Rules Concerning the State Bar of Michigan

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RULES CONCERNING THE STATE BAR OF MICHIGAN

Rule 1. State Bar of Michigan.

The State Bar of Michigan is the association of the members of the bar of this state, organized and existing as a public body corporate pursuant to powers of the Supreme Court over the bar of the state. The State Bar of Michigan shall, under these rules, aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.

Rule 2. Membership.

Those persons who are licensed to practice law in this state shall constitute the membership of the State Bar of Michigan, subject to the provisions of these rules. Law students may become section members of the State Bar Law Student Section. None other than a member's correct name shall be entered upon the official register of attorneys of this state. Each member, upon admission to the State Bar and in the annual licensing statement, must provide the State Bar with:

(A) The member's correct name, physical address, and email address, that can be used, among other things, for the annual licensing statement and to effectuate electronic service as authorized by court rule, and such additional information as may be required. If the physical address provided is a mailing address only, the member also must provide a street or building address for the member's business or residence. No member shall practice law in this state until the information required in this Rule has been provided. Members shall promptly notify the State Bar in writing of any change of name, physical address, or email address. The State Bar shall be entitled to due notice of, and to intervene and be heard in, any proceeding by a member to alter or change the member's name. The name and address on file with the State Bar at the time shall control in any matter arising under these rules involving the sufficiency of notice to a member or the propriety of the name used by the member in the practice of law or in a judicial election or in an election for any other public office.

(B) A certification as to whether the member is in private practice. The signed certification shall be placed on the annual licensing statement and shall require the member's signature or electronic signature. If the member is in private practice, the certification must also include:

(1) whether the member or the member's law firm has a policy to maintain interest-bearing trust accounts for deposit of client and third-party funds; and

(2) beginning in 2023, a designation of the attorney's Interim Administrator, as required by Rule 21. If the attorney is designating his or her own Interim Administrator, the designation must include the name and address of the active Michigan attorney in good standing or a Michigan law firm that includes at least one other Michigan attorney in good standing, who will serve, if needed, as the member's Interim Administrator.

(C) An indication whether the member is willing to be placed on the State Bar's list of members who agree to serve as Interim Administrator for other members.

Rule 3. Membership Classes.

(A) Active.

A person engaged in the practice of law in Michigan must be an active member of the State Bar. In addition to its traditional meaning, the term "person engaged in the practice of law" in this rule includes a person licensed to practice law in Michigan or another jurisdiction and employed in Michigan in the administration of justice or in a position which requires that the person be a law school graduate, but does not include (1) a judicial law clerk who is a member or is seeking to become a member of the bar of another jurisdiction and who does not intend to practice in Michigan after the clerkship ends, or (2) an instructor in law. Only an active member may vote in a State Bar election or hold a State Bar office. A person not an active member who engages in the practice of law is subject to discipline or prosecution for unauthorized practice.

(B) Inactive.

An active member may request an inactive classification.

(1) If the period of inactivity is less than 3 years, the member may be reclassified as active by

(a) applying to the State Bar secretary;

(b) paying the full amount of the annual dues for the current fiscal year; and

(c) demonstrating that no disciplinary action has been taken or is currently pending in another jurisdiction.

(2) If the period of inactivity is 3 years or more, the member must, in addition to fulfilling the requirements of subrule (B)(1)(a)-(c), obtain a certificate from the Board of Law Examiners that the member possesses sufficient ability and learning in the law to enable the member to properly practice as an attorney and counselor in Michigan.

If the inactive member has been or is currently subject to disciplinary action in another jurisdiction, the application must be referred to the Attorney Discipline Board and action on the application delayed until the board makes a decision.

(C) Law Student.

A student in good standing at a law school approved by the Board of Law Examiners or the American Bar Association may be a member of the law student section.

(D) Affiliate.

A legal assistant as defined in the State Bar bylaws may become an affiliate member of the State Bar of Michigan and shall thereupon be a member of the legal assistants section. A legal administrator as defined in the State Bar bylaws may become an affiliate member of the State Bar of Michigan and shall thereupon be a member of the legal administrators section.

(E) Resignation.

An active or inactive member who is not subject to pending disciplinary action in this state or any other jurisdiction may resign from membership by notifying the secretary of the State Bar in writing. The secretary shall notify the member when the request is accepted, whereupon the member no longer will be qualified to practice law in Michigan and no longer will be eligible to receive any other member benefits. The secretary of the State Bar also shall notify the clerk of the Supreme Court of the resignation. To be readmitted as a member of the State Bar, a person who has voluntarily resigned and who is not otherwise eligible for admission without examination under Rule 5 of the Rules for the Board of Law Examiners must reapply for admission, satisfy the Board of Law Examiners that the person possesses the requisite character and fitness to practice law, obtain a passing score on the Michigan Bar Examination, and pay applicable fees and dues. Resignation does not deprive the Attorney Grievance Commission or the Attorney Discipline Board of jurisdiction over the resignee with respect to misconduct that occurred before the effective date of resignation.

(F) Emeritus Membership.

Effective October 1, 2004, an active or inactive member who is 70 years of age or older or has been a member of the State Bar for at least 30 years, and who is not subject to pending disciplinary action in this state or any other jurisdiction, may elect emeritus status by notifying the secretary of the State Bar in writing. The secretary shall notify the member when the request is accepted, whereupon the member no longer will be qualified to practice law in Michigan, but will be eligible to receive other member benefits as directed by the Board of Commissioners of the State Bar. The secretary of the State Bar also shall notify the clerk of the Supreme Court when a member is given emeritus status. Members who were age 70 or older as of October 1, 2003, who resigned or were suspended from membership after October 1, 2003, but before September 30, 2004, for nonpayment of dues are to be automatically reinstated as emeritus members, effective October 1, 2004, unless they notify the secretary of the State Bar that they do not wish to be reinstated.

(1) Grievances and Discipline. Emeritus status does not deprive the Attorney Grievance Commission or the Attorney Discipline Board of jurisdiction over the emeritus member.

(2) Readmission. To be readmitted as an active member of the State Bar, a member who has voluntarily elected emeritus status and who is not otherwise eligible for admission without examination under Rule 5 of the Rules for the Board of Law Examiners must reapply for admission, satisfy the Board of Law Examiners that the person possesses the requisite character and fitness to practice law, obtain a passing score on the Michigan Bar Examination, and pay applicable fees and dues.

Rule 4. Membership Dues.

(A) An active member's dues for each fiscal year (October 1 through September 30) are payable at the State Bar's principal office by October 1 of each year. The dues consist of three separate amounts to be set by the Supreme Court to fund: (1) the Attorney Grievance Commission and the Attorney Discipline Board, (2) the client security fund administered by the State Bar, and (3) other State Bar expenses. Each amount shall be listed separately in the

dues notice. An inactive member shall be assessed one-half the amounts assessed an active member for the client security fund and general expenses, but the full amount designated for the discipline agencies.

(B) A member who is admitted to the State Bar between April 1 and September 30 shall be assessed one-half the full amount of dues for that fiscal year.

(C) Dues notices must be sent to all members before September 20. A $50 late charge will be added to a dues payment postmarked after November 30. The State Bar must send a written notice of delinquency to the last recorded address provided as required by Rule 2 to a member who fails to pay dues by November 30. Active members must be notified by registered or certified mail. Inactive members must be notified by first class mail. If the dues and the late charge are not paid within 30 days after the notice is sent, the individual is suspended from membership in the State Bar. If an individual is not subject to a disciplinary order and the suspension is for less than 3 years, the member will be reinstated on the payment of dues, a $100 reinstatement fee, and late charges owing from the date of the suspension to the date of the reinstatement. If the suspension is for 3 years or more, the individual must also apply for recertification under Rule 8 for the Board of Law Examiners.

(D) A person who has been a member of the State Bar for at least 50 years shall not be assessed general expenses, but shall pay the full amount assessed other members for the client security fund and the discipline agencies. A member who elects emeritus status pursuant to Rule 3(F) is exempt from paying dues.

(E) An active or inactive member in good standing serving in the United States Armed Forces in full-time active-duty status, as defined by the United States Department of Defense, is eligible for a waiver of payment of dues, including the attorney discipline system fee and the client security fund assessment. An application for a waiver of dues that includes a copy of military orders showing federal active-duty status must be made for each year for which a dues waiver is requested, and a waiver will be granted up to a total of four times. A member for whom a waiver of dues is granted continues to be subject to the disciplinary system.

(F) Annual dues for affiliate members and law student section members are established annually by the Board of Commissioners in an amount not to exceed one-third of the portion of dues for active members which fund State Bar activities other than the attorney discipline system and are payable at the State Bar's principal office by October 1 of each year.

(G) All dues are paid into the State Bar treasury and maintained in segregated accounts to pay State Bar expenses authorized by the Board of Commissioners and the expenses of the attorney discipline system within the budget approved by the Supreme Court, respectively.

Rule 5. Board of Commissioners.

Section 1. Powers, Functions, and Duties.

(a) The Board of Commissioners shall

(1) implement policy adopted by the assembly;

(2) establish policy for the State Bar between assembly meetings not inconsistent with prior action of the assembly;

(3) manage the State Bar, adopt a budget for it, and supervise receipt and disbursements of State Bar funds;

(4) prescribe the function and duties of committees;

(5) provide for the organization of sections (including a law student section) of the State Bar, membership in which is voluntary, and determine the amount and regulate the collection and disbursement of section dues;

(6) receive and review committee and section reports and recommendations proposing action by the board and take interim or final action that the board finds feasible, in the public interest, and germane to the functions and purposes of the State Bar; and

(7) arrange for the publication of a journal to be issued at least 4 times a year and sent to the active members without charge.

(b) The Board of Commissioners may

(1) adopt bylaws;

(2) appoint standing and special committees, including

(A) character and fitness,

(B) civil procedure,

(C) court administration,

(D) criminal jurisprudence,

(E) fiscal,

(F) grievance,

(G) judicial qualifications,

(H) legal education,

(I) legislation,

(J) professional and judicial ethics,

(K) scope and correlation, and

(L) unauthorized practice of law;

(3) at the request of the governor, the legislature, or the supreme court, or on its own initiative, conduct an investigation of any matter relating to the state's courts or tribunals, to the practice and procedure in them, or to the administration of justice, and report to the officer or body making the request;

(4) acquire and hold real and personal estate by lease, purchase, gift, devise, or bequest, and sell, convey, mortgage, pledge, or release property;

(5) borrow money and pledge for repayment in annual installments, in anticipation of future revenues from annual membership dues, and issue notes, but the total indebtedness outstanding may not at any time exceed 40 percent and the principal installment due in one year may not exceed 8 percent of the revenues from required annual membership dues for the 5 preceding fiscal years;

(6) accept and hold real and personal estate in trust for any use or purpose germane to the general functions and purposes of the State Bar;

(7) bring an action or proceeding at law or in equity in a state or federal court or tribunal and intervene and be heard on an issue involving the membership or affairs of the State Bar in an action or proceeding pending in a state or federal court or tribunal.

(c) The board may assign these powers, functions, and duties to another State Bar agency but the board may reverse or modify the exercise of a power, function, or duty by a delegated agency.

Section 2. Membership; Terms.

The board consists of:

(1) 20 elected members, each serving a 3-year term commencing upon the adjournment of the meeting of the outgoing Board of Commissioners held at the annual meeting following the member's election.

(2) 5 members appointed by the Supreme Court, each serving a 3-year term commencing upon the adjournment of the meeting of the outgoing Board of Commissioners held at the annual meeting following the member's appointment. In the event that a commissioner appointed by the Supreme Court is not appointed before the adjournment of the annual meeting at which time he or she would ordinarily take office, that member shall begin to serve immediately upon appointment. Except where appointment is made under Section 5, such appointed commissioner shall be considered to have been in office at the beginning of the term for which the appointment is made.

(3) The chairperson-elect, the chairperson and the immediate past chairperson of the State Bar young lawyers section, each serving for the years during which they hold those positions.

(4) The chairperson, vice-chairperson, and clerk of the assembly, each serving for the years during which they hold those positions.

Section 3. Election Districts; Apportionment.

The board shall establish commissioner election districts consisting of contiguous judicial circuits and containing, as nearly as practicable, an equal lawyer population. The largest geographic area may have the highest deviation from population equality.

The board shall review and revise election districts every 6 years. If, as the result of a revision in election districts, no elected commissioner maintains his or her principal office in a district or a district has fewer elected commissioners than it is entitled to, the board may designate an elected commissioner or commissioner at large for the district until the next annual election when the vacancy will be filled.

To provide for an orderly transition and to preserve the requirement that approximately one-third of the elected board members are elected each year, the board may extend the term of an elected commissioner for a period not exceeding one year and the authorized membership of the board will be enlarged for the period affected.

An elected commissioner whose district is merged with another district as the result of a revision of commissioner election districts may nevertheless serve the full term for which the

commissioner was elected and the authorized membership of the board will be temporarily enlarged for that purpose.

Section 4. Nomination and Election of Commissioners.

A commissioner is elected by the active members having their principal offices in the election district. To be nominated, a member must have his or her principal office in the election district and file a petition signed by at least 5 persons entitled to vote for the nominee with the secretary at the principal office of the State Bar between April 1 and April 30. Voting eligibility is determined annually on May 1. Before June 2, the secretary shall mail or electronically deliver a ballot to everyone entitled to vote. A ballot will not be counted unless marked and returned to the secretary at the principal office of the State Bar in a sealed envelope bearing a postmark date not later than June 15, or returned electronically or telephonically in conformity with State Bar election procedure not later than June 15. A board of 3 tellers appointed by the president shall canvass the ballots, and the secretary shall certify the count to the supreme court clerk. A member of or a candidate for the board may not be a teller. The candidate receiving the highest number of votes will be declared elected. In the case of a tie vote, the tellers shall determine the successful candidate by lot. In an election in which terms of differing length are to be filled, the successful candidate with the lowest vote shall serve the shortest term to be filled.

Section 5. Vacancy.

The board shall fill a vacancy among the elected commissioners and the Supreme Court shall fill a vacancy among the appointed commissioners, to serve the remainder of an unexpired term. If an elected commissioner moves his or her principal office out of his or her election district, the board shall declare that a vacancy exists. If an elected or appointed commissioner does not attend two consecutive meetings of the board without being excused by the president because of a personal or professional emergency, the president shall declare that a vacancy exists.

Section 6. Meetings.

The board shall meet during the annual meeting of the State Bar and before the convening of the assembly and shall hold not less than 4 meetings each year. The interval between board meetings may not be greater than 3 months. A special meeting may be held at the president's call and must be held at the secretary's call at the request of three or more board members. At a meeting, a majority of the board constitutes a quorum.

Section 7. Voting.

Each member of the board may cast only one vote. Voting by proxy is not permitted.

By order dated May 10, 2005, this Court adopted the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan with immediate effect. 472 Mich cxii-cxv (2005). Notice and an opportunity for comment at the September 29, 2005, public hearing having been provided, and consideration having been given, the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan are retained.

Rule 6. Representative Assembly.

Section 1. Powers, Functions and Duties.

The Representative Assembly is the final policy-making body of the State Bar. No petition may be made for an increase in State Bar dues except as authorized by the Representative Assembly.

Section 2. Membership.

The assembly consists of:

(1) 142 elected representatives.

(2) 8 commissioner representatives who are the members of the executive committee of the Board of Commissioners. No other member of the board may serve in the assembly.

Notwithstanding the provisions of this section, all representatives previously appointed by the Supreme Court shall serve until the end of their terms. The provisions of Section 6 with regard to the declaration of a vacancy shall also apply, where applicable, to the remaining appointed representatives. Vacancies in appointed positions shall not be filled. In order to achieve the increase in the number of elected representatives from 130 to 142, the assembly shall allocate additional seats each year as necessary to replace former appointed representatives whose terms expire or whose seats have become vacant.

Section 3. Election Districts; Apportionment.

The assembly shall apportion the representatives every 6 years. The judicial circuits are the election districts. Each judicial circuit is entitled to one representative. The remaining seats are to be apportioned among the circuits on the basis of lawyer population, determined on February 1 of the reapportionment year. If as a result of the reapportionment any circuit becomes entitled to fewer representatives than are currently elected therefrom, the assembly representatives from that circuit may nevertheless serve the full terms for which they were elected and the authorized membership of the assembly will be temporarily enlarged for that purpose.

Section 4. Nomination and Election of Representatives.

A representative is elected by the active members having their principal offices in a judicial circuit. To be nominated, a member must have his or her principal office or primary residence, or regularly practice law in the judicial circuit and file a petition signed by the nominee with the secretary at the principal office of the State Bar between April 1 and April 30. Voting eligibility is determined annually on May 1. Before June 2, the secretary shall mail or electronically deliver a ballot to everyone entitled to vote. When an assembly member seeks reelection, the election notification must disclose his or her incumbency and the number of meetings of the assembly that the incumbent has attended in the following form: "has attended ____ of ____ meetings during the period of [*his or her*] incumbency." A ballot may not be counted unless marked and returned to the secretary at the principal office of the State Bar in a sealed envelope bearing a postmark date not later than June 15, or returned electronically or telephonically in conformity with State Bar election procedure not later than June 15. A board of tellers appointed by the president shall canvass the ballots and the secretary shall certify the count to the supreme court clerk. A member of or candidate for the assembly may not be a teller. The candidate receiving the highest number of votes will be declared elected. In the case of a tie vote, the tellers shall determine the successful candidate by lot. An election will occur in each judicial circuit every 3 years, except that in a judicial circuit entitled to 3 or more representatives, one-third will be elected each year. If a short-term representative is to be elected at the same election as a full-term one, the member with the higher vote total is elected to the longer term.

Section 5. Terms.

An elected representative shall serve a three-year term beginning with the adjournment of the annual meeting following the representative's election and until his or her successor is elected. A representative may not continue to serve after completing two successive three-year terms unless service is extended under the provisions of Rule 7, Section 2.2

Section 6. Vacancy.

If an elected representative ceases to be a member of the State Bar of Michigan, dies during his or her term of office, moves his or her principal office or primary residence out of the judicial circuit he or she represents and is no longer regularly practicing law in that circuit, or submits a written resignation acceptable to the chairperson, the chairperson shall declare that a vacancy exists. If an elected representative does not attend two consecutive meetings of the assembly without being excused by the chairperson because of a personal or professional emergency, or does not attend three consecutive meetings of the assembly for any reason or reasons, the chairperson shall declare that a vacancy exists.

When a vacancy exists, the remaining representatives from the affected judicial circuit or, if there are none, the State Bar-recognized local bar associations in the affected judicial circuit, shall nominate a successor prior to the next meeting of the assembly. The assembly may appoint such nominee or, in the event of failure to receive such nomination, any lawyer from the affected judicial circuit, to fill the vacancy, effective immediately upon such appointment and continuing until the position is filled by the election process.

In the event that at the time a vacancy arises under this rule more than eighteen months remain in the term of an elected representative, there will be an election for the unexpired term at the next annual election of representatives. If there are less than eighteen months remaining in the term of an elected representative when a vacancy arises, no interim election will be held. The interim appointment ends when the secretary certifies the election count, and the person elected shall take his or her seat immediately.

Section 7. Meetings.

The assembly shall meet:

(1) during the annual meeting of the State Bar;

(2) annually in March or April; and

(3) at any other time and place it determines.

A special meeting may be called by the Board of Commissioners, or by the chairperson and clerk, who shall determine the time and place of such meeting. A special meeting must be called by the chairperson on the written request of a quorum of the Representative Assembly. Fifty members constitute a quorum. The chairperson of the assembly presides at all of its meetings. The assembly may adopt rules and procedures for the transaction of its business not inconsistent with these rules or the bylaws of the State Bar. A section chairperson is entitled to floor privileges without a vote when the assembly considers a matter falling within the section's jurisdiction.

Section 8. Voting.

Each member of the assembly may cast only one vote. Voting by proxy is not permitted.

By order dated May 10, 2005, this Court adopted the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan with immediate effect. 472 Mich cxii-cxv (2005). Notice and an opportunity for comment at the September 29, 2005, public hearing having been provided, and consideration having been given, the amendments of Rules 2, 5, and 6 of the Rules Concerning the State Bar of Michigan are retained.

Rule 7. Officers.

Section 1. President, President-elect, Vice-president, Secretary, and Treasurer.

The officers of the Board of Commissioners of the State Bar of Michigan are the president, the president-elect, the vice-president, the secretary, and the treasurer. The officers serve for the year beginning with the adjournment of the annual meeting following their election and ending with the adjournment of the next annual meeting. A person may serve as president only once.

After the election of board members but before the annual meeting each year, the Board of Commissioners shall elect from among its members, by majority vote of those present and voting, if a quorum is present:

(1) a vice-president who, after serving a one-year term, automatically succeeds to the office of president-elect for a one-year term, and then to the office of president, for a one-year term;

(2) a secretary; and

(3) a treasurer.

If a vice-president is not able to assume the duties of president-elect, the Board of Commissioners also shall elect from among its members, by majority vote of those present and voting, if a quorum is present, a president-elect who becomes president on the adjournment of the next succeeding annual meeting.

A commissioner whose term expires at the next annual meeting is not eligible for election as an officer unless the commissioner has been reelected or reappointed for another term as a commissioner. If the remaining term of a commissioner elected treasurer, secretary, vice-president, or president-elect will expire before the commissioner completes a term as president, the term shall be extended for an additional year or years to allow the commissioner to serve consecutive terms in each successive office through the completion of the commissioner's term as president, provided that the commissioner is elected by the Board of Commissioners to serve in each successive office. If the term of an elected commissioner is so extended, the authorized membership of the board is increased by one for that period; a vacancy in the district the treasurer, secretary, vice-president, or president-elect represents exists when the term as a commissioner would normally expire, and an election to choose a successor is to be held in the usual manner.

No person holding judicial office may be elected or appointed an officer of the Board of Commissioners. A judge presently serving as an officer may complete that term but may not thereafter, while holding judicial office, be elected or appointed an officer. A person serving as an officer who, after the effective date of this amendment, is elected or appointed to a judicial office, must resign as an officer of the board on or before the date that person assumes judicial office.

Section 2. Chairperson, Vice-Chairperson, and Clerk of the Assembly.

A clerk of the Representative Assembly chosen from the elected or appointed membership of the assembly must be elected by the assembly at each annual meeting by majority vote of those present and voting, if there is a quorum present. The clerk serves a one-year term beginning with the adjournment of the annual meeting at which he or she is elected and ending with the adjournment of the next annual meeting at which he or she becomes vice-chairperson for a one-year term concluding with the next annual meeting, at which time he or she becomes chairperson for a one-year term concluding with the next annual meeting. If a representative is elected clerk of the assembly with only one or two years of his or her term remaining, the term of the representative is extended for an additional year or years to permit him or her to serve consecutive terms as vice-chairperson, and chairperson. If the term of an elected representative is so extended, the authorized membership of the assembly is increased by one for the appropriate period; a vacancy in the judicial circuit the chairperson-elect or chairperson represents exists when his or her term would normally expire and an election conducted to choose a successor having the vote to which the representative for that judicial circuit is entitled is to be held in the usual manner. Assembly officers may not concurrently hold another State Bar office and may not be reelected as assembly officers.

No person holding judicial office may be elected or appointed an officer of the Representative Assembly. A judge presently serving as an officer may complete that term but may not thereafter, while holding judicial office, be elected or appointed an officer. A person serving as an officer who, after the effective date of this amendment, is elected or appointed to a judicial office, must resign as an officer of the assembly on or before the date that person assumes judicial office.

Section 3. Duties.

The president shall preside at all State Bar meetings and at all meetings of the Board of Commissioners and perform other duties that are usually incident to that office.

The president-elect shall perform the duties assigned by the president. If the president is unable to perform his or her duties or is absent from a meeting of the board or the State Bar, the president-elect shall perform the duties of the president while the disability or absence continues.

The vice-president shall perform the duties assigned by the president and if the president and president-elect are unable to perform their duties or are absent from a meeting of the board or the State Bar, the vice-president shall perform the duties of the president while the disability or absence continues.

The secretary shall act as secretary of the Board of Commissioners, prepare an annual report, and perform the duties usually incident to that office.

The treasurer shall prepare an annual report and perform the duties usually incident to that office. The treasurer will furnish bond that the Board of Commissioners directs.

The Board of Commissioners may assign other duties to the president, president-elect, vice-president, secretary, and treasurer.

The chairperson of the Representative Assembly shall preside at all of its meetings and perform the other duties usually incident to that office, together with additional duties the assembly may assign. The vice-chairperson shall perform duties assigned by the chairperson or as the assembly

may assign. The clerk of the assembly shall act as secretary of the assembly and perform the other duties the assembly assigns. If the chairperson is unable to perform his or her duties or is absent from a meeting of the assembly, the vice-chairperson shall perform the chairperson's duties while the disability or absence continues.

Section 4. Vacancies.

If any office other than that of president or chairperson or vice-chairperson or clerk of the Representative Assembly becomes vacant, the Board of Commissioners shall fill the office for the unexpired term. If the office of president becomes vacant, the president-elect becomes president for the unexpired term, and may continue as president at the adjournment of the next annual meeting. If the office of president becomes vacant when the office of president-elect is also vacant, the Board of Commissioners shall fill both vacancies for the unexpired term. If the office of chairperson of the Representative Assembly becomes vacant, the vice-chairperson becomes chairperson for the unexpired term, and may continue as chairperson at the adjournment of the next annual meeting. If the office of chairperson becomes vacant when the office of vice-chairperson or clerk is also vacant, the assembly shall fill all vacancies for the unexpired term at its next meeting; the secretary shall convene and preside at the meeting until successors are elected.

Rule 8. Executive Director.

The Board of Commissioners may appoint an Executive Director, and such assistants, who shall serve on a full-time or part-time basis during such period and for such compensation as the Board of Commissioners may determine, but shall at all times be subject to removal by the board with or without cause. The Executive Director shall perform such duties as the Board of Commissioners may from time to time prescribe. The Executive Director shall have the privilege of the floor at all meetings of the Board of Commissioners, Representative Assembly, sections, section councils, committees, or subcommittees, without vote.

Rule 9. Disbursements.

The Board of Commissioners shall make the necessary appropriations for disbursements from the funds of the treasury to pay the necessary expenses of the State Bar of Michigan, its officers, and committees. It shall be the duty of the board to cause proper books of account to be kept and to have them audited annually by a certified public accountant. On or before December 31 each year the board shall cause to be presented an audited financial statement of the receipts and expenditures of the State Bar of Michigan for the fiscal year ending the preceding September 30. Such a statement shall also be filed with the Clerk of the Supreme Court and shall be published in the January issue of the official publication of the State Bar of Michigan.

No officer, member of the Board of Commissioners, member of the Representative Assembly, or member of a committee or section of the State Bar of Michigan shall receive compensation for services rendered in connection with the performance of his or her duties. They may, however, be reimbursed for the necessary expenses incurred in connection with the performance of their duties.

Rule 10. Annual Meeting.

The State Bar shall hold an annual meeting, which shall include a meeting of the Board of Commissioners and the Representative Assembly and, if requested, the annual congress, as well as meetings of sections and committees that the Board of Commissioners may set. The Board of Commissioners shall designate the time (no later than November 1) and place of the annual meeting.

Rule 11. Committees.

Section 1. Appointment.

Committees of the State Bar of Michigan may be established for the promotion of the objects of the State Bar of Michigan, and shall consist of limited numbers of members appointed by the president with their number, jurisdiction, method of selection and tenure determined in accordance with the bylaws and the resolution establishing the committee. In the event of the resignation, death or disqualification of any member of a committee, the president shall appoint a successor to serve for the unexpired term.

Section 2. Classes.

The classes of committees of the State Bar of Michigan shall be:

(a) Standing committees, for the investigation and study of matters relating to the accomplishment of the general purposes, business and objects of the State Bar of Michigan of a continuous and recurring character, within the limitation of the powers conferred.

(b) Special committees, created by resolution of the Board of Commissioners defining the powers and duties of such committees, to investigate and study matters relating to the specific purposes, business and objects of the State Bar of Michigan of an immediate or non-recurring character. The life of any special committee shall expire at the end of the next annual meeting following its creation unless continued by action of the board.

Section 3. Powers.

The Committee on Arbitration of Disputes Among Lawyers, which has the authority to arbitrate disputes voluntarily submitted by lawyers, has the power to issue subpoenas (including subpoenas duces tecum), to take testimony under oath, and to rule on the admissibility of evidence according to the rules of evidence applicable to civil cases.

Rule 12. Sections.

Section 1. Establishment and Discontinuance.

New sections may be established and existing sections may be combined or discontinued or their names changed by the Board of Commissioners in a manner provided by the bylaws.

Section 2. Bylaws.

Each section shall have bylaws not inconsistent with these Rules or the bylaws of the State Bar of Michigan. Section bylaws or amendments thereof shall become effective when approved by the Board of Commissioners.

Section 3. Existing Sections.

Sections in existence at the time of the adoption of these Rules shall continue unless changed by action of the Board of Commissioners.

Rule 13. Initiative.

Three percent or more of the active members of the State Bar may by written petition require consideration by the Representative Assembly of any question of public policy germane to the function and purposes of the State Bar; the assembly may take action on it that it finds proper. The petition must be filed with the clerk at least 90 days before any meeting of the Representative Assembly at which the subject matter is to be considered.

Rule 14. Congress.

Section 1. Membership and Meeting.

Twenty-five or more active members of the State Bar may file a written petition with the secretary at the principal office of the State Bar no later than 90 days before the annual meeting of the State Bar, to require the convening of a congress of the active members of the State Bar in conjunction with the annual meeting to consider the subject matter raised in the petition. One hundred active members constitute a quorum. The president is the presiding officer of the congress and the secretary is the secretary of the congress.

Section 2. Agenda.

The congress shall consider all matters proposed for inclusion on its agenda in the petition requesting its convening. The congress may take action on the matters arising on its agenda that it deems warranted. The action is advisory only and must be communicated to the Board of Commissioners and to the Representative Assembly, but the congress may by a two-thirds vote place an issue on the agenda of the board or assembly. If an issue so initiated is first considered by the board, the board shall notify the assembly of its action, and the assembly shall concur with, modify, or reverse the board's action.

Rule 15. Admission to the Bar.

Section 1. Character and Fitness Committees.

(1) A standing committee on character and fitness consisting of 18 active members of the bar shall be appointed annually by the president of the State Bar of Michigan, who shall designate its chairperson. District character and fitness committees consisting of active members of the bar in each commissioner election district shall be appointed, and their chairpersons designated, by the State Bar commissioners within the respective districts, subject to approval by the State Bar Board of Commissioners.

(2) The standing committee and the district committees under its supervision shall investigate and make recommendations with respect to the character and fitness of every applicant for admission to the bar by bar examination and, upon request of the Board of Law Examiners, the character and fitness of any other applicant for admission.

(3) The State Bar of Michigan shall assign staff to assist the standing and district committees in the discharge of their duties.

(4) The standing committee and each district committee shall meet at the times and places designated by their respective chairpersons. Five members of the standing committee or 3 members of a district committee shall constitute a quorum. The action of a majority of those present constitutes the action of a committee.

(5) State Bar recommendations concerning the character and fitness of an applicant for admission to the bar shall be transmitted to the Board of Law Examiners in accordance with the following procedure:

(a) An applicant shall be recommended favorably by State Bar staff without referral to committee when investigation of all past conduct discloses no significant adverse factual information.

(b) In all other instances, applicants shall be referred to the appropriate district committee for personal interview unless the chairperson or other member of the standing committee designated by the chairperson determines that any adverse information reflected in the file would under no circumstance justify a committee determination that the applicant does not possess the character and fitness requisite for admission, in which event the application shall be transmitted to the Board of Law Examiners with a favorable recommendation.

(c) District committees shall, under the supervision and direction of the standing committee, investigate the character and fitness (other than scholastic) of every applicant referred to them. They shall do so by informal interview and any additional investigation which to them seems appropriate. District committees shall make a written report and recommendation to the standing committee concerning each applicant referred to them.

(d) Upon receiving a district committee report and recommendation, the standing committee shall endorse the recommendation, take the recommendation under advisement pending the receipt of additional information that it deems necessary, remand the recommendation to the district committee with instructions for further proceedings, or reject the recommendation and conduct a hearing de novo.

(e) If the standing committee endorses a report and recommendation of a district committee that an applicant has the requisite character and fitness for admission to the bar, it shall transmit that recommendation to the Board of Law Examiners.

(f) If the standing committee endorses a report and recommendation of a district committee that an applicant does not have the requisite character and fitness for admission to the bar, it shall furnish the applicant with a copy of the report and recommendation and advise the applicant of the right to a formal hearing before the standing committee provided request therefor is made in writing within 20 days. If the applicant requests a formal hearing within the time permitted, a hearing shall be

scheduled before the standing committee. If the applicant does not request a formal hearing before the standing committee within the time permitted, the standing committee shall thereupon transmit the report and recommendation of the district committee to the Board of Law Examiners.

(g) At the conclusion of any hearing conducted by the standing committee it shall transmit its report and recommendation to the Board of Law Examiners.

(6) Each applicant is entitled to be represented by counsel at the applicant's own expense at any stage of character and fitness processing.

(7) Information obtained in the course of processing an application for admission to the bar may not be used for any other purpose or otherwise disclosed without the consent of the applicant or by order of the Supreme Court.

(8) Notwithstanding any prohibition against disclosure in this rule or elsewhere, the committee on character and fitness shall disclose information concerning a bar application to the Attorney Grievance Commission during the course of the commission's investigation of a disciplined lawyer's request for reinstatement to the practice of law. Upon receiving a request for character and fitness information and proof that a disciplined lawyer is seeking reinstatement to the practice of law, the committee shall notify the lawyer that the commission has requested the lawyer's confidential file. The committee then shall disclose to the commission all information relating to the lawyer's bar application. The commission and the grievance administrator shall protect such information, as provided in MCR 9.126(D). The administrator shall submit to a hearing panel, under seal, any information obtained under this rule that the administrator intends to use in a reinstatement proceeding. The hearing panel shall determine whether the information is relevant to the proceeding, and only upon such a determination may the administrator use the information in a public pleading or proceeding.

(9) Any information pertaining to an application for admission to the bar submitted to a district committee, the standing committee, the Board of Law Examiners or the Supreme Court must also be disclosed to the applicant.

(10) A person is absolutely immune from suit for statements and communications transmitted solely to the State Bar staff, the district committee, the standing committee or the Board of Law Examiners, or given in the course of an investigation or proceeding concerning the character and fitness of an applicant for admission to the bar. The State Bar staff, the members of the district and standing committees and the members and staff of the Board of Law Examiners are absolutely immune from suit for conduct arising out of the performance of their duties.

(11) The standing committee has the power to issue subpoenas (including subpoenas duces tecum), to take testimony under oath, and to rule on the admissibility of evidence guided, but not strictly bound, by the rules of evidence applicable to civil cases. An applicant is entitled to use the committee's subpoena power to obtain relevant evidence by request submitted to the chairperson of the standing committee.

(12) Formal hearings conducted by the standing committee shall be suitably recorded for the later production of transcripts, if necessary.

(13) An applicant is entitled to a copy of the entire record of proceedings before the standing committee at the applicant's expense.

(14) An applicant is entitled to at least 10 days notice of scheduled district committee interviews and standing committee hearings. The notice shall contain the following information:

(a) The time and place of the interview or hearing;

(b) A statement of the conduct which is to be the subject of the interview or hearing;

(c) The applicant's right to be represented by counsel; and

(d) A description of the procedures to be followed at the interview or hearing, together with copies of any applicable rules.

(15) An applicant has the burden of proving by clear and convincing evidence that he or she has the current good moral character and general fitness to warrant admission to the bar.

(16) Upon request made no later than 5 days prior to a scheduled interview or hearing, the applicant and State Bar staff may demand of the other that they be furnished with the identity of any witnesses to be produced at the interview or hearing as well as an opportunity for inspecting or copying any documentary evidence to be offered or introduced.

(17) If an application is withdrawn following an adverse recommendation by a district committee or the standing committee, or, if following such an adverse recommendation the applicant fails to appear for further proceedings or takes no further action, the standing committee shall notify the applicant that the application for admission to the bar may not be renewed until the expiration of two years from the date of the adverse recommendation by the district committee or by the standing committee, or such greater period as the committee specifies, up to a maximum period of five years. The notification shall specify the reasons for the imposition of a waiting period that is longer than two years.

(18) An applicant who has been denied character and fitness certification for admission to the bar by the Board of Law Examiners may not reapply for character and fitness certification for a period of two years following the denial or such greater period specified in the decision denying certification, up to a maximum period of five years. The decision shall specify the reasons for the imposition of a waiting period that is longer than two years.

(19) The standing committee may adopt rules of procedure governing the processing and investigation of applications for admission to the bar and proceedings before district committees and the standing committee not inconsistent with these rules.

(20) An applicant is entitled to review by the Board of Law Examiners of any report and recommendation filed with the board concluding that the applicant does not have the character and fitness requisite for admission.

(21) Every applicant for admission by examination and any other applicant whose application is submitted to the standing committee on character and fitness for evaluation and recommendation shall pay to the State Bar of Michigan a fee of $375 for

the character and fitness investigation authorized by this rule. An additional fee of $175 shall be required for character and fitness evaluations related to applications for the February examination that are submitted after November 1, and applications for the July examination that are submitted after March 1.

Section 2. Foreign Attorney; Temporary Permission.

Any person who is duly licensed to practice law in another state or territory, or in the District of Columbia, of the United States of America, or in any foreign country, may be temporarily admitted under MCR 8.126.

Section 3. Procedure for Admission; Oath of Office.

(1) Each applicant to whom a certificate of qualification has been issued by the board of law examiners is required to appear personally and present such certificate to the Supreme Court, the Court of Appeals, or one of the circuit courts of this state. Upon motion made in open court by an active member of the State Bar of Michigan, the court may enter an order admitting such applicant to the bar of this state. The clerk of such court is required to forthwith administer to such applicant in open court the following oath of office:

I do solemnly swear (or affirm):

I will support the Constitution of the United States and the Constitution of the State of Michigan;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with my client's business except with my client's knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any cause for lucre or malice;

I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed on members of the bar as conditions for the privilege to practice law in this state.

(2) The applicant is required to subscribe to such oath of office by signing a copy and to register membership in the State Bar of Michigan in the manner prescribed in Rule 2 of these rules and to pay the required dues before practicing law in this state. The clerk

shall record such admission, in the journal of such court, and shall preserve such oath of office in the records of the court. A roll of all persons admitted to the bar shall be kept in the office of the clerk of the Supreme Court.

(3) Admission to the bar of this state is an authorization to practice as an attorney and counselor in every court in this state.

Rule 16. Unauthorized Practice of the Law.

Section 1. The State Bar of Michigan is hereby authorized and empowered to investigate matters pertaining to the unauthorized practice of law and, with the authority of its Board of Commissioners, to file and prosecute actions and proceedings with regard to such matters.

Section 2. The State Bar of Michigan has the power to issue subpoenas to require the appearance of a witness or the production of documents or other tangible things concerning its investigation of an unauthorized practice of law complaint. Subpoenas may be prepared by the investigative staff of the State Bar of Michigan and served after approval by the Chairperson of the Standing Committee on Unauthorized Practice of Law. The subpoena may be served by certified mail, return receipt requested, and delivery restricted to the addressee or via hand delivery. The subpoena may also be served by e-mail, if the person to be served agrees.

A person who without just cause, after being commanded by a subpoena, fails or refuses to appear or produce documents or tangible things after being ordered to do so is in contempt. The State Bar of Michigan may initiate a contempt proceeding under MCR 3.606 in the circuit court for the county where the act or refusal to act occurred.

A subpoena issued pursuant to this rule shall be sufficient authorization for seeking the production of documents or other tangible things outside the State of Michigan. If the deponent or the person possessing the subpoenaed information will not comply voluntarily, the proponent of the subpoena may utilize MCR 2.305(C) or any similar provision in a statute or court rule of Michigan or of the state, territory, or country where the deponent or possessor resides or is present.

Section 3. A complainant or witness is absolutely immune from suit for statements and communications transmitted solely to State Bar staff and their agents, the Standing Committee on the Unauthorized Practice of Law or the State Bar of Michigan Board of Commissioners or given in the course of an investigation of an unauthorized practice of law complaint. State Bar staff and their agents, the Standing Committee on the Unauthorized Practice of Law, and the State Bar of Michigan Board of Commissioners are absolutely immune from suit for conduct arising out of the performance of their duties concerning unauthorized practice of law complaints.

Section 4. Notwithstanding the confidentiality provisions of SBR 19, the State Bar of Michigan may disclose information concerning an unauthorized practice of law complaint and information obtained during the investigation of an unauthorized practice of law complaint to persons and entities authorized and empowered to investigate and prosecute unauthorized practice of law complaints in other states.

Rule 17. Mandatory Legal Education Program for New Admittees to the Michigan Bar.

[Rescinded March 22, 1994, effective April 1, 1994, 444 Mich.]

Rule 19. Confidentiality of State Bar Records.

Section 1. Except as provided below, in Rule 15, or as otherwise provided by law, records maintained by the state bar are open to the public pursuant to the State Bar of Michigan Access to Information Policy.

Section 2. Records and information obtained in the course of reviewing and evaluating candidates for judicial vacancies may not be used for any other purpose or otherwise disclosed without the consent of the applicant and the Governor's Office, or by Order of the Supreme Court. Records and information include, but are not limited to, applicants' name, application, background, qualifications, and interview; communications concerning applicants; and information about the judicial qualification review process.

Section 3. Records and information of the Client Protection Fund, Ethics Program, Lawyers and Judges Assistance Program, Practice Management Resource Center Program, and Unauthorized Practice of Law Program that contain identifying information about a person who uses, is a participant in, is subject to, or who inquires about participation in, any of these programs, are confidential and are not subject to disclosure, discovery, or production, except as provided in section (4) and (5).

Section 4. Records and information made confidential under section (1) or (3) shall be disclosed:

(a) pursuant to a court order;

(b) to a law enforcement agency in response to a lawfully issued subpoena or search warrant, or;

(c) to the attorney grievance commission or attorney discipline board in connection with an investigation or hearing conducted by the commission or board, or sanction imposed by the board.

Section 5. Records and information made confidential under section (1) or (3) may be disclosed:

(a) upon request of the state bar and approval by the Michigan Supreme Court where the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, or

(b) at the discretion of the state bar, upon written permission of all persons who would be identified by the requested information.

Rule 20. Client Protection Fund.

Section 1. The State Bar of Michigan, through its Board of Commissioners, is authorized and empowered to administer and investigate Client Protection Fund claims and to supervise the Client Protection Fund, which shall include, but not be limited to, receiving, holding, managing, disbursing monies from, and recouping monies paid by the Client Protection Fund.

The Client Protection Fund is a program established to reimburse clients who have been victimized by lawyers who violate the profession's ethical standards and misappropriate funds entrusted to them.

Section 2. All members are bound by the Client Protection Fund Rules.

Section 3. The State Bar of Michigan has the power to issue subpoenas to require the appearance of a witness or the production of documents or other tangible things concerning its administration and investigation of Client Protection Fund claims. The subpoena may be served by certified mail, return receipt requested, and delivery restricted to the addressee or via hand delivery. The subpoena may also be served by e-mail or other electronic form, if the person to be served agrees.

A person who without just cause, after being commanded by a subpoena, fails or refuses to appear or produce documents or tangible things, after being ordered to do so is in contempt. The State Bar of Michigan may initiate a contempt proceeding under MCR 3.606 in the circuit court for the county where the act or refusal to act occurred.

A subpoena issued pursuant to this rule shall be sufficient authorization for seeking the production of documents or other tangible things outside the State of Michigan. If the deponent or the person possessing the subpoenaed information will not comply voluntarily, the proponent of the subpoena may utilize MCR 2.305(C) or any similar provision in a statute or court rule of Michigan or of the state, territory, or country where the deponent or possessor resides or is present.

Section 4. A complainant or witness is absolutely immune from suit for statements and communications transmitted solely to State Bar staff and their agents, the Standing Committee on the Client Protection Fund or the State Bar of Michigan Board of Commissioners or given in the course of an investigation of a Client Protection Fund claim. State Bar staff and their agents, the Standing Committee on the Client Protection Fund, and the State Bar of Michigan Board of Commissioners are absolutely immune from suit for conduct arising out of the performance of their duties and responsibilities regarding the Client Protection Fund.

Section 5. Notwithstanding the confidentiality provisions of SBR 19, the State Bar of Michigan may disclose information concerning Client Protection Fund claims and information obtained during the investigation of Client Protection Fund claims to persons and entities authorized and empowered to investigate and administer Client Protection Fund claims in other states.

Rule 21. Mandatory Interim Administrator Planning.

(A) An attorney in private practice must designate an Interim Administrator to protect clients by temporarily managing the attorney's practice if the attorney becomes unexpectedly unable to practice law as set forth in MCR 9.301 and pursuant to Rule 2(B) of the Rules Concerning the State Bar of Michigan. On the State Bar of Michigan annual licensing statement, the attorney shall, beginning in 2023 and annually thereafter,

(1) designate another active Michigan attorney in good standing or law firm with at least one other active Michigan attorney in good standing to serve as the attorney's Interim Administrator, or indicate that he or she wishes to designate an attorney from the list maintained by the State Bar of Michigan; and

(2) identify a person with knowledge of the location of the attorney's professional paper and electronic files and records and knowledge of the location of passwords and other security protocols required to access the attorney's professional electronic records and files. The person so identified may be the same person designated as the Interim Administrator.

The State Bar of Michigan shall create a confirmation process for designated Interim Administrators to confirm that they are willing to serve as Interim Administrator.

(B) A member who indicates in the annual licensing statement that he or she wishes to utilize the list maintained by the State Bar of Michigan must pay a $60 fee to the State Bar of Michigan each time he or she chooses this option on the annual licensing statement. The fees collected under this subrule may only be used to fund activities related to Interim Administrators and Interim Administrator planning.

(C) The State Bar of Michigan shall maintain a list of members who have indicated willingness to serve as Interim Administrators under Rule 2(C) of the Rules Concerning the State Bar of Michigan. This list must include the member's name, address, and the judicial circuit(s) and practice area(s) in which he or she is willing to be appointed as an Interim Administrator. The State Bar of Michigan will only match an attorney to an Interim Administrator upon notification that the attorney has become an Affected Attorney as defined in MCR 9.301(A).

(D) Every Interim Administrator, as that term is defined in MCR 9.301(E), shall obtain and retain professional liability insurance that covers conduct performed as an Interim Administrator under these rules and the Michigan Court Rules.

(E) The State Bar of Michigan shall submit a written report to the Michigan Supreme Court regarding the implementation of the Interim Administrator Program by January 1, 2024. The report shall contain an accounting of the funds received and expended under subrule (B).