amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 4.5(a), 4.5(b)(2), 4.5(b)(3), 4.5(c), 4.5(d), 4.5(e), 4.5(e)(1), and 4.5(e)(2) amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 4.6 Prehearing Issue Narrowing and Settlement Conference; Order.**

(a) Within 28 days of written notice that the Adjudicator has set the date and place of the trial panel hearing pursuant to BR 2.4(e)(8), either party may file with the Disciplinary Board Clerk a request for a single prehearing issue narrowing and settlement conference pursuant to this rule. Upon notification from the Disciplinary Board Clerk that a timely request for a BR 4.6 conference has been filed, the Adjudicator shall appoint a member of the Disciplinary Board to serve as the presiding member and conduct the BR 4.6 conference. A conference shall be held no later than 21 days before the scheduled hearing date and shall not exceed one business day in length. The respondent, counsel for the respondent, if any, and Disciplinary Counsel must attend. The purpose of the conference is to narrow factual and legal issues in dispute for trial and to facilitate discussion regarding discipline by consent under BR 3.6, if appropriate. Except for those facts admitted and denied in the prehearing order, under BR 4.7, no oral or written statements or admissions made at or in connection with the prehearing conference shall be admitted as evidence in this or any subsequent Bar disciplinary proceeding. No member of the trial panel appointed in the proceeding shall conduct or participate in the prehearing conference.

(b) At the conclusion of the BR 4.6 conference, the presiding member shall enter an order setting forth agreed and disputed facts and elements of the violations alleged. In the absence of any agreement, the presiding member shall enter an order indicating that the BR 4.6 conference was held and that no agreements resulted. The presiding member shall file the order with the Disciplinary Board Clerk, with copies sent by the Disciplinary Board Clerk to the parties. Agreed facts shall be deemed admitted and need not be proven at the hearing before the trial panel.

*(Rule 4.6 added by Order dated December 13, 1993.)*

*(Rule 4.6 amended by Order dated November 6, 1995. amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Former Rule 4.6 redesignated Rule 4.6(a); Rule 4.6(a) amended; and Rule 4.6(b) added by Order dated May 3, 2017, effective January 1, 2018.)*

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#### Rule 4.7 Pre-hearing Orders.

(a) At any time after the ~~Adjudicator has set the time and place~~filing of the trial panel hearing pursuant to a formal complaint, BR 2.4(e)(8) the Adjudicator may schedule and convene a prehearing conference that may be conducted by telephone, videoconference, or in person and shall be attended by the respondent, respondent's counsel, if any, and Disciplinary Counsel, upon notice sent by the Disciplinary Board Clerk not less than fourteen (14) days prior to the scheduled date and time, ~~unless the time is shortened by the Adjudicator~~. Such prehearing ~~conference is~~conferences are intended to facilitate the efficient conduct of the proceeding and may

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(a) include discussing the parties' respective estimates of time necessary to present evidence, the availability and scheduling of witnesses, and the preparation of trial exhibits; and the scheduling of pleading amendment and discovery deadlines.

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(b) At the conclusion of a prehearing conference, the Adjudicator shall enter an order setting forth all matters discussed and addressed, including any deadlines imposed. The Adjudicator shall file the order with the Disciplinary Board Clerk, and the Disciplinary Board Clerk shall send copies to the parties.

*(Rule 4.7 added by Order dated December 13, 1993.)*

*(Rule 4.7 amended by Order dated November 6, 1995. Amended by Order dated June 17, 2003, effective July 1, 2003.) (Former Rule 4.7 redesignated as Rule 4.7(b); Rule 4.7(a) added; and Rule 4.7(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 4.7(a) amended by Order dated May 22, 2019, effective September 1, 2019.)*

#### Rule 4.8 Trial Briefs.

Trial Briefs, if any, shall be filed with the Disciplinary Board Clerk with copies served on the trial panel no later than seven (7) days prior to the hearing. Where new or additional issues have arisen, the Adjudicator may grant seven (7) days additional time for the filing of trial briefs on those issues.

*(Rule 4.8 (former Rule 2.4(i)(2)) amended by Order dated February 5, 2001. Amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 4.8 amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Rule 4.9 Mediation

(a) Mediation. The parties may employ the services of a mediator, other than a member of the ~~Disciplinary Board~~trial panel, to determine the potential for, and to assist the parties in negotiating a settlement of issues in dispute. Mediation is voluntary; both parties must agree to participate in the mediation. The SPRB shall decide for the Bar whether to mediate.

(b) Time of Mediation. Mediation may occur at any time ~~after the filing of the formal complaint~~, provided that the mediation shall not delay a hearing before a trial panel scheduled in accordance with BR 5.4. After a trial panel issues a written opinion in the proceeding pursuant to BR 2.4(i)(2), mediation may occur only if authorized by the Adjudicator.

(c) Discipline by Consent. A stipulation for discipline or no contest plea negotiated through mediation is subject to approval by the SPRB, and the Disciplinary Board or the Supreme Court, as the case may be, as set forth in BR 3.6, before it is effective.

(d) Costs. The expense of mediation shall be shared equally by the parties unless the parties agree otherwise.

(e) Confidentiality. Mediation communications, as defined in ORS 36.110, are confidential and may not be disclosed or admitted as evidence in subsequent adjudicatory proceedings, except as provided by ORS 36.226.

*(Rule 4.9 added by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 4.9(a) and (e) amended by Order dated April 26, 2007.)*

*(Rule 4.9(a), 4.9(b) and 4.9(d) amended by Order dated May 3, 2017, effective January 1, 2018.)*

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## Title 5 — Disciplinary Hearing Procedure

### Rule 5.1 Evidence And Procedure.

(a) Rules of Evidence. ~~Trial panels~~The Oregon Rules of Evidence do not govern admissibility of evidence in Disciplinary Proceedings. The Adjudicator may admit and give effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. Incompetent, irrelevant, immaterial, and unduly repetitious evidence should be excluded at any hearing conducted pursuant to these rules.

(b) Harmless Error. No error in procedure, in admitting or excluding evidence, or in ruling on evidentiary or discovery questions shall invalidate a finding or decision unless upon a review of the record as a whole, a determination is made that a denial of a fair hearing to either the Bar or the respondent has occurred.

*(Rule 5.1(a) amended by Order dated February 23, 1988.)*

*(Rule 5.1(a) and 5.1(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

### Rule 5.2 Burden Of Proof.

The Bar has the burden of establishing misconduct by clear and convincing evidence.

*(Rule 5.2 amended by Order dated May 3, 2017, effective January 1, 2018.)*

### Rule 5.3 Location ~~Of~~ Hearing; Subpoenas; Testimony.

(a) Location. ~~The~~For respondents that maintain an office or residence in Oregon, the trial panel hearing of any Disciplinary Proceeding ~~in which the respondent maintains an office or residence in Oregon~~ shall be held either in the county in which the respondent maintains ~~his or her~~their office for the practice of law or other business, in which ~~he or she resides~~they reside, or in which the misconduct is alleged to have occurred, at the Adjudicator's discretion. ~~With the respondent's consent, the hearing may be held elsewhere.~~ For any proceeding brought pursuant to these rules other than Title 4 in which the attorney or LP the subject of the proceeding maintains an office or residence in Oregon, and for any proceeding brought pursuant to these rules in which the attorney or LP the subject of the proceeding does not maintain an office or residence in Oregon, the Adjudicator shall designate a location for the hearing. With the respondent's consent, the hearing may be held elsewhere.

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(b) Subpoenas. The Chief Executive Officer, the Adjudicator, or regional chairpersons of the Disciplinary Board, Bar Counsel, Disciplinary Counsel and the attorney for the respondent, or the respondent, if appearing without an attorney, shall have the authority to issue subpoenas. Subpoenas shall be issued and served in accordance with the Oregon Rules of Civil Procedure in the same manner as in a case pending in a circuit court. Any witness who testifies falsely, fails to appear when subpoenaed, or fails to produce any documents pursuant to subpoena, is subject to the same orders and penalties to which a witness before a circuit court is subject. Subpoenas issued pursuant this rule may be enforced by application of either party or the Adjudicator to any circuit court. The circuit court shall determine what sanction to impose, if any, for noncompliance.

(c) Board Members as Witnesses. Current members of the Board of Governors shall not testify as witnesses in any Bar admission, discipline or reinstatement proceeding except pursuant to subpoena.

(d) Testimony. Witnesses shall testify under oath or affirmation administered by any member of the Disciplinary Board or by any person authorized by law to administer an oath.

(e) Transcript of Proceedings; Correction of Errors; Settlement Order. Every disciplinary hearing shall be transcribed and shall comply with the Oregon Rules of Appellate Procedure as to form. The transcription shall be certified by the person preparing it. The reporter shall give written notice to Disciplinary Counsel, Bar Counsel, and the respondent of the filing of the transcripts with the Disciplinary Board Clerk, who shall provide copies to the Adjudicator. Within fourteen (14) days after the transcript is filed, the Bar or the respondent may

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move the Adjudicator for an order to correct any errors appearing in the transcript, by filing a motion with the Disciplinary Board Clerk and serving the other party. Within 7 days the Bar or the respondent, as the case may

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be, may file a response to the motion with the Disciplinary Board Clerk, serving a copy on the other party. The Adjudicator shall thereafter either deny the motion or direct the making of such corrections as may be appropriate. Upon the denial of the motion or the making of such corrections, the Adjudicator shall file with the Disciplinary Board Clerk an order settling the transcript and the Disciplinary Board clerk shall send copies to the parties.

*(Rule 5.3(b) amended by Order dated April 4, 1991, effective April 15, 1991.)*  
*(Rule 5.3(a) amended by Order dated July 22, 1991.)*  
*(Rule 5.3(c), (d), and (e) amended by Order dated June 5, 1997, effective July 1, 1997.)*  
*(Rule 5.3(a) and (e) amended by Order dated February 5, 2001.)*  
*(Rule 5.3(e) amended by Order dated June 17, 2003, effective July 1, 2003.)*  
*(Rule 5.3(a) amended by Order dated April 26, 2007.)*  
*(Rule 5.3(a), 5.3(b), and 5.3(e) amended by Order dated May 3, 2017, effective January 1, 2018.)*  
*(Rule 5.3(a) amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### **Rule 5.4 Hearing Date; Continuances.**

Except in matters of default pursuant to BR 5.8, the Adjudicator shall establish the hearing date, which shall not be less than 91 days nor more than 182 days following the date the Adjudicator notifies the parties of the date and time for hearing pursuant to BR 2.4(e)(8). The Adjudicator may grant continuances of the hearing date at any time prior to the hearing, or upon a showing of compelling necessity therefor, the trial panel may grant continuances at the time of the hearing. In no event shall continuances exceed 56 days in the aggregate.

*(Rule 5.4 amended by Order dated October 10, 1994.)*  
*(Rule 5.4 amended by Order dated February 5, 2001.)*  
*(Rule 5.4 amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### **Rule 5.5 Prior Record.**

(a) Defined. "Prior record" means any contested admission, disciplinary or reinstatement decision of the Disciplinary Board or the Supreme Court that has become final.

(b) Restrictions on Admissibility. At the fact-finding hearing in a disciplinary proceeding, a respondent's prior record or lack thereof shall not be admissible to prove the character of a respondent or to impeach ~~his or her~~<sup>their</sup> credibility.

*(Rule 5.5(a-b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### **Rule 5.6 Evidence ~~Of~~ Prior Acts Of Misconduct.**

Evidence of prior acts of misconduct on the part of a respondent is admissible in a disciplinary proceeding for such purposes as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

*(Rule 5.6 amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### **Rule 5.7 Consideration ~~Of~~ Sanctions.**

Trial panels may receive evidence relating to the imposition of a sanction during a hearing, but are not to consider that evidence until after a determination is made that the respondent is in violation of a rule of professional conduct or statute. Only when the Adjudicator considers it appropriate because of the complexity of the case or the seriousness of the charge or charges, the trial panel may be reconvened to consider evidence in aggravation or mitigation of the misconduct found to have occurred.

*(Rule 5.7 amended by Order dated February 23, 1988.)*  
*(Rule 5.7 amended by Order dated May 3, 2017, effective January 1, 2018.)*

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**Rule 5.8 Default.**

(a) Failure to Answer or Appear. If a respondent fails to resign or file an answer to a formal complaint within the time allowed by these rules, or if a respondent fails to appear at a hearing set pursuant to BR 2.4(e)(8), the Adjudicator may file with the Disciplinary Board Clerk an order finding the respondent in default under this rule and, if so, shall request the regional chairperson to appoint an attorney member and a public member to serve on the trial panel- unless a panel has already been appointed. The Disciplinary Board Clerk shall send copies of the order of default to the parties. The trial panel shall thereafter deem the allegations in the formal complaint to be true and either issue its written opinion based on the formal complaint, or, in its sole discretion, after considering evidence or legal authority limited to the issue of sanction. Following entry of an order of default, the respondent is not entitled to further notice in the disciplinary proceeding under consideration, except as may be required by these rules or by statute. The trial panel shall not, absent good cause, continue or delay proceedings due to a respondent's failure to answer or appear.

(b) Setting Aside Default. At any time prior to a trial panel's issuing its written opinion, the trial panel may set aside an order of default upon a showing by the respondent that the respondent's failure to resign, answer, or appear timely was the result of mistake, inadvertence, surprise, or excusable neglect. If a trial panel has issued its opinion, a respondent must file any motion to set aside an order of default with the Supreme Court.

*(Rule 5.8 amended by Order dated June 29, 1993.)*

*(Rule 5.8(a) amended by Order dated February 5, 2001. Amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 5.8(a) amended by Order dated October 19, 2009.)*

*(Rule 5.8(a) and 5.8(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 5.8(a) amended by Order dated May 22, 2019, effective September 1, 2019.)*

**Rule 5.9 Attorney Assistance Evidence.**

(a) Definition. For the purposes of this rule, an "attorney assistance program" is any treatment, counseling, training or remedial service, created under ORS 9.568 or otherwise, designed to provide assistance to attorneys or LPs who are suffering from impairment or other circumstances which may adversely affect their professional competence or conduct, or to provide advice and training to attorneys or LPs in practice management.

(b) Use of Evidence by Respondent. Subject to the provisions of BR 5.1(a) and this rule, the respondent may offer evidence at a disciplinary hearing concerning the respondent's participation in or communication with an attorney assistance program. If the respondent fails to provide timely notice to Disciplinary Counsel as required under BR 5.9(c), the respondent may not offer evidence of the respondent's participation in or communication with an attorney assistance program at the hearing.

(c) Prior Notice. If the respondent intends to offer evidence at a hearing concerning the respondent's participation in or communication with an attorney assistance program, the respondent shall file with the Disciplinary Board Clerk, with proof of service on Disciplinary Counsel, written notice of such intent, not less than 63 days prior to the date the hearing is scheduled to commence. For good cause shown, the Adjudicator may permit the respondent to give the notice within a shorter period of time. The notice shall specify the identity of the attorney assistance program, the nature of the evidence that will be offered, the names of the service providers with whom the respondent dealt, and the names and addresses of witnesses the respondent intends to call to present the evidence. The notice shall also include the consent or waiver required by BR 5.9(d). The respondent shall provide a copy of the notice to the attorney assistance program.

(d) Discovery. In the event the respondent provides a notice to Disciplinary Counsel under BR 5.9(c), Disciplinary Counsel may conduct discovery concerning the respondent's participation in or communication with the attorney assistance program. The respondent shall provide any consent or waiver necessary to permit Disciplinary Counsel to obtain discovery from the attorney assistance program or its service providers at the time the respondent provides the notice required by BR 5.9(c). Questions regarding the permissible scope of discovery under this rule shall be resolved by the Adjudicator on motion pursuant to BR 4.5(c).

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(e) Discovery not Public. Records and information obtained by Disciplinary Counsel through discovery under this rule are not be subject to public disclosure pursuant to BR 1.7(b), consistent with ORS 9.568(3), and may be disclosed by the parties only in the disciplinary proceeding.

(f) Use of Evidence by Bar. The Bar shall have the right to introduce evidence obtained through discovery under this rule only if the respondent introduces evidence of participation in or communication with an attorney assistance program.

(g) Enforcement. The Adjudicator may issue a protective order and impose sanctions to enforce this rule pursuant to BR 4.5(d) and (e).

*(Rule 5.9 added by Order dated November 30, 1999.)*

*(Rule 5.9(a) amended by Order dated February 5, 2001.)*

*(Rule 5.9(c) amended by Order dated June 17, 200, effective July 1, 2003.)*

*(Rule 5.9(b), 5.9(c), 5.9(d), 5.9(e), 5.9(f), and 5.9(g) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 5.9(a) amended by Order dated August 17, 2022, effective July 1, 2023.)*

## Title 6 — Sanctions And Other Remedies

### Rule 6.1 Sanctions.

(a) Disciplinary Proceedings. The dispositions or sanctions in disciplinary proceedings or matters brought pursuant to BR 3.4 or 3.5 are

- (1) dismissal of any charge or all charges;
- (2) public reprimand;
- (3) suspension for periods from 30 days to five years;
- (4) a suspension for any period designated in BR 6.1(a)(3) which may be stayed in whole or in part on the condition that designated probationary terms are met; or
- (5) disbarment.

In conjunction with a disposition or sanction referred to in this rule, a respondent may be required to make restitution of some or all of the money, property, or fees received by the respondent in the representation of a client, or reimbursement to the Client Security Fund.

~~(a) Contested Reinstatement Proceedings. In contested reinstatement cases a determination shall be made whether the applicant shall be~~

~~(5)(1) denied reinstatement;~~

~~(5)(1) reinstated conditionally, subject to probationary terms; or~~

~~(5)(1) reinstated unconditionally.~~

~~(a) Time Period Before Application and Reapplication. The Supreme Court may require an applicant whose admission or reinstatement has been denied to wait a period of time designated by the court before reapplying for admission or reinstatement.~~

(b) Effect of Disbarment. An attorney disbarred as a result of a disciplinary proceeding commenced by formal complaint before January 1, 1996, may not apply for reinstatement until five years have elapsed from the effective date of ~~his or her~~ their disbarment. An attorney or LP disbarred as a result of a disciplinary proceeding commenced by formal complaint after December 31, 1995, shall never be eligible to apply and shall not be considered for admission under ORS 9.220 or reinstatement ~~under Title 8 of these rules.~~

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*(Rule 6.1(a) amended by Order dated May 31, 1984, effective July 1, 1984. Rule 6.1(d) amended by Order dated November 29, 1985, effective December 1, 1985. Rule 6.1(a) amended by Order dated December 14, 1995. Rule 6.1(d) amended by Order dated December 14, 1995. Rule 6.1(e) added by Order dated December 14, 1995. Rule 6.1(a) amended by Order dated June 5, 1997, effective July 1, 1997.)*

*(Rule 6.1(a) amended by Order dated February 5, 2001.)*

*(Rule 6.1(a)(iii) – 6.1(a)(v) and 6.1(b) – 6.1(d) amended by Order dated October 19, 2009.)*

*(Former Rule 6.1(a)(i), 6.1(a)(ii), 6.1(a)(iii), 6.1(a)(iv), 6.1(a)(v), 6.1(b)(i), 6.1(b)(ii), and 6.1(b)(iii) redesignated Rule 6.1(a)(1), 6.1(a)(2), 6.1(a)(3), 6.1(a)(4), 6.1(a)(5), 6.1(b)(1), 6.1(b)(2), and 6.1(b)(3); Rule 6.1(a), 6.1(a)(4), 6.1(c), and 6.1(d) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 6.2(d) amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 6.2 Probation.**

(a) Authority in Disciplinary Proceedings. ~~Upon determining that a respondent should be suspended, the trial panel may decide to stay execution of the suspension, in whole or in part, and place the respondent on probation for a period no longer than three years. The imposition of a probationary term shall not affect the criteria established by statute and these rules for Supreme Court review of trial panel decisions.~~ Probation, if ordered, may be under such conditions as the ~~trial panel or the court considers appropriate to~~ parties agree to as appropriate. Such conditions may include, but are not limited to, requiring alcohol or drug treatment; requiring medical care; requiring psychological or psychiatric care; requiring professional office practice or management counseling; and requiring periodic audits or reports. In any case where an attorney or LP is placed on probation pursuant to this rule, the Adjudicator or the court may appoint a suitable person or persons to supervise the probation. Cooperation with any person so appointed shall be a condition of the probation.

(b) Authority in Contested Reinstatement Proceedings. Upon determining that an applicant should be ~~readmitted conditionally reinstated~~ to membership in the Oregon State Bar, the ~~trial panel~~ court may decide to place the applicant on probation for a period no longer than three years. The probationary terms may include, but are not limited to, those provided in BR 6.2(a). ~~The court may adopt, in whole or in part, the trial panel's decision regarding probation and enter an appropriate order upon a review of the proceeding.~~ The court may appoint a suitable person or persons to supervise the probation. Cooperation with any person so appointed shall be a condition of the probation. An attorney or LP placed on probation pursuant to this rule may have ~~his or her~~ their probation revoked for a violation of any probationary term by petition of Disciplinary Counsel in accordance with the procedures set forth in BR 6.2(d). An attorney or LP whose probation is revoked shall be suspended from the practice of law until further order of the court.

(c) Disciplinary Board. ~~In all cases where the trial panel determines that the respondent should be suspended and the determination is not reviewed by the court, thereby resulting in such determination becoming final, the decision that the respondent be placed on probation under the conditions specified in the trial panel's opinion shall be deemed adopted and made a part of the determination. The Disciplinary Board shall not impose probation in cases decided after a trial or a default and shall not conditionally reinstate an applicant after a contested reinstatement hearing.~~

(d) Revocation Petition; Service; Trial Panel; Setting Hearing. Disciplinary Counsel may petition the Adjudicator or the court, as the case may be, to revoke the probation of any attorney or LP for violation of any probationary term imposed by a trial panel or the court, serving the attorney or LP with a copy of the petition pursuant to BR 1.8. The Adjudicator or the court, as the case may be, may order the attorney or LP to appear and show cause why probation should not be revoked and the original sanction imposed; the court also may refer the matter to the Disciplinary Board for hearing. When revocation of a trial panel probation is sought or the court has referred the matter to the Disciplinary Board for hearing, the Adjudicator shall appoint trial panel members pursuant to BR 2.4(e)(7) to serve with the Adjudicator on a trial panel that will conduct the show cause hearing and, where applicable, report back to the court. The Disciplinary Board Clerk shall notify the attorney or LP and Disciplinary Counsel in writing of the members to serve on the trial panel. BR 2.4(g) applies. After any timely filed challenges have been ruled upon and any substitute members have been appointed, the Adjudicator shall promptly enter an order that the attorney or LP appear and show

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cause why probation should not be revoked and the original sanction imposed, and that establishes the date, place, and time of the show cause hearing, which must be held not less than 21 days later. The Disciplinary Board Clerk shall send the parties a copy of the show cause order. At the hearing, Disciplinary Counsel has the burden of proving by clear and convincing evidence that the attorney or LP has violated a material term of probation. If the attorney or LP, after being served with a copy of the petition and sent a copy of the show cause order, fails to appear at the hearing, the trial panel shall deem the allegations in the petition to be true and proceed to issue its written opinion based on the petition. If the revocation matter is within the jurisdiction of the Disciplinary Board, the trial panel's decision shall be filed with the Disciplinary Board Clerk, and the Disciplinary Board Clerk shall send copies to the parties. If the revocation matter is within the court's jurisdiction, the trial panel appointed to conduct the show cause hearing shall report back to the court, and the court shall thereafter rule on the petition. A petition for revocation of an attorney's or LP's probation shall not preclude the Bar from filing independent disciplinary charges based on the same conduct as alleged in the petition.

(e) Application of Other Rules. Except as specifically provided herein, Title 4 and Title 5 of the Rules of Procedure do not apply to proceedings brought pursuant to BR 6.2(d).

*(Rule 6.2(b) amended by Order dated July 22, 1991.)*

*(Rule 6.2(d) amended by Order dated February 5, 2001. Amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 6.2(a), 6.2(b), 6.2(c), and 6.2(d) amended and Rule 6.2(e) added by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 6.2(a), (b) and (d) amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### **Rule 6.3 Duties Upon Disbarment ~~Or~~ Suspension.**

(a) Attorney or LP to Discontinue Practice. A disbarred or suspended attorney or LP shall not practice law after the effective date of disbarment or suspension. This rule shall not preclude a disbarred or suspended attorney or LP from providing information on the facts of a case and its status to a succeeding attorney or LP, and such information shall be provided on request.

(b) Responsibilities. It shall be the duty of a disbarred or suspended attorney or LP to immediately take all reasonable steps to avoid foreseeable prejudice to any client and to comply with all applicable laws and disciplinary rules.

(c) Notice; Return of Client Property. When, as a result of the disbarment or suspension, any active client matter will be left for which no other active member of the Bar, with the consent of the client, has agreed to resume responsibility, the disbarred or suspended attorney or LP shall give written notice of the cessation of practice to the affected clients, opposing parties, courts, agencies, and any other person or entity having reason to be informed of the cessation of practice. Such notice shall be given no later than **fourteen (14)** days after the effective date of the disbarment or suspension. In the case of a disbarment or a suspension of more than 60 days, client property pertaining to any active client matter shall be delivered to the client or an active member of the Bar designated by the client as substitute counsel.

(d) Contempt. Disciplinary Counsel may petition the Supreme Court to hold a disbarred or suspended attorney or LP in contempt for failing to comply with the provisions of BR 6.3(a), (b), or (c). The court may order the attorney or LP to appear and show cause, if any, why the attorney or LP should not be held in contempt of court and sanctioned accordingly.

*(Rule 6.3 amended by Order dated March 13, 1989, effective April 1, 1989.)*

*(Former Rule 6.3(c) redesignated as Rule 6.3(d); Rule 6.3(c) added; and Rule 6.3(d) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 6.3 amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### **Rule 6.4 Ethics School.**

(a) An attorney or LP sanctioned under BR 6.1(a)(2), (a)(3) or (a)(~~i~~4) shall successfully complete a one-day

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course of study developed and offered by the Bar on the subjects of legal ethics, professional responsibility and law office management. Successful completion requires that the attorney or LP ~~attend in person~~complete the course offered by the Bar within the designated period established by the Bar, and pay the attendance fee established by the Bar.

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(b) An attorney or LP reprimanded under BR 6.1(a)(2) who does not successfully complete the course of study when the course is next offered by the Bar following the effective date of the reprimand may be suspended from the practice of law upon order of the Adjudicator, until the attorney or LP successfully completes the course.

(c) An attorney or LP suspended under BR 6.1(a)(iii) or (a)(iv) shall not be reinstated until the attorney or LP successfully completes the course of study, unless the course is not offered before the attorney's or LP's term of suspension expires, in which case the attorney or LP may be reinstated if otherwise eligible under applicable provisions of Title 8 of these Rules until the course is next offered by the Bar. If the attorney or LP does not successfully complete the course when it is next offered, the attorney or LP may be suspended from the practice of law upon order of the Adjudicator, until the attorney or LP successfully completes the course.

(d) Notwithstanding the provisions of BR 6.4(b) and (c), an extension of time in which to complete the ethics school requirement may be granted by the Bar or the Adjudicator, as the case may be, for good cause shown.

(e) Reinstatement. Subject to the requirements for reinstatement under Title 8, any attorney or LP who has been a member of the Bar or licensed as an LP but suspended for less than five years under this Rule solely for failure to complete the Ethics School requirement shall apply for reinstatement by filing a form prepared by the Bar and paying a \$100 reinstatement fee after the Ethics School requirement has been fulfilled. Upon compliance with the rule, the Chief Executive Officer shall submit a recommendation to the court with a copy to the applicant. No reinstatement is effective until approved by the court. Reinstatement under this rule shall have effect upon any member's status under any other proceeding under these Rules of Procedure.

*(Rule 6.4 added by Order dated December 10, 2010, effective June 1, 2011.)*

*(Rule 6.4(a), 6.4(b), 6.4(c), and 6.4(d) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 6.4(a), (b), and (c) amended by Order dated August 17, 2022, effective July 1, 2023.)*

## **Title 7 — Suspension for Failure to Respond in a Disciplinary Investigation**

### **Rule 7.1 Suspension for Failure to Respond to a Request for Information or a Subpoena.**

(a) Petition for Suspension. When an attorney or LP fails without good cause to timely respond to a request from Disciplinary Counsel for information or records, or fails to respond to a subpoena issued pursuant to BR 2.2(b)(2), Disciplinary Counsel may petition the Disciplinary ~~Board~~Board for an order immediately suspending the attorney or LP until such time as the attorney or LP responds to the request or complies with the subpoena. A petition under this rule shall allege that the attorney or LP has not responded to requests for information or records or has not complied with a subpoena, and has not asserted a good-faith objection to responding or complying. The petition shall be supported by a declaration setting forth the efforts undertaken by Disciplinary Counsel to obtain the attorney's or LP's response or compliance.

(b) Procedure. Disciplinary Counsel shall file a petition under this rule with the Disciplinary Board Clerk. The Adjudicator shall have the authority to act on the matter for the Disciplinary Board. A copy of the petition and declaration shall be served on the attorney or LP as set forth in BR 1.8(a).

(c) Response. Within ~~7 business~~fourteen (14) calendar days after service of the petition, the attorney or LP may file a response with the Disciplinary Board Clerk, setting forth facts showing that the attorney or LP has responded to the requests or complied with the subpoena, or the reasons why the attorney or LP has not responded or complied. The attorney or LP shall serve a copy of the response upon Disciplinary Counsel pursuant to BR 1.8(b). Disciplinary Counsel may file a reply to any response with the Disciplinary Board Clerk within 2 business days after being served with a copy of the attorney's or LP's response and shall serve a copy of the reply on the attorney or LP.

(d) Review by the Disciplinary Board. Upon review, the Adjudicator shall issue an order that either denies the petition or immediately suspends the attorney or LP from the practice of law for an indefinite period. The Adjudicator shall file the order with the Disciplinary Board Clerk, who shall promptly send copies to Disciplinary Counsel and the attorney or LP.

(e) Duties upon Suspension. An attorney or LP suspended from practice under this rule shall comply Current versions of this document are maintained on the OSB website: [www.osbar.org](http://www.osbar.org)

with the requirements of BR 6.3(a) and (b).

(f) Independent Charges. Suspension of an attorney or LP under this rule is not discipline. Suspension or reinstatement under this rule shall not prevent the SPRB from directing Disciplinary Counsel to file a formal complaint against an attorney or LP alleging a violation of RPC 8.1(a)(2), arising from the failure to respond or comply as alleged in the petition for suspension filed under this rule.

(g) Reinstatement. Subject to ~~BR 8.1(a)(8) and BR 8.2(a)(5), the requirements for reinstatement~~, any attorney or LP who has been a member of the Bar or licensed as an LP but suspended under BR 7.1 solely for failure to respond to requests for information or records or to respond to a subpoena shall be reinstated by the Chief Executive Officer to the membership status from which the person was suspended upon the filing of a Compliance Declaration with Disciplinary Counsel as set forth in BR 13.10.

*(Rule 7.1 amended by Order dated November 1, 1984, effective December 1, 1984. Amended by Order dated September 24, 1987, effective October 1, 1987. Rule 7.1 amended by Order dated October 1, 1990. Title 7 amended by Order dated July 22, 1991.)*

*(Rule 7.1 deleted by Order dated October 19, 2009.)*

*(Rule 7.1 added by Order dated August 12, 2013, effective November 1, 2013.)*

*(Rule 7.1(a), 7.1(b), 7.1(c), 7.1(d), 7.1(f), and 7.1(g) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 7.1(a) and 7.1(g) amended by Order dated May 22, 2019, effective September 1, 2019.)*

*(Rule 7.1 amended by Order dated August 17, 2022, effective July 1, 2023.)*

## Title 8 — Reinstatement

### Rule 8.1 Reinstatement — Formal Application Required.

(a) Applicants. Any person who has been a member of the Bar, ~~but who has~~ may seek reinstatement under this rule if they have

(1) resigned under Form A of these rules prior to December 1, 2019, more than ten years prior to the date of application for reinstatement and who has not been a member of the Bar during such period; ~~or~~

(2) resigned under Form B of these rules prior to January 1, 1996; ~~or~~

(3) been disbarred as a result of a disciplinary proceeding commenced by formal complaint before January 1, 1996; ~~or~~

(4) been suspended for misconduct for a period of more than 6 months; ~~or~~

(5) been suspended for misconduct for a period of 6 months or less but has remained in a suspended status for a period of more than 6 months prior to the date of application for reinstatement; ~~or~~

~~(5) [Reserved].~~

(6) been involuntarily transferred to an inactive membership status; ~~or~~

(7) been suspended under BR 7.1 for a period of more than five years prior to the date of application for reinstatement; or

(8) been suspended for any reason and has remained in that status more than 10 years.

~~and who desires to be reinstated as an active member or to resume the practice of law in Oregon shall be reinstated as an active member of the Bar only upon formal application and compliance with the Rules of Procedure in effect at the time of such application.~~

~~(b) Applicants for reinstatement under this rule~~ must file a completed application with the Bar on a form prepared by the Bar ~~for that purpose~~. The applicant shall attest that the applicant did not engage in the practice of law except where authorized to do so during the period of the applicant's suspension, disbarment, or resignation.

~~A reinstatement~~

~~(1) Reinstatement~~ to inactive status is not allowed under this rule.

~~(2) An applicant who has been suspended for a period exceeding 6 months may not apply for reinstatement any earlier than 3 months before the earliest possible expiration of the period specified in the opinion or order imposing suspension.~~

~~(b) Required Showing; Effect of Noncooperation.~~

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~~(c) Duty to Cooperate. Each applicant under this rule must show that has a duty to cooperate and comply with requests from the applicant's Bar in its efforts to assess the applicant's good moral character and general fitness to practice law; that the . Applicants must respond to a lawful demand for information; execute releases necessary to obtain information and records from third parties whose records reasonably bear upon character and fitness; and report promptly any changes, additions or corrections to information provided in the application.~~

~~(4)(d) Character and Fitness. Each applicant must show that they have good moral character and general fitness to practice law. The applicant has must establish that they have reformed since from engaging in earlier misconduct, if any, and that the resumption of the practice of law in Oregon by the applicant will not be detrimental to the administration of justice or the public interest.~~

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administration of justice or the public interest. Reformation may be established by evidence, such as:  
(1) Notice of and requests for comment on applications shall be published on the Bar's website for a period of 30 days. The Bar shall consider comments about applicants received in its evaluation of the Applicant's character and fitness.

(2) In determining whether the applicant has reformed, the applicant may present evidence, such as:  
(i) character evidence from people who know and have had the opportunity to observe the applicant;  
(ii) evidence of the applicant's participation in activities for the public good; (iii) evidence of the applicant's forthrightness in acknowledging earlier wrongdoing;  
(iv) evidence of the applicant's adequate resolution of any previous substance abuse problem; and (v) evidence of the applicant's willingness to pay restitution to those people harmed by the applicant's earlier conduct. In determining whether the evidence is sufficient to establish reformation, the Supreme Court must be satisfied that the applicant has reformed in light of the earlier misconduct.

(2) Each applicant has a duty to cooperate and comply with requests from the Bar in its efforts to assess the applicant's good moral character and general fitness to practice law, including responding to a lawful demand for information; the execution of releases necessary to obtain information and records from third parties whose records reasonably bear upon character and fitness; and reporting promptly any changes, additions or corrections to information provided in the application.

(2) The Chief Executive Officer may refer to the Board any applicant who, during the pendency of a reinstatement application, engages in conduct that would violate RPC 8.1(a) if done by an attorney or LP, with a recommendation that the Board determine that the applicant has not made the showing required by BR 8.1(b) and recommend to the Supreme Court that the application be denied. No applicant shall resume the practice of law in Oregon or active membership status unless all the requirements of this rule are met.

(c) Learning and Ability. In addition to the showing required in BR 8.1(b), each applicant under this rule. Each applicant must show that the applicant has they have the requisite learning and ability to practice law in Oregon. The Bar may recommend and the Supreme Court may require as a condition precedent to reinstatement that the applicant take and pass the bar examination administered by the BBX, or successfully complete a prescribed course of

(3) continuing legal education. Factors to be considered in determining an applicant's learning and ability include, but are not limited to: the length of time since the applicant was an active member of the Bar; whether and when the applicant has practiced law in Oregon; whether the applicant practiced law in any jurisdiction since they were last an active member in Oregon; and whether the applicant has participated in continuing legal education activities since they were last an active member in Oregon.

(d)(e) Fees. In addition to the payments required in BR 8.6, an applicant under this rule shall pay an application fee of \$750 at the time the application for reinstatement is filed.

(f) Review by Chief Executive Officer; Referral of Application to Board. Notice of and requests for comment on applications filed under BR 8.1 shall be published on the Bar's website for a period of 30 days. If, after review of an application filed under BR 8.1 this Rule and any information gathered in the investigation of the application, the Chief Executive Officer determines that the applicant has made the showing required by BR 8.1(b) this Rule, the Chief Executive Officer shall recommend to the Supreme Court, as provided in BR 8.7, that the application be granted, conditionally or unconditionally. If the Chief Executive Officer is unable to determine from a review of an application and any information gathered in the investigation of the application that the applicant has made the showing required by BR 8.1(b), the Chief Executive Officer shall refer the application to the Board for consideration, with notice to the applicant.

(g) Board Consideration Denial of Application. If, after a referral from the Chief Executive Officer, the Board determines from its review of the application and any information gathered in the investigation of the

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~~application that the applicant has made the showing required by BR 8.1(b), the Board shall recommend to the Supreme Court, as provided in BR 8.7, that the application be granted, conditionally or unconditionally. If the Board determines that the applicant has not made the showing required by BR 8.1(b), under this Rule, the Board/CEO shall recommend to the court that the application be denied, and direct the Bar to proceed as provided in BR 8.8.~~

~~(h) If either the Chief Executive Officer or the Board recommend to the Supreme Court, under paragraph (e) or (e) of this rule, that the application be granted conditionally or unconditionally, then the court must determine whether the applicant has satisfied the burden of proof set out in BR 8.12. If the court determines that the~~

~~(h) applicant has not satisfied the burden of proof, the court may deny the application or it may remand to the Chief Executive Officer or the Board, or take any other action that it deems appropriate. No applicant shall resume the practice of law in Oregon or active membership status unless all the requirements of this Rule are met.~~

~~(Rule 8.1(c) and (f) amended by Order dated May 31, 1984, effective July 1, 1984.)  
(Rule 8.1(c) amended by Order dated July 27, 1984 nun pro tunc May 31, 1984.)  
(Rule 8.1 amended by Order dated March 13, 1989, effective April 1, 1989, corrected June 1, 1989.)  
(Rule 8.1(a) and (c) amended by Order dated March 20, 1990, effective April 2, 1990.)  
(Rule 8.1(a), (c), and (d) amended by Order dated December 14, 1995.)  
(Rule 8.1(a) amended by Order dated February 5, 2001.)  
(Rule 8.1(d) amended by Order dated October 19, 2009.)  
(Rule 8.1(c) amended and Rule 8.1(e) and (f) added by Order dated April 5, 2013.)  
(Rule 8.1(a)(i), 8.1(a)(ii), 8.1(a)(iii), 8.1(a)(iv), 8.1(a)(v), 8.1(a)(vi), 8.1(a)(vii), and 8.1(a)(viii) redesignated as Rule 8.1(a)(1), 8.1(a)(2), 8.1(a)(3), 8.1(a)(4), 8.1(a)(5), 8.1(a)(6), 8.1(a)(7), and 8.1(a)(8); Rule 8.1(a), 8.1(a)(4), 8.1(a)(5), 8.1(a)(6), 8.1(a)(7), 8.1(a)(8), 8.1(b), 8.1(c), 8.1(d), 8.1(e), and 8.1(f) amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 8.1(a)(1) amended by Order dated May 22, 2019, effective September 1, 2019.)  
(Rule 8.1(b) amended and redesignated BR 8.1(b)(1), 8.1(b)(2), and 8.1(b)(3) and Rule 8.1(g) added by Order dated October 27, 2019, effective December 1, 2019.)  
(Rule 8.1(a)(9) added by Order dated October 15, 2020, effective November 14, 2020.)  
(Rule 8.1(a) amended by Order dated December 8, 2020.)  
(Rule 8.1(a), Rule 8.1(a)(1), 8.1(a)(6), 8.1(a)(7), 8.1(a)(8), 8.1(a)(9), 8.1(c), and 8.1(d) amended by Order dated December 14, 2022, effective January 1, 2023.)  
(Rule 8.1(b)(3) amended by Order dated August 1, 2023.)~~

**Rule 8.2 Reinstatement — Informal Application Required.**

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~~(a) Applicants. Any person who has been a member of the Bar, but who~~

~~(0) resigned under Form A of these rules prior to December 1, 2019, and 10 years or less prior to the date of application for reinstatement, and who has not been a member of the Bar during such period; or~~

~~(0) is presently enrolled voluntarily as an inactive, retired, or pro bono member; or~~

~~(0) has been suspended for failure to pay the Professional Liability Fund assessment, Client Security Fund assessment, or membership fees or penalties and has remained in that status for more than 6 months but not in excess of 10 years prior to the date of application for reinstatement; or~~

~~(0) been suspended for failure to comply with the Minimum Continuing Legal Education (MCLE) Rules and Regulations, or for failure to file with the Bar a certificate disclosing lawyer trust accounts and has remained in that status for more than 6 months but not in excess of 10 years prior to the date of application for reinstatement; or~~

~~(0) has been suspended under BR 7.1 and has remained in that status more than 6 months but not in excess of 5 years prior to the date of application for reinstatement; or~~

~~(0) has been suspended solely for failure to pay the Professional Liability Fund assessment, Client Security Fund assessment, or membership fees or penalties and has remained in that status for more than 6 months but not in excess of 10 years prior to the date of application for reinstatement and seeks reinstatement to inactive or retired status;~~

~~may be reinstated by the Chief Executive Officer by filing an informal application for reinstatement with the Bar and compliance with the Rules of Procedure in effect at the time of such application. The informal application for reinstatement shall be on a form prepared by the Bar for such purpose. The applicant shall attest that the applicant did not engage in the practice of law except where authorized to do so during the period of the applicant's inactive, retired, or active pro bono status, suspension, or resignation. No applicant shall resume the practice of law in Oregon, or active, inactive, retired, active pro bono membership status,~~

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[OSB Rules of Procedure \(Revised 9/1/2023\)](#)

64

unless all the requirements of this rule are met.

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~~(a) Required Showing. Each applicant under this rule must show that the applicant has good moral character and general fitness to practice law, and that the applicant's resumption of the practice of law in Oregon will not be detrimental to the administration of justice or the public interest. Each applicant has a duty to cooperate and comply with requests from the Bar in its efforts to assess the applicant's good moral character and general fitness to practice law, including responding to a lawful demand for information; the execution of releases necessary to obtain information and records from third parties whose records reasonably bear upon character and fitness; and reporting promptly any changes, additions or corrections to information provided in the application. The Chief Executive Officer may refer to the Board any applicant who, during the pendency of a reinstatement application, engages in conduct that would violate RPC 8.1(a) if done by an attorney, with a recommendation that the Board determine that the applicant has not made the showing required by BR 8.1(b) and recommend to the Supreme Court that the application be denied. No applicant shall resume the practice of law in Oregon or active membership status unless all the requirements of this rule are met.~~

~~(a) Learning and Ability. In addition to the showing required in BR 8.2(b), each applicant under this rule must show that the applicant has the requisite learning and ability to practice law in Oregon. The Bar may recommend the applicant successfully complete a prescribed course of continuing legal education. Factors to be considered in determining an applicant's learning and ability include, but are not limited to: the length of time since the applicant was an active member of the Bar; whether and when the applicant has practiced law in Oregon; whether the applicant practiced law in any jurisdiction during the period of the applicant's suspension, resignation, inactive, or retired status since they were last an active member in Oregon; and whether the applicant has participated in continuing legal education activities during the period of suspension, inactive, or retired status in Oregon since they were last an active member in Oregon. The following are minimum criteria to establish learning and ability in an informal process:~~

~~(i) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than five years will be required to complete a minimum of 15 credits of continuing legal education.~~

~~(ii) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than ten years will be required to complete a minimum of 45 credits of continuing legal education.~~

~~(iii) Applicants who have not practiced law or completed continuing legal education courses in any jurisdiction for more than 15 years will be required to complete a minimum of 45 credits of continuing legal education or may be required to take and pass the bar exam administered by the BBX.~~

~~(iv) Notwithstanding the amount of time that an applicant has been suspended, inactive, or otherwise in an other than active status, any applicant who has been actively engaged in the authorized full-time practice of law for no less than 24 of the 48 months immediately preceding their application will be deemed to have met the learning and ability standard.~~

~~(a) Fees. In addition to the payments required in BR 8.6, an applicant under this rule shall pay an application fee of \$300 at the time the application for reinstatement is filed.~~

~~(a) Exceptions. Any applicant otherwise qualified to file for reinstatement under this rule but who~~

~~(i) during the period of the member's suspension, resignation, active pro bono, inactive, or retired status has been convicted in any jurisdiction of an offense that is a misdemeanor involving moral turpitude or a felony under the laws of this state, or is punishable by death or imprisonment under the laws of the United States; or~~

~~(ii) during the period of the member's suspension, resignation, active pro bono, inactive, or retired status, has been suspended for professional misconduct for more than six months or has been disbarred by any court other than the Supreme Court; or~~

~~(d) has engaged in conduct that raises issues of possible violation of the Bar Act, former Code of Professional Responsibility, or Rules of Professional Conduct; shall be required to seek reinstatement under BR 8.1. Any applicant required to apply for reinstatement under BR 8.1 because of this rule shall pay all fees, assessments and penalties due and delinquent at the time of the applicant's resignation, suspension or transfer to inactive status, and an application fee of \$750 to the Bar at the time the application for reinstatement is filed, together with any payments due under BR 8.6.~~

~~(a) Referral of Application to Board. If the Chief Executive Officer is unable to determine from a review of an informal application and any information gathered in the investigation of the application that the applicant for reinstatement has made the showing required by BR 8.2(b), the Chief Executive Officer shall refer the application to the Board for consideration, with notice to the applicant.~~

~~(a) Board Consideration of Application. If, after a referral from the Chief Executive Officer, the Board determines from its review of the informal application and any information gathered in the investigation of the application that the applicant for reinstatement has made the showing required by BR 8.2(b), the Board shall reinstate the applicant. If the Board determines that the applicant has not made the showing required by BR 8.2(b), the Board shall deny the application for reinstatement. The Board also may determine that an application filed under BR 8.2 be granted conditionally. The Board shall file an adverse recommendation or a recommendation of conditional reinstatement with the Supreme Court under BR 8.7.~~

~~Suspension of Application. If the Chief Executive Officer or the Board, as the case may be, determines that additional information is required from an applicant regarding conduct during the period of suspension, resignation, inactive, or retired status, the Chief Executive Officer or the Board, as the case may be, may require additional information concerning the applicant's conduct and defer consideration of the application for reinstatement until the required information is obtained.~~

~~[Reserved. Streamlined Reinstatements moved to Rules of Licensure]~~

(a)

*(Rule 8.2(b) amended by Order dated May 31, 1984, effective July 1, 1984.)*  
*(Rule 8.2 amended by Order dated March 13, 1989, effective April 1, 1989.)*  
*(Rule 8.2 (a) and (b) amended by Order dated March 20, 1990, effective April 2, 1990.)*  
*(Rule 8.2(a) amended by Order dated December 28, 1993.)*  
*(Rule 8.2(a) amended by Order dated December 14, 1995.)*  
*(Rule 8.2 amended by Order dated December 9, 2004, effective January 1, 2005.)*  
*(Rule 8.2(d)(iii) amended by Order dated April 26, 2007.)*  
*(Rule 8.2(c) and 8.2(d) amended by Order dated October 19, 2009.)*  
*(Rule 8.2(a)(iv) added by Order dated June 6, 2012.)*  
*(Rule 8.2(a)(v) added by Order dated August 12, 2013, effective November 1, 2013.)*  
*(Rule 8.2(a)(i), 8.2(a)(ii), 8.2(a)(iii), 8.2(a)(iv), 8.2(a)(v), 8.2(d)(i), 8.2(d)(ii), and 8.2(d)(iii) redesignated as Rule 8.2(a)(1), 8.2(a)(2), 8.2(a)(3), 8.2(a)(4), 8.2(a)(5), 8.2(d)(1), 8.2(d)(2), and 8.2(d)(3); Rule 8.2(a), 8.2(a)(1), 8.2(a)(2), 8.2(a)(3), 8.2(a)(4), 8.2(a)(5), 8.2(b), 8.2(c), 8.2(d)(1), 8.2(d)(2), 8.2(d)(3), 8.2(e), 8.2(f), and 8.2(g) amended by Order dated May 3, 2017, effective January 1, 2018.)*  
*(Rule 8.2(a), 8.2(a)(1), and 8.2(d)(1) amended and Rule 8.2(a)(6) and 8.2(a)(7) added by Order dated May 22, 2019, effective September 1, 2019.)*  
*(Rule 8.2(a)(8) added and Rule 8.2(d)(1) and 8.2(d)(2) amended by Order dated October 15, 2020, effective November 14, 2020.)*  
*(Rule 8.2(g) amended by Order dated December 8, 2020.)*  
*(Rule 8.2(a)(4) was amended by Order dated October 31, 2022, effective November 1, 2022.)*  
*(Rule 8.2(a), 8.2(a)(1-6), 8.2(c), 8.2(c)(1-4), and Rule 8.2(d-g) redesignated as Rule 8.2(d-h) amended, Rule 8.2(a)(7) and 8.2(a)(8) deleted by Order dated December 14, 2022, effective January 1, 2023.)*

**Rule 8.3 Reinstatement — Compliance Affidavit.**

(a) Applicants. Subject to the provisions of BR 8.1(a)(5), any person who has been a member of the Bar but who has been suspended for misconduct for a period of six months or less ~~shall~~may be reinstated upon the filing of a Compliance Declaration with Disciplinary Counsel as set forth in BR 13.9, unless the court or Disciplinary Board in any suspension order or decision shall have directed otherwise, or new charges have been authorized against the attorney by the State Professional Responsibility Board.

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(b) Fees. In addition to the payments required in BR 8.6, an applicant under this rule shall pay an application fee of \$250 at the time the application for reinstatement is filed.

*(Rule 8.3 established by Order dated March 13, 1989, effective April 1, 1989.)*

*(Rule 8.3(a) amended by Order dated December 28, 1993.)*

*(Rule 8.3(b) amended by Order dated October 19, 2009.)*

*(Rule 8.3(a) and 8.3(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 8.4 Reinstatement — Financial, Noncompliance With Minimum Continuing Legal Education, or Trust Account Certification Matters.**

~~(-) Applicants. This rule applies to any person who has been a member of the Bar but has been suspended solely for failure to pay the Professional Liability Fund assessment, Client Security Fund assessment or annual membership fees or penalties, or failure to file a certificate disclosing lawyer trust accounts.~~

~~(-) Reinstatement Requirements. An Applicant described in Rule 8.4(a) may be reinstated by the Chief Executive Officer to the membership status from which the person was suspended within six months from the date of the applicant's suspension, upon payment to the Bar of all applicable assessments, fees and penalties owed by the member to the Bar, and also,~~

~~(0) for members suspended for failure to pay membership fees or penalties or the Client Security Fund assessment, payment of a reinstatement fee of \$100;~~

~~(0) for members suspended for failure to pay the Professional Liability Fund assessment, payment of a reinstatement fee of \$100;~~

~~(0) for members suspended for failure to pay both membership fees or penalties or the Client Security Fund assessment, and the Professional Liability Fund assessment, payment of a reinstatement fee of \$200;~~

~~(0) for members suspended for failure to file a lawyer trust account certificate, filing such a certificate with the Bar and payment of a reinstatement fee of \$100; or~~

~~(0) for members suspended for failure to comply with MCLE Rules and Regulations, cure of noncompliance as described in MCLE Rule 7.5 together with payment of a reinstatement fee of \$100.~~

~~(-) Reinstatement Request. An applicant seeking reinstatement under this rule must submit a written request to the Chief Executive Officer together with payment of all required sums. The request shall be on a form prepared by the Bar for that purpose including an explanation how the applicant has complied with this rule and an attestation that the applicant did not engage in the practice of law except where authorized to do so during the period of the applicant's suspension. The applicant shall submit the written request within six months from the date of the applicant's suspension.~~

~~(-) Exceptions. Any applicant otherwise qualified to request reinstatement under this rule but who, during the period of the member's suspension, has been suspended for misconduct for more than six months or been disbarred by any court other than the Supreme Court, must seek reinstatement under BR 8.1. Any applicant required to apply for reinstatement under BR 8.1 pursuant to this rule shall pay all fees, assessments and penalties due and delinquent at the time of the applicant's suspension and an application fee of \$500 to the Bar at the time the application for reinstatement is filed, together with any payments due under BR 8.6.~~

~~[Reserved. Reinstatement for administrative suspensions moved to Rules of Licensure]~~

*(Rule 8.4 (former BR 8.3) amended by Order dated March 13, 1989, effective April 1, 1989.)*

*(Rule 8.4(a)(ii) – 8.4(a)(iv) and 8.4(b) amended by Order dated October 19, 2009.)*

*(Rule 8.4(a) amended by Order dated June 6, 2012.)*

*(Rule 8.4(a)(i), 8.4(a)(ii), 8.4(a)(iii), 8.4(a)(iv), and 8.4(a)(v) redesignated as Rule 8.4(a)(1), 8.4(a)(2), 8.4(a)(3), 8.4(a)(4), and 8.4(a)(5); Rule 8.4(a) and 8.4(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

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(Rule 8.4(a), 8.4(a)(1), 8.4(a)(2), 8.4(a)(3), 8.4(a)(4), and Rule 8.4(b) redesignated as Rule 8.4(a), 8.4(b)(1), 8.4(b)(2), 8.4(b)(3), 8.4(b)(4), 8.4(b)(5), 8.4(c), and Rule 8.4(d) amended by Order dated October 31, 2022, effective November 1, 2022.)

**Rule 8.5 Reinstatement — Noncompliance With Ethics School Requirements.**

~~Applicants. Subject to BR 8.1(a)(viii), any person who has been a member of the Bar but suspended solely for failure to comply with the requirements of the Ethics School established by BR 6.4 may seek reinstatement at any time subsequent to the date of the applicant's suspension by meeting the following conditions:~~

- ~~(0) Completing the requirements that led to the suspension;~~
- ~~(0) Filing a written statement with the Chief Executive Officer, on a form prepared by the Bar for that purpose, which establishes compliance with this rule and the applicable Ethics School Rule and attests that the applicant did not engage in the practice of law except where authorized to do so during the period of the applicant's suspension; and~~
- ~~(0) Submitting a reinstatement fee of \$100 at the time of filing the written statement.~~

~~(a) Referral to Supreme Court. Upon compliance with the requirements of this rule, the Chief Executive Officer shall submit a recommendation to the court with a copy to the applicant. No reinstatement is effective until approved by the court.~~

~~Exception. Reinstatement under this rule shall have no effect upon any member's status under any other proceeding under these Rules of Procedure. Rule 8.5 – Reserved~~

(b)

*(Rule 8.4 established by Order dated November 24, 1987, effective January 1, 1988.)  
(Rule 8.5 [former BR 8.4] amended by Order dated March 13, 1989, effective April 1, 1989.)  
(Rule 8.5(a) amended by Order dated December 14, 1995.)  
(Rule 8.5(a) amended by Order dated October 19, 2009.)  
(Rule 8.5(a) amended by Order dated June 6, 2012.)  
(Rule 8.5(a)(i), 8.5(a)(ii), and 8.5(a)(iii) redesignated as Rule 8.5(a)(1), 8.5(a)(2), and 8.5(3); Rule 8.5(a), 8.5(a)(2), 8.5(a)(3), and 8.5(b) amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 8.5(a) and 8.5(a)(2) amended by order dated October 31, 2022, effective November 1, 2022.)*

**Rule 8.6 Other Obligations Upon Application.**

(a) Financial Obligations. Each applicant ~~under BR 8.1 through 8.5 seeking reinstatement~~ shall pay to the Bar, at the time the application for reinstatement is filed, all past due assessments, fees, and penalties owed to the Bar for prior years, and the membership fee and Client Security Fund assessment for the year in which the application for reinstatement is filed, less any active or inactive membership fees or Client Security Fund assessment paid by the applicant previously for the year of application. Each applicant under BR 8.1(a)(1) and BR 8.1(a)(8), shall also pay to the Bar, at the time of application, an amount equal to \$100 for each year the applicant remained suspended or resigned, and for which no membership fee has been paid. Each applicant under BR 8.2(a)(1), BR 8.2(a)(3), or (4) shall also pay to the Bar, at the time of application, an amount equal to \$100 for each year the applicant remained suspended or resigned and for which no membership fee has been paid. Each applicant shall also pay, upon reinstatement, any applicable assessment to the Professional Liability Fund.

(b) Judgment for Costs; Client Security Fund Claim. Each applicant shall also pay to the Bar, at the time of application:

- (1) any unpaid judgment for costs and disbursements assessed in a disciplinary or contested reinstatement proceeding; and
- (2) an amount equal to any claim paid by the Client Security Fund due to the applicant's conduct, plus accrued interest thereon.

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(c) Refunds. In the event an application for reinstatement is denied, the Bar shall refund to the applicant the membership fees and assessments paid for the year the application was filed, less the membership fees and assessments that applied during any temporary reinstatement under BR 8.7.

(d) Adjustments. In the event an application for reinstatement is filed in one year and not acted upon until the following year, the applicant shall pay to the Bar, prior to reinstatement, any increase in membership fees or assessments since the date of application. If a decrease in membership fees and assessments has occurred, the Bar shall refund the decrease to the applicant.

*(Rule 8.6(a) and (b) amended by Order dated December 14, 1995.)*

*(Rule 8.6(a), (b) and (c) amended by Order dated February 5, 2001.)*

*(Rule 8.6(a) amended by Order dated June 6, 2012.)*

*(Rule 8.6(a) amended by Order dated August 10, 2015.)*

*(Rule 8.6(b)(i) and 8.6(a)(ii) redesignated as Rule 8.6(b)(1) and 8.6(b)(2); Rule 8.6(a) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 8.6(a) amended by Order dated May 22, 2019, effective September 1, 2019.)*

#### Rule 8.7 Board Investigation ~~And~~ Recommendation.

(a) Investigation and Recommendation. On the filing of an application for reinstatement under BR 8.1 ~~and BR 8.2~~ in which the applicant seeks reinstatement for reasons other than previously imposed discipline, Regulatory Counsel shall conduct such investigation as it deems proper and report to the Chief Executive Officer ~~or the Board~~, as the case may be. For all applications filed pursuant to BR 8.1 ~~or BR 8.2(d)~~ in which applicants seek reinstatement as a result of imposed discipline ~~or as otherwise provided in BR 8.2(d)~~, Disciplinary Counsel shall conduct such investigations as it deems proper and report to the Chief Executive Officer, as necessary. For applications filed under BR 8.1, the Chief Executive Officer, as the case may be, shall recommend to the Supreme Court that the application be granted, conditionally or unconditionally, or denied, and shall mail a copy of its recommendation to the applicant. ~~Officer or the Board, as necessary. For applications filed under BR 8.1, the Chief Executive Officer or the Board, as the case may be, shall recommend to the Supreme Court that the application be granted, conditionally or unconditionally, or denied, and shall mail a copy of its recommendation to the applicant. For applications denied by the Board or recommended for conditional reinstatement under BR 8.2(f), the Board shall file its recommendation with the court and mail a copy of the recommendation to the applicant.~~

(b) Temporary Reinstatements. Except as provided herein, upon making a determination that the applicant is of good moral character and generally fit to practice law, the Chief Executive Officer ~~or the Board~~ may temporarily reinstate an applicant pending receipt of all investigatory materials. A temporary reinstatement shall not exceed a period of four months unless authorized by the court. An applicant who seeks reinstatement following a suspension or disbarment for professional misconduct, or an involuntary transfer to inactive status, shall not be temporarily reinstated pursuant to this rule.

(c) Conditional Reinstatement. The Bar may make a recommendation for voluntary conditional reinstatement to the Court for a formal reinstatement under BR 8.1 if the Bar's investigation establishes concerns about the applicant's current or future character and fitness practicing law due to past conduct. The Bar may propose to the applicant to recommend to the court voluntary conditional reinstatement of the applicant with probationary conditions to mitigate concerns about an applicant's character and fitness. The applicant must agree to voluntary conditional reinstatement for the Bar to submit a recommendation of voluntary conditional reinstatement to the court. All voluntary conditional reinstatements, including probationary conditions, require approval from the court. The Court may modify or deny conditional reinstatement.

*(Rule 8.7 amended by Order dated December 28, 1993.)*

*(Rule 8.7(a) amended by Order dated December 9, 2004, effective January 1, 2005.)*

*(Rule 8.7(a) and (b) amended by Order dated April 5, 2013.)*

*(Rule 8.7(a) and 8.7(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 8.7(a) amended by Order dated December 8, 2020.)*

#### Rule 8.8 Petition ~~To~~ Review Adverse Recommendation.

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~~(a) Not later than 28 days after if the Bar files recommends denial of an applicant's reinstatement, the Bar shall file such adverse recommendation regarding the with the Disciplinary Board Clerk with a copy to the applicant with the Supreme Court. Within 28 days after the Bar notifies the applicant of an adverse recommendation, an applicant who desires to contest the Bar's recommendation shall file with the State~~

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~~Court Administrator a petition stating in substance that the applicant desires to have the case reviewed by the court, serving Disciplinary Board Clerk and serve a copy on Disciplinary Counsel. The State Court Administrator shall give written notice of such a referral to a petition seeking review of the Disciplinary Board Clerk, Disciplinary Counsel, and the applicant Bar's adverse recommendation. The applicant's resignation, disbarment, suspension, inactive, or retired membership status shall remain in effect until the court's final disposition of the petition.~~

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~~(d) If the court considers it appropriate, it may refer the petition to the Disciplinary Board to inquire into the applicant's moral character and general fitness to practice law. If the court determines that the applicant has Bar does not satisfied the burden of proof set out in BR 8.12, the court may deny the application or it may remand to the Board, or take any other action that it deems appropriate, receive a petition to contest the Bar's recommendation within 28 days, the Bar shall file the adverse recommendation with the court, and indicate to the court that the adverse recommendation was not contested.~~

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~~(Rule 8.8 amended by Order dated June 17, 2003, effective July 1, 2003.)~~

~~(Rule 8.8 amended by Order dated April 5, 2013.)~~

~~(Rule 8.8 amended by Order dated May 3, 2017, effective January 1, 2018.)~~

~~(Rule 8.8 amended and redesignated as Rule 8.8(a) and 8.8(b) by Order dated October 27, 2019, effective December 1, 2019.)~~

#### **Rule 8.9 Procedure On Referral By Supreme Court Statement of Objections.**

On receipt of ~~notice of a referral petition to the Disciplinary Board under BR 8.8 review adverse recommendation~~, Disciplinary Counsel may appoint Bar Counsel to represent the Bar. Disciplinary Counsel or Bar Counsel shall prepare and file with the Disciplinary Board Clerk, with proof of service on the applicant, a statement of objections. The statement of objections shall be substantially in the form set forth in BR 13.5.

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~~(Rule 8.9 amended by Order dated February 5, 2001. Amended by Order dated June 17, 2003, effective July 1, 2003.)~~

~~(Rule 8.9 amended by Order dated May 3, 2017, effective January 1, 2018.)~~

#### **Rule 8.10 Answer To Statement Of Objections.**

The applicant shall answer the statement of objections within 14 days after service of the statement and notice to answer upon the applicant. The answer shall be responsive to the objections filed. General denials are not allowed. The answer shall be substantially in the form set forth in BR 13.3 and shall be filed with the Disciplinary Board Clerk, with proof of service on Disciplinary Counsel. After the answer is filed or upon the expiration of the time allowed in the event the applicant fails to answer, the matter shall proceed to hearing. Applicant may request an extension in the same manner as in BR 4.3(b).

~~(Rule 8.10 amended by Order dated July 17, 2003, effective July 1, 2003.)~~

~~(Rule 8.10 amended by Order dated May 3, 2017, effective January 1, 2018.)~~

#### **Rule 8.11 Hearing Procedure.**

Titles 4, 5, and 10 apply as ~~far as~~ practicable to reinstatement proceedings ~~referred by~~.

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The trial panel shall make a determination whether the applicant shall be

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(1) denied reinstatement;

(2) reinstated conditionally, subject to probationary terms; or

(3) reinstated unconditionally.

~~Supreme Court to the Disciplinary Board for hearing.~~

~~(Rule 8.11 amended by Order dated May 3, 2017, effective January 1, 2018.)~~

#### **Rule 8.12 Burden Of Proof.**

An applicant has the burden of proving the elements of the applicable standard by clear and convincing evidence.

~~(Rule 8.12 amended by Order dated May 3, 2017, effective January 1, 2018.)~~

~~(Rule 8.12 amended by Order dated October 27, 2019, effective December 1, 2019.)~~

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**Rule 8.13 Burden Of Producing Evidence.**

While an applicant for reinstatement has the ultimate burden of proof to establish good moral character and general fitness to practice law, the Bar shall initially have the burden of producing evidence in support of its position that the applicant should not be readmitted to the practice of law.

#### Rule 8.14 Reinstatement and Transfer--Active Pro Bono.

~~(-) Reinstatement from Inactive Status. An applicant who has been enrolled voluntarily as an inactive member and who has not engaged in any of the conduct described in BR 8.2(d) may be reinstated by the Chief Executive Officer to Active Pro Bono status. The Chief Executive Officer may deny the application of such an applicant for reinstatement for the reasons set forth in BR 8.2(d), in which case the applicant may be reinstated only upon successful compliance with all of the provisions of BR 8.2. The application for reinstatement to Active Pro Bono status shall be on a form prepared by the Bar for such purpose. No fee is required.~~

~~(-) Transfer to Regular Active Status. An applicant who has been on Active Pro Bono status for a period of 5 years or less and who desires to be eligible to practice law without restriction may be transferred to regular active status in the manner provided in and subject to the requirements of BR 8.1 and BR 8.2.~~

[Reserved].

*(Rules 8.5 - 8.11 amended by Order dated November 24, 1987, effective January 1, 1988.)*

*(Rules 8.6 - 8.13 amended by Order dated March 13, 1989, effective April 1, 1989.)*

*(Rule 8.14 added by Order dated September 6, 2001, effective September 6, 2001.)*

*(Rule 8.14(a) and (b) amended by Order dated October 19, 2009.)*

*(Rule 8.14(a) and 8.14(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 8.14(b) amended by Order dated October 15, 2020, effective November 14, 2020.)*

### Title 9 — Resignation

#### Rule 9.1 Resignation.

An attorney or LP may resign membership in the Bar by filing a resignation that shall be effective only on acceptance by the Supreme Court. If no inquiries or grievances involving the attorney or LP are under investigation by the Bar, no disciplinary proceedings are pending against the attorney or LP, the attorney or LP is not suspended, disbarred, or on probation pursuant to BR 6.1 or BR 6.2, and the attorney or LP is not charged in any jurisdiction with an offense that is a misdemeanor that may involve moral turpitude, a felony under the laws of this state, or a crime punishable by death or imprisonment under the laws of the United States, the resignation must be on the form set forth in BR 13.6 and shall be filed with Regulatory Counsel. In all other circumstances, the resignation must be on the form set forth in BR 13.7 and shall be filed with Disciplinary Counsel.

*(Rule 9.1 amended by Order dated February 5, 2001.)*

*(Rule 9.1 amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 9.1 amended by Order dated May 22, 2019, effective September 1, 2019.)*

*(Rule 9.1 amended by Order dated December 8, 2020.)*

*(Rule 9.1 amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### Rule 9.2 Acceptance Of Resignation.

Disciplinary or Regulatory Counsel, as the case may be, shall promptly forward the resignation to the State Court Administrator for submission to the Supreme Court. Upon acceptance of the resignation by the court, the name of the resigning attorney or LP shall be stricken from the roll of attorneys or LPs; and ~~he or she~~they shall no longer be entitled to the rights or privileges of an attorney or LP, but shall remain subject to the jurisdiction of the court with respect to matters occurring while ~~he or she was~~they were an attorney or LP. Unless otherwise ordered by the court, any pending investigation of charges, allegations, or instances of alleged misconduct by the resigning attorney or LP shall, on the acceptance by the court of ~~his or her~~their resignation, be closed, as shall any pending disciplinary proceeding against the attorney or LP.

*(Rule 9.2 amended by Order dated February 5, 2001.)*

*(Rule 9.2 amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 9.2 amended by Order dated December 8, 2020.)*

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OSB Rules of Procedure (Revised 9/1/2023)

75

*(Rule 9.2 amended by Order dated August 17, 2022, effective July 1, 2023.)*

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**Rule 9.3 Duties Upon Resignation.**

(a) Attorney or LP to Discontinue Practice. An attorney or LP who has resigned membership in the Oregon State Bar shall not practice law after the effective date of the resignation. This rule shall not preclude an attorney or LP who has resigned from providing information on the facts of a case and its status to a succeeding attorney or LP, and such information shall be provided on request.

(b) Responsibilities. It shall be the duty of an attorney or LP who has resigned to immediately take all reasonable steps to avoid foreseeable prejudice to any client and to comply with all applicable laws and disciplinary rules.

(c) Notice. When, as a result of an attorney's or LP's resignation, an active client matter will be left for which no other active member of the Bar, with the consent of the client, has agreed to resume responsibility, the resigned attorney or LP shall give written notice of the cessation of practice to the affected clients, opposing parties, courts, agencies, and any other person or entity having reason to be informed of the cessation of practice. Such notice shall be given no later than fourteen (14) days after the effective date of the resignation. Client property pertaining to any active client matter shall be delivered to the client or an active member of the Bar designated by the client as substitute counsel no later than 21 days after the effective date of the resignation.

(d) Contempt. Disciplinary Counsel may petition the Supreme Court to hold an attorney or LP who has resigned in contempt for failing to comply with the provisions of BR 9.3(a), (b), or (c). The court may order the attorney or LP to appear and show cause, if any, why the attorney or LP should not be held in contempt of court and sanctioned accordingly.

*(Rule 9.3 amended by Order dated March 13, 1989, effective April 1, 1989.)  
(Former Rule 9.3(c) redesignated as Rule 9.3(d); Rule 9.3(c) added; and Rule 9.3(d) amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 9.3(d) amended by Order dated May 22, 2019, effective September 1, 2019.)  
(Rule 9.3 amended by Order dated August 17, 2022, effective July 1, 2023.)*

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**Rule 9.4 Effect of Form B Resignation.**

An attorney or LP who has resigned membership in the Bar under Form B of these rules after December 31, 1995, shall never be eligible to apply for reinstatement under Title 8 of these rules and shall not be considered for admission under OR 9.220 or on any basis under the Rules for Admission of Attorneys.

*(Rule 9.4 added by Order dated December 14, 1995.)  
(Rule 9.4 amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 9.4 amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 9.5 Effect of Form A Resignation after November 30, 2019.**

An attorney or LP who has resigned membership in the Bar under Form A of these rules after November 30, 2019, shall never be eligible to apply for reinstatement under Title 8 of these rules, but may be considered for admission under ORS 9.220 or any basis under the Rules for Admission of Attorneys or Rules for Admission of Licensed Paralegals.

*(Rule 9.5 repealed by Order dated January 17, 2008.)  
(Rule 9.5 added by Order dated May 22, 2019, effective September 1, 2019.)  
(Rule 9.5 amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Title 10 — Review By Supreme Court**

**Rule 10.1 Disciplinary Proceedings.**

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Upon the conclusion of a disciplinary hearing, the Adjudicator, pursuant to BR 1.8, shall file the trial panel's written opinion with the Disciplinary Board Clerk, and the Disciplinary Board Clerk shall send copies to Disciplinary Counsel, Bar Counsel, and the respondent. The Bar or the respondent may seek review of the matter by the Supreme Court; otherwise, the decision of the trial panel shall be final on the 31st day following the notice of receipt of the trial panel opinion by the Disciplinary Board Clerk, pursuant to BR 2.4(h)(4).

*(Rule 10.1 amended by Order dated July 8, 1988.)*

*(Rule 10.1 amended by Order dated August 2, 1991.)*

*(Rule 10.1 amended by Order dated August 19, 1997, effective October 4, 1997.)*

*(Rule 10.1 amended by Order dated February 5, 2001.)*

*(Rule 10.1 amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 10.1 amended by Order dated June 17, 2003, effective January 1, 2004.)*

*(Rule 10.1 amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 10.1 amended by Order dated May 22, 2019, effective September 1, 2019.)*

#### **Rule 10.2 Request for Review.**

Within 30 days after the Disciplinary Board Clerk has acknowledged, as required by BR 2.4(h)(4), receipt of a trial panel opinion, the Bar or the respondent may file with the Disciplinary Board Clerk and the State Court Administrator a request for review as set forth in BR 13.8. A copy of the request for review shall be served on the opposing party.

*(Rule 10.2 amended by Order dated July 22, 1991.)*

*(Rule 10.2 amended by Order dated February 5, 2001.)*

*(Rule 10.2 amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 10.2 amended by Order dated October 19, 2009.)*

*(Rule 10.2 amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 10.2 amended by Order dated May 22, 2019, effective September 1, 2019.)*

#### **Rule 10.3 Contested Reinstatement Proceeding.**

Upon the conclusion of a contested reinstatement hearing, the trial panel shall file its written opinion with the Disciplinary Board Clerk and the State Court Administrator, and serve copies on Disciplinary Counsel and the applicant. Each such reinstatement matter shall be reviewed by the Supreme Court.

*(Rule 10.3 amended by Order dated July 8, 1988.)*

*(Rule 10.3 amended by Order dated August 19, 1997, effective October 4, 1997.)*

*(Rule 10.3 amended by Order dated February 5, 2001.)*

*(Rule 10.3 corrected by Order dated June 28, 2001.)*

*(Rule 10.3 amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 10.3 amended by Order dated June 17, 2003, effective January 1, 2004.)*

*(Rule 10.3 amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### **Rule 10.4 Filing In Supreme Court.**

(a) Record. Disciplinary Counsel shall file the record of a proceeding with the State Court Administrator upon the receipt by Disciplinary Counsel of:

- (1) a request for review timely filed pursuant to BR 10.2; or
- (2) a trial panel opinion in any contested reinstatement proceeding.

The record shall include a copy of the trial panel's opinion. Upon receipt of the record, the matter shall be reviewed by the court as provided in BR 10.5.

*(Rule 10.4(a)(i) amended by Order dated July 22, 1991.)*

*(Rule 10.4 amended by Order dated June 29, 1993.)*

*(Rule 10.4(a)(ii) and (b) amended by Order dated August 19, 1997, effective October 4, 1997.)*

*(Rule 10.4 amended by Order dated June 17, 2003, effective January 1, 2004.)*

*(Former Rule 10.4(a)(i) and 10.4(a)(ii) redesignated as Rule 10.4(a)(1) and 10.4(a)(2); Rule 10.4(a), 10.4(a)(1), and*

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10.4(a)(2) amended by Order dated May 3, 2017, effective January 1, 2018.)

#### Rule 10.5 Procedure In Supreme Court.

(a) Briefs. No later than 28 days after the Supreme Court's written notice to Disciplinary Counsel and the respondent or applicant of receipt of the record, the party who requested review or the applicant, as the case may be, must file an opening brief. The brief must include a request for relief asking the court to adopt, modify, or reject, in whole or in part, the decision of the trial panel. Otherwise, the format of the opening brief and the timing and format of any answering or reply briefs shall be governed by the applicable Oregon Rules of Appellate Procedure. The failure of the Bar or a respondent or applicant to file a brief does not prevent the opposing litigant from filing a brief. Answering briefs are not limited to issues addressed in petitions or opening briefs, and may urge the adoption, modification, or rejection in whole or in part of any decision of the trial panel.

(b) Oral Argument. The Oregon Rules of Appellate Procedure relating to oral argument apply in disciplinary and contested reinstatement proceedings.

*(Rule 10.5(b) and (c) amended by Order dated July 22, 1991.)*

*(Rule 10.5(b), 10.5(c), and 10.5(d) amended by Order dated October 19, 2009.)*

*(Former Rule 10.5(a) and 10.5(b) deleted; former Rule 10.5(c) and 10.5(d) redesignated as Rule 10.5(a) and 10.5(b); Rule 10.5(a) and 10.5(b) amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Rule 10.6 Nature Of Review.

The Supreme Court shall consider each matter de novo upon the record and may adopt, modify, or reject the decision of the trial panel in whole or in part and thereupon enter an appropriate order. In admission or reinstatement proceedings, the Supreme Court may require an applicant whose admission or reinstatement has been denied to wait a period of time designated by the court before reapplying for admission or reinstatement.

*(Rule 10.6 amended by Order dated July 22, 1991.)*

*(Rule 10.6 amended by Order dated October 19, 2009.)*

*(Rule 10.6 amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 10.6 amended by Order dated August 17, 2022, effective July 1, 2023.)*

#### Rule 10.7 Costs And Disbursements.

(a) Costs and Disbursements. "Costs and disbursements" are actual and necessary (1) service, filing and witness fees; (2) expenses of reproducing any document used as evidence at a hearing, including perpetuation depositions or other depositions admitted into evidence; (3) expenses of the hearing transcript, including the cost of a copy of the transcript if a copy has been provided by the Bar to a respondent or an applicant without charge; and (4) the expense of preparation of an appellate brief in accordance with ORAP 13.05. Lawyer fees are not recoverable costs and disbursements, either at the hearing or on review. Prevailing party fees are not recoverable by any party.

(b) Allowance of Costs and Disbursements. In any discipline or contested reinstatement proceeding, costs and disbursements as permitted in BR 10.7(a) may be allowed to the prevailing party by the Disciplinary Board or the Supreme Court. A respondent or applicant prevails when the charges against the respondent are dismissed in their entirety or the applicant is unconditionally reinstated to the practice of law in Oregon. The Bar shall be considered to have prevailed in all other cases.

(c) Recovery After Offer of Settlement. A respondent may, at any time up to fourteen (14) days prior to hearing, serve upon Disciplinary Counsel an offer to enter into a stipulation for discipline or no contest plea under BR 3.6. In the event the SPRB rejects such an offer, and the matter proceeds to hearing and results in a final decision of the Disciplinary Board or the court imposing a sanction no greater than that to which the respondent was willing to plead no contest or stipulate based on the charges the respondent was willing to concede or admit, the Bar shall not recover, and the respondent shall recover, actual and necessary costs

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and disbursements as permitted in BR 10.7(a) incurred after the date the SPRB rejected the respondent's offer.

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(d) Procedure for Recovery and Collection. The procedure set forth in the Oregon Rules of Appellate Procedure regarding the filing of cost bills and objections thereto shall apply, except that, in matters involving final decisions of the Disciplinary Board, cost bills and objections thereto shall be resolved by the Adjudicator. The cost bill and objections thereto shall be filed with the Disciplinary Board Clerk, with proof of service on the other party, and shall not be due until 21 days after the date a trial panel's decision is deemed final under BR 10.1. The procedure for entry of judgments for costs and disbursements as judgment liens shall be as provided in ORS 9.536.

*(Rule 10.7 amended by Order dated June 25, 1985, effective July 15, 1985; amended by further Orders dated July 8, 1985 and July 22, 1985; amended by Order dated March 13, 1989, effective April 1, 1989. Rule 10.7 (a) amended by Order dated October 1, 1990; amended by Order dated June 28, 2001.)*

*(Rule 10.7(d) amended by Order dated June 17, 2003, effective July 1, 2003.)*

*(Rule 10.7(a) and (d) amended by Order dated April 26, 2007.)*

*(Rule 10.7(b) amended by Order dated October 19, 2009.)*

*(Rule 10.7(a), 10.7(b), 10.7(c), and 10.7(d) amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Title 11 — Time Requirements

##### **Rule 11.1 Failure To Meet Time Requirements.**

The failure of any person or body to meet any time limitation or requirement in these rules shall not be grounds for the dismissal of any charge or objection, unless a showing is made that the delay substantially prejudiced the ability of the respondent or applicant to receive a fair hearing.

*(Rule 11.1 amended by Order dated May 3, 2017, effective January 1, 2018.)*

#### Title 12 — Unlawful Practice of Law Committee

##### **Rule 12.1 Appointment.**

The Supreme Court may appoint as many members as it deems necessary to carry out the Unlawful Practice of Law Committee's functions. At least two members of the Unlawful Practice of Law Committee must be members of the general public, and no more than one-quarter of the Unlawful Practice of Law Committee members may be lawyers engaged in the private practice of law.

##### **Rule 12.2 Investigative Authority.**

Pursuant to ORS 9.164, the Unlawful Practice of Law Committee shall investigate on behalf of the Bar complaints of the unlawful practice of law. For purposes of this rule, "unlawful practice of law" means (1) the practice of law in Oregon, as defined by the Supreme Court, by a person who is not an active member of the Bar and is not otherwise authorized by law to practice law in Oregon; or (2) holding oneself out, in any manner, as authorized to practice law in Oregon when not authorized to practice law in Oregon.

##### **Rule 12.3 Public Outreach and Education.**

(a) The Unlawful Practice of Law Committee may engage in public outreach to educate the public about the potential harm caused by the unlawful practice of law. The Unlawful Practice of Law Committee may cooperate in its education efforts with federal, state, and local agencies tasked with preventing consumer fraud.

(b) The Unlawful Practice of Law Committee may write informal opinions on questions relating to what activities may constitute the practice of law. Opinions must be approved by the Board before publication. The published opinions are not binding, but are intended only to provide general guidance to lawyers and

members of the public about activities that Supreme Court precedent and Oregon law indicate may constitute the unlawful practice of law.

**Rule 12.4 Enforcement.**

The Bar may petition the Supreme Court to hold a disbarred attorney or LP or an attorney or LP whose resignation pursuant to BR 9.1 has been accepted by the court in contempt for engaging in the unlawful practice of law. The court may order the disbarred or resigned attorney or LP to appear and show cause, if any, why the disbarred or resigned attorney or LP should not be held in contempt of court and sanctioned accordingly.

*(Former Title 12 redesignated as Title 13; Title 12, Rule 12.1, 12.2, 12.3, and 12.4 added by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 12.4 amended by Order dated May 22, 2019, effective September 1, 2019.)  
(Rule 12.4 amended by Order dated August 17, 2022, effective July 1, 2023.)*

Title 13 — Forms

**Rule 13.1 Formal Complaint.**

A formal complaint in a disciplinary proceeding shall be in substantially the following form:

**IN THE SUPREME COURT  
OF THE STATE OF OREGON**

In Re: _____ )	No. _____
_____ )	
Complaint as to the conduct of _____, Respondent )	FORMAL COMPLAINT

For its first cause of complaint, the Oregon State Bar alleges:

**1.**

The Oregon State Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to discipline of attorneys or licensed paralegals..

**2.**

The Respondent, \_\_\_\_\_, is, and at all times mentioned herein was, an attorney at law or a Licensed Paralegal, duly admitted by the Supreme Court of the State of Oregon to practice law in Oregon and a member of the Oregon State Bar, having his [her] office and place of business in the County of \_\_\_\_\_, State of \_\_\_\_\_.

**3. et seq.**

(State with certainty and particularity the actions of the Respondent alleged to be in violation of the disciplinary rules or statutes, including time, place and transaction, if necessary.)

**4. (or next number)**

The aforesaid conduct of the Respondent violated the following standard[s] of professional conduct established by law and by the Oregon State Bar: (insert applicable disciplinary rules and statutes).

AND, for its second cause of complaint against said Respondent, the Oregon State Bar alleges:

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**5. (or next number)**

Incorporates by reference as fully set forth herein Paragraphs \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ of its first cause of complaint.

**6. (or next number)**

(State with certainty and particularity the actions of the Respondent alleged to be in violation of the disciplinary rules or statutes, including time, place and transaction, if necessary.)

**7. (or next number)**

The aforesaid conduct of the Respondent violated the following standard[s] of professional conduct established by law and by the Oregon State Bar: (insert applicable disciplinary rules and statutes).

AND, for its third cause of complaint against said Respondent, the Oregon State Bar alleges:

**8. (or next number)**

Incorporates by reference as fully set forth herein Paragraphs \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ of its first cause of complaint and Paragraphs \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ of its second cause of complaint.

**9. (or next number)**

(State with certainty and particularity the actions of the Respondent alleged to be in violation of the disciplinary rules or statutes, including time, place and transaction, if necessary.)

**10. (or next number)**

The aforesaid conduct of the Respondent violated the following standard[s] of professional conduct established by law and by the Oregon State Bar: (insert applicable disciplinary rules and statutes).

WHEREFORE, the Oregon State Bar demands that the Respondent make answer to this complaint; that a hearing be set concerning the charges made herein; that the matters alleged herein be fully, properly and legally determined; and pursuant thereto, such action be taken as may be just and proper under the circumstances.

DATED this \_\_\_\_ day of \_\_\_\_, 20\_\_.

OREGON STATE BAR  
By:  
Disciplinary Counsel

*(Rule 12.1 amended by Order dated February 5, 2001.)*

*(Former Rule 12.1 redesignated as Rule 13.1; Rule 13.1 amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 13.1 amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 13.2 Notice to Answer.**

A copy of the formal complaint (statement of objections), accompanied by a notice to answer it within a designated time, shall be served on the respondent (applicant). Such notice shall be in substantially the following form:

**(Heading as in complaint/statement of objections)**

**NOTICE TO ANSWER**

You are hereby notified that a formal complaint against you (statement of objections to your reinstatement) has been filed by the Oregon State Bar, a copy of which formal complaint (statement of objections) is attached

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hereto and served upon you herewith. You are further notified that you may file with the Disciplinary Board Clerk, with a service copy to Disciplinary Counsel, your verified answer within fourteen (14) days from the date of service of this notice upon you. In case of your default in so answering, the formal complaint (statement of objections) shall be heard and such further proceedings had as the law and the facts shall warrant.

(The following paragraph shall be used in a disciplinary proceeding only:)

You are further notified that an attorney or LP accused of misconduct may, in lieu of filing an answer, elect to file with Disciplinary Counsel of the Oregon State Bar, a written resignation from membership in the Oregon State Bar. Such a resignation must comply with BR 9.1 and be in the form set forth in BR 12.7. You should consult an attorney of your choice for further information about resignation.

The address of the Oregon State Bar is 16037 S.W. Upper Boones Ferry Road, Tigard, Oregon 97224, or by mail at P. O. Box 231935, Tigard, Oregon 97281-1935.

DATED this \_\_\_ day of \_\_\_, 20\_\_.

OREGON STATE BAR  
By:  
Disciplinary Counsel

*(Rule 12.2 amended by Order dated February 5, 2001.)*

*(Rule 12.2 amended by Order dated April 26, 2007.)*

*(Rule 12.2 amended by Order dated March 20, 2008.)*

*(Rule 12.2 amended by Order dated October 19, 2009.)*

*(Former Rule 12.2 redesignated as Rule 13.2; Rule 13.2 amended by Order dated May 3, 2017, effective January 1, 2018.)*

*(Rule 13.2 amended by Order dated August 17, 2022, effective July 1, 2023.)*

**Rule 13.3 Answer.**

The answer of the respondent (applicant) shall be in substantially the following form:

**(Heading as in complaint/statement of objections)**

**ANSWER**

\_\_\_\_\_, (name of respondent (applicant)), whose residence address is \_\_\_\_\_, in the County of \_\_\_\_\_, State of Oregon, and who maintains his [her] principal office for the practice of law or other business at \_\_\_\_\_, in the County of \_\_\_\_\_, State of Oregon, answers the formal complaint (statement of objections) in the above-entitled matter as follows:

**1.**

Admits the following matters charged in the formal complaint (statement of objections) as follows:

**2.**

Denies the following matters charged in the formal complaint (statement of objections) as follows:

**3.**

Explains or justifies the following matters charged in the formal complaint (statement of objections).

**4.**

Sets forth new matter and other defenses not previously stated, as follows:

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5.

WHEREFORE, the accused (applicant) prays that the formal complaint (statement of objections) be dismissed.

DATED this \_\_\_ day of \_\_\_, 20\_\_.

RESPONDENT (APPLICANT)  
Attorney for Respondent (Applicant)

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in the trial panel hearing and is subject to penalty for perjury.

RESPONDENT (APPLICANT)

*(Former Rule 12.3 redesignated as Rule 13.3; Rule 13.3 amended by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 13.4 [Reserved for expansion]**

*(Rule 12.4 repealed by Order dated July 22, 1991.)*

*(Former Rule 12.4 redesignated as Rule 13.4 by Order dated May 3, 2017, effective January 1, 2018.)*

**Rule 13.5 Statement Of Objections To Reinstatement.**

In a contested reinstatement proceeding, the statement of objections shall be in substantially the following form:

**IN THE SUPREME COURT  
OF THE STATE OF OREGON**

In The Matter Of The	)	
Application of	)	STATEMENT
_____	)	OF
For Reinstatement as	)	OBJECTIONS
an Active Member	)	TO
of the Oregon State Bar	)	REINSTATEMENT

The Oregon State Bar objects to the qualifications of the Applicant for reinstatement on the ground and for the reason that the Applicant has not shown, to the satisfaction of the Board of Governors, that he [she] has the good moral character or general fitness required for readmission to practice law in Oregon, that his [her] readmission to practice law in Oregon will be neither detrimental to the integrity and standing of the Bar or the administration of justice, nor subversive to the public interest, or that he [she] is, in all respects, able and qualified, by good moral character and otherwise, to accept the obligations and faithfully perform the duties of an attorney in Oregon, in one or more of the following particulars:

1.

The Applicant does not possess good moral character or general fitness to practice law, in that the Applicant, \_\_\_\_\_ (state the facts of the matter)

2.

(Same)



OR

I hereby certify that I have no client files or client records pertaining to active or current clients and that the following arrangements have been made with regard to client files and records pertaining to inactive or former clients, if any:

\_\_\_\_\_

I agree to perform the duties of a resigned attorney set forth in BR 9.3 and that I may be held in contempt of court if I do not.

DATED at \_\_, this \_\_\_ day of \_\_, 20\_\_.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

(Signature of Member)

I, \_\_\_\_\_, Chief Executive Officer of the Oregon State Bar, do hereby certify that there are no inquiries or grievances involving the above-name attorney under investigation by the Bar, no disciplinary proceedings are pending against the attorney, and the attorney is not suspended, disbarred, or on probation pursuant to BR 6.1 and BR 6.2.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

OREGON STATE BAR

By: \_\_\_\_\_  
Chief Executive Officer

*(Former Rule 12.6 redesignated as Rule 13.6; Rule 13.6 amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 13.6 amended by Order dated May 22, 2019, effective September 1, 2019.)*

**Rule 13.7 Form B Resignation.**

**IN THE SUPREME COURT  
OF THE STATE OF OREGON**

In Re: \_\_\_\_\_ ) FORM B  
(Name) \_\_\_\_\_ ) RESIGNATION

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

I, \_\_\_\_\_, being duly sworn on oath, depose and say that my principal office for the practice of law or other business is located at \_\_\_\_\_ (Building No. and Name, if any, or Box No.), \_\_\_\_\_ (Street address, if any),

\_\_\_\_\_ (City), \_\_\_\_\_ (State), \_\_\_\_\_ (Zip Code); that my residence address is \_\_\_\_\_ (No. and Street), \_\_\_\_\_ (City), \_\_\_\_\_ (State), \_\_\_\_\_ (Zip Code), and that I

hereby tender my resignation from membership in the Oregon State Bar and request and consent to my removal from the roster of those admitted to practice before the courts of this state and from membership in the Oregon State Bar.

I am aware that there is pending against me a formal complaint concerning alleged misconduct and/or that complaints, allegations or instances of alleged misconduct by me are under investigation by the Oregon State Bar and that such complaints, allegations and/or instances include:

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(List of formal complaints, proceedings or investigations pending.)

I do not desire to contest or defend against the above-described complaints, allegations or instances of alleged misconduct. I am aware of the rules of the Supreme Court and of the bylaws and rules of procedure of the Oregon State Bar with respect to admission, discipline, resignation and reinstatement of members of the Oregon State Bar. I understand that any future application by me for reinstatement as a member of the Oregon State Bar is currently barred by BR 9.4, but that should such an application ever be permitted in the future, it will be treated as an application by one who has been disbarred for misconduct, and that, on such application, I shall not be entitled to a reconsideration or reexamination of the facts, complaints, allegations or instances of alleged misconduct upon which this resignation is predicated. I understand that, on its filing in this court, this resignation and any supporting documents, including those containing the complaints, allegations or instances of alleged misconduct, will become public records of this court, open for inspection by anyone requesting to see them.

This resignation is freely and voluntarily made; and I am not being, and have not been, subjected to coercion or duress. I am fully aware of all the foregoing and any other implications of my resignation.

I hereby certify that all client files and client records in my possession pertaining to active or current clients have been or will be placed promptly in the custody of \_\_\_\_\_, a resident Oregon attorney, whose principal office address is \_\_\_\_\_, who has agreed to serve as custodian to take possession of the files and take such further action as necessary to protect the interests of the clients, and that all such clients have been or will be promptly notified accordingly, and that the following arrangements have been made with regard to client files and records pertaining to inactive or former clients, if any:

\_\_\_\_\_  
\_\_\_\_\_

OR

I hereby certify that all client files and client records pertaining to active or current clients have been or will be placed promptly in the custody of the Professional Liability Fund, which has agreed to take possession of the files and take such further action as necessary to protect the interests of the clients, and that such clients have been or will be promptly notified accordingly, and that the following arrangements have been made with regard to client files and records pertaining to inactive or former clients, if any:

\_\_\_\_\_  
\_\_\_\_\_

OR

I hereby certify that I have no client files or client records pertaining to active or current clients and that the following arrangements have been made with regard to client files and records pertaining to inactive or former clients, if any:

\_\_\_\_\_  
\_\_\_\_\_

I agree to perform the duties of a resigned attorney set forth in BR 9.3 and that I may be held in contempt of court if I do not.

DATED at \_\_, this \_\_\_ day of \_\_, 20\_\_.

(Signature of Attorney)

Subscribed and sworn to before me this \_\_\_ day of \_\_, 20\_\_.

Notary Public for Oregon  
My Commission Expires:

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- b. attendance at Alcoholics Anonymous meetings
- c. cooperation with Chemical Dependency Program
- d. cooperation with State Lawyers Assistance Committee
- e. psychiatric/psychological counseling
- f. passed Multi-State Professional Responsibility exam
- g. attended law office management counseling and/or programs
- h. other - (please specify) \_\_\_\_\_
- i. none required

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

(Name)

*(Rule 12.9 established by Order dated March 13, 1989, effective April 1, 1989.)*  
*(Rule 12.9 amended by Order dated February 5, 2001.)*  
*(Former Rule 12.9 redesignated as Rule 13.9; Rule 13.9 amended by Order dated May 3, 2017, effective January 1, 2018.)*  
*(Rule 13.9 amended by Order dated May 22, 2019, effective September 1, 2019.)*

**Rule 13.10 Compliance Declaration.**

A compliance declaration filed under BR 7.1(g) shall be in substantially the following form:

**COMPLIANCE DECLARATION**

In re: Reinstatement of

\_\_\_\_\_  
\_\_\_\_\_

(Name of attorney) (Bar number)

For reinstatement as an active/inactive (circle one) member of the OSB.

1. Full name \_\_\_\_\_ Date of Birth \_\_\_\_\_
2. Residence address \_\_\_\_\_ Telephone \_\_\_\_\_
3. I hereby attest that during my period of suspension from the practice of law from \_\_\_\_\_ to \_\_\_\_\_, (insert dates)

I did not at any time engage in the practice of law except where authorized to do so

OR

I engaged in the practice of law under the circumstances described on the attached [attach an explanation of activities relating to the practice of law during suspension].

4. I also hereby attest that I responded to the requests for information or records by Disciplinary Counsel and have complied with any subpoenas issued by Disciplinary Counsel, or provided good cause for not complying to the request.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

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[OSB Rules of Procedure \(Revised 9/1/2023\)](#)

99

(Name)

*(Rule 12.10 established by Order dated August 12, 2013, effective November 1, 2013.)*

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OSB Rules of Procedure (Revised 9/1/2023)

91

(Former Rule 12.10 redesignated as Rule 13.10; Rule 13.10 amended by Order dated May 3, 2017, effective January 1, 2018.)  
(Rule 13.10 amended by Order dated May 22, 2019, effective September 1, 2019.)

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