

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR
PETITION TO AMEND RULES
REGULATING THE FLORIDA BAR -
BIENNIAL FILING 2014 HOUSEKEEPING

CASE NO. SC14-

PETITION TO AMEND THE RULES REGULATING THE FLORIDA BAR

The Florida Bar (the bar), pursuant to R. Regulating Fla. Bar 1-12.1, petitions this court for an order amending the Rules Regulating The Florida Bar and states:

Authority to File Petition

This petition has been authorized by the Board of Governors of The Florida Bar (Board of Governors).

Organization of Petitions

The bar's biennial submission has been divided into 4 parts with all 4 petitions filed simultaneously. The first petition, entitled Petition to Amend Rules Regulating The Florida Bar - Biennial Filing 2014, encompasses those rules that the bar believes may require more consideration and reflection by this Court. The second petition, entitled Petition to Amend Rules Regulating The Florida Bar - Biennial Filing 2014 Housekeeping, comprises those rules that the bar believes may require less contemplation by this Court and for which this Court may be inclined to expedite review. Many amendments in the housekeeping petition involved editorial changes, housekeeping amendments to update the rules based on the passage of prior amendments, changes to codify long-standing practice, changes to court rules, and other amendments likely to require less of this Court's attention than the proposals in the first petition. The third petition, entitled Petition to Amend Rule Regulating The Florida Bar 4-1.5 Fees and Costs for Legal Services, includes amendments solely to rule 4-1.5, addresses issues that may require more consideration and reflection by this Court, and for which the bar seeks oral argument. The fourth petition, entitled Petition to Amend Rule Regulating The Florida Bar 4-7.22 Lawyer Referral Services, includes

amendments solely to rule 4-7.22 , addresses issues that may require more consideration and reflection by this Court, was the subject of a study by a special committee, and for which the bar seeks oral argument.

This petition includes proposed new rules and amendments to existing rules that were approved by the Board of Governors between July 2012 and July 2014 except rule 4-6.5 as noted below.

This petition is the biennial housekeeping filing with amendments to multiple rules that are likely to require less of this Court's time and reflection.

Organization of Amendments

The bar proposes new rules or amendments to existing rules as indicated in the listing that follows. This section provides information regarding development of these rules proposals as required by Part III of this Court's administrative order number AOSC 06-14 of June 14, 2006 in *In Re: Guidelines for Rules Submissions*. Each entry provides the following information: an explanation of each amendment; the reasons for each recommended change; the sources of each proposal; the names of groups or individuals who commented or collaborated on a proposal during its development; voting records of pertinent committees and the Board of Governors; and dissenting views within the Board of Governors, if any, regarding each submission. Non-substantive edits to conform rules to this Court's style guide are not noted separately in this petition.

Some rules were the subject of multiple proposed revisions that were considered at different times. When that occurred, those amendments are reported as separate items to better reflect the distinctive aspects of their development.

Amendments

CHAPTER 1 GENERAL

SUBCHAPTER 1-4 BOARD OF GOVERNORS

Rule 1-4.3 Committees

Explanation: Adds program evaluation committee chair to the list of members who comprise the executive committee of the Board of Governors.

Reasons: The Program Evaluation Committee has an important role for the Board of Governors as it reviews all programs and the strategic plan, and it would be helpful in assisting the Executive Committee in making decisions for the chair of the Program Evaluation Committee to serve on the Executive Committee.

Source: Program Evaluation Committee

Background Information - Member Commentary/ Committee Action:

- Program Evaluation Committee approved on substantive and strategic basis by vote of 10-0 on October 3, 2013.
- Budget Committee approved 6-0 on November 7, 2013.
- Rules Committee approved on procedural basis by voice and e-mail vote of 5-0 on November 18, 2013, with minor grammatical changes.

Board Action: Board of Governors approved by voice vote on December 13, 2013.

SUBCHAPTER 1-3 TIME

Rule 1-13.1 Time

Explanation: Within subdivision (b) conforms the bar's computation of time to the Florida Rules of Civil Procedure regarding e-mail service.

Reasons: Amendments comport the rule to this Court's rulings in *In re Amendments to the Florida Rules of Judicial Administration, the Florida Rules of Civil Procedure, the Florida Rules of Criminal Procedure - Computation of Time*, 95 So.3d 96 (Fla. July 12, 2012).

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Disciplinary Procedures Committee approved rule change by vote of 3-0 on December 6, 2012.
- Rules Committee approved on a substantive and procedural basis by voice vote of 6-0 on January 8, 2013 conference call.
- Budget committee approved 9-0 on January 30, 2013.
- Program Evaluation Committee approved 9-0 on January 31, 2013.

Board Action: Board of Governors approved on consent calendar on April 19, 2013.

CHAPTER 2 BYLAWS OF THE FLORIDA BAR

SUBCHAPTER 2-7 SECTIONS AND DIVISIONS

Rule 2-7.3 Creation of Sections and Divisions

Explanation: Amendments delete subdivisions (a) and (b) listing the sections and divisions of the bar and adds that the bar will maintain current lists of sections and divisions of the bar and will post those lists on the bar's website.

Reasons: Sections and divisions change more frequently than the Rules Regulating The Florida Bar are amended. The changes will allow the bar to maintain a current list and ensure that the rules do not contain references to sections or divisions that have sunset, or fail to contain references to sections or divisions that have been created.

Source: Program Evaluation Committee

Background Information - Member Commentary/ Committee Action:

- Rules Committee approved on a substantive and procedural basis by vote of 5-0 on May 2, 2013.
- Budget Committee approved by vote of 7-0 on May 20, 2013.
- Program Evaluation Committee approved by vote of 11-0 on May 30, 2013.

Board Action: Board of Governors approved on consent calendar on July 26, 2013.

CHAPTER 3 RULES OF DISCIPLINE

SUBCHAPTER 3-7 PROCEDURES

Rule 3-7.1 Confidentiality

Explanation: Within subdivision (a)(12) adds disciplinary revocation as a matter which is public record and further updates subdivision (a)(12) to refer to amended Rule 3-7.12 on disciplinary revocation.

Reasons: Amendment are needed to update the confidentiality rule to include disciplinary revocation, a disciplinary option approved in this Court's opinion in *Amendments to Rules Regulating The Florida Bar (Biennial Report)*, 140 So.3d 541 (Fla. 2014).

Source: Bar Staff; Disciplinary Procedure Committee

Background Information - Member Commentary/ Committee Action:

- Disciplinary Procedures Committee approved by voice vote of 6-0 to on April 18, 2013.
- Rules Committee approved by vote of 5-0 on September 6, 2013.
- Program Evaluation Committee approved 10-0 on October 3, 2013.
- Budget Committee approved by a vote of 7-0 on October 25, 2013.

Board Action: Board of Governors approved by voice vote on December 13, 2013.

Rule 3-7.11 General Rules of Procedure

Explanation: Within subdivisions (b) and (c), amends rule to make clear that certified postal mail service on respondents is required only for service of formal complaints in referee proceedings. Service on respondents during the investigatory phases of bar proceedings may be made via e-mail or facsimile.

Reasons: Amendments are proposed to supplement the bar's other efforts to become paper free and to encourage its members to do so as well and to make the bar's procedures compatible with the Supreme Court of Florida's e-filing system.

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Disciplinary Procedures Committee approved by voice vote of 5-0 on January 30, 2014.
- Program Evaluation Committee approved on a strategic basis by vote of 11-0 on March 27, 2014.
- Rules Committee approved on a procedural basis by voice vote of 4-0 on April 22, 2014
- Budget Committee approved by e-mail vote of 7-0 on May 1, 2014.

Board Action: Board of Governors approved on consent May 23, 2014.

CHAPTER 4 RULES OF PROFESSIONAL CONDUCT

Preamble - A Lawyer's Responsibilities

Explanation: In terminology under "writing" changes "e-mail" to "electronic communications." Within the comment on "screened," changes "materials" to "information, including information in electronic form" in 2 places.

Reasons: The American Bar Association (ABA) adopted amendments to its model rules in response to recommendations from the ABA Ethics Commission 20/20 relating to technological changes requiring updating of terminology and concepts in the rules. The amendments to this rule follow the amendments to the ABA model rule.

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Rules Committee approved by 6-0 on substantive and procedural basis by voice and e-mail vote on January 10, 2014.
- Program Evaluation Committee approved on strategic basis by vote of 11-0 on January 30, 2014.
- Budget Committee approved by vote of 6-0 on February 21, 2014.

Board Action: Board of Governors approved by voice vote on March 28, 2014.

SUBCHAPTER 4-1 CLIENT-LAWYER RELATIONSHIP

Rule 4-1.4 Communication

Explanation: Within the comment, adds that communication about changes in firm composition is addressed in rule 4-5.8.

Reasons: The proposed commentary regarding changes in firm composition being addressed in rule 4-5.8 was proposed by former Board of Governors member D. Culver Smith to alert members to review another rule regarding how clients should be notified of a change in firm composition.

Source: Bar Member

Background Information - Member Commentary/ Committee Action:

- Rules Committee voted to disapprove changes to commentary that lawyer should promptly respond to or acknowledge client communication but to approve amendment to commentary that refers lawyers to Rule 4-5.8 regarding communication of change in firm composition by vote of 5-0 by voice and e-mail vote on November 18, 2013.
- Program Evaluation Committee approved by vote of 13-0 on December 12, 2013.
- Budget Committee approved by vote of 7-0 on January 9, 2014.

Board Action: Board of Governors approved by voice vote on January 31, 2013.

Rule 4-1.18 Duties to Prospective Client

Explanation: Throughout the rule and comment, replaces terms such as "discuss" with "consult" to make clear that communications between lawyer and prospective client are not limited to oral communications. Proposed comments also clarify when a person is considered a prospective client under this rule.

Reasons: The ABA adopted amendments to its model rules in response to recommendations from the ABA Ethics Commission 20/20 relating to technology and client development, requiring changes in terminology to address electronic communication. The amendments to this rule follow the amendments to the ABA model rule.

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Rules Committee approved on substantive and procedural basis by voice and e-mail vote of 6-0 on January 10, 2014.
- Program Evaluation Committee approved on strategic basis by vote of 11-0 on January 30, 2014.
- Budget Committee approved by vote of 6-0 on February 21, 2014.

Board Action: Board of Governors approved by voice vote on March 28, 2014.

SUBCHAPTER 4-4 TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

Rule 4-4.4 Respect for Rights of Third Persons

Explanation: Changes throughout the rule and comment add "electronically stored information" regarding inadvertently sent material. Proposed amendments to the comment clarify the meaning of inadvertently sent, the meaning of document

or electronically stored information, and clarify a lawyer's obligation regarding metadata.

Reasons: The ABA adopted amendments to its model rules in response to recommendations from the ABA Ethics Commission 20/20 relating to technological changes requiring updating of terminology and concepts in the rules. The amendments to this rule follow the amendments to the ABA model rule.

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Rules Committee approved on substantive and procedural basis by vote of 6-0 on January 10, 2014.
- Program Evaluation Committee approved on strategic basis by vote of 11-0 by on January 30, 2014.
- Budget Committee approved by vote of 6-0 on February 21, 2014.

Board Action: Board of Governors approved by voice vote on March 28, 2014.

SUBCHAPTER 4-5 LAW FIRMS AND ASSOCIATIONS

RULE 4-5.5 Unlicensed Practice of Law; Multijurisdictional Practice of Law

Explanation: Amendments to the comment clarify what constitutes a regular presence for the practice of law in Florida.

Reasons: Lawyers often come to Florida for limited periods of time during which they want to continue servicing clients in their home state. There have also been instances where an out-of-state lawyer residing in Florida is granted permission to appear pro hac vice in Florida and wishes to establish a permanent presence in Florida for the practice of law. The proposed comment language clarifies what is and is not allowed under the rule.

Source: Standing Committee on the Unlicensed Practice of Law

Background Information - Member Commentary/ Committee Action:

- Standing Committee on Unlicensed Practice of Law approved by vote of 25-0 on September 20, 2012.
- Rules Committee approved on substantive and procedural basis by vote of 5-0 on November 6, 2012.
- Budget Committee approved by vote of 7-0 on November 15, 2012.
- Program Evaluation Committee approved by vote of 8-0 on December 6, 2012.

Board Action: Board of Governors approved by voice vote on consent calendar on February 1, 2013.

Rule 4-5.5 Unlicensed Practice of Law; Multijurisdictional Practice of Law

Explanation: Within the comment, changes “rules 4-7.1 through 4-7.10” to “subchapter 4-7.”

Reasons: This Court amended the lawyer advertising rules and changed the numbering of the rules in *In re: Amendments to the Rules Regulating The Florida Bar - Subchapter 4-7, Lawyer Advertising Rules*, 108 So.3d 609 (Fla. 2013), requiring a change to the references to the lawyer advertising rules in the comment to this rule.

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Rules Committee approved on substantive and procedural basis by vote of 6-0 on March 21, 2013.
- Budget committee approved by vote of 7-0 on April 2, 2013.
- Program Evaluation Committee approved by vote of 8-0 on April 18, 2013.

Board Action: Board of Governors approved on consent calendar on May 31, 2013.

Rule 4-5.5 Unlicensed Practice of Law; Multijurisdictional Practice of Law

Explanation: Non-substantive amendments conform the rule to this Court’s style guide.

Reasons: The ABA adopted amendments to its model rules in response to recommendations from the ABA Ethics Commission 20/20 relating to outsourcing and client development. Amendments to the ABA Model Rules were rejected by the Board of Governors Rules Committee, but non-substantive edits to conform to this Court’s style guide were approved.

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Rules Committee approved non-substantive edits on substantive and procedural basis 6-0, but rejected substantive change "For example, a lawyer may not assist a person in practicing law in violation of the rules governing professional conduct in that person’s jurisdiction" and rejected proposed change of "expertise" to "experience" on January 10, 2014.
- Program Evaluation Committee approved on strategic basis by vote of 11-0 on January 30, 2014.
- Budget Committee approved by vote of 6-0 on February 21, 2014.

Board Action: Board of Governors approved by voice vote on March 28, 2014.

SUBCHAPTER 4-6 PUBLIC SERVICE

Rule 4-6.5 Voluntary Pro Bono Plan

Explanation: Within subdivision (b)(1), expands eligible board member appointees from current to past or current board members and adds Young Lawyers Division president or designee to the list of required members.

Reasons: Proposed amendments expand the options for selecting committee members and allow more flexibility and consideration for busy schedules of current board members. Often current Board of Governors members appointed to the Standing Committee on Pro Bono Legal Services are so busy with their Board of Governors' responsibilities, obligations, travel, and meetings that they are not able to effectively participate or contribute to the committee. Modifying the requirements should allow for better participation from this category and is consistent with requirements for the directors of The Florida Bar Foundation. Including the president or designee of the Young Lawyers Division is an important addition because of the pro bono collaborative efforts of the committee and the Young Lawyers Division.

Source: Pro Bono Legal Services Committee

Background Information - Member Commentary/ Committee Action:

- The Standing Committee on Pro Bono Legal Service unanimously approved these changes on September 24, 2010.
- Rules Committee approved substantive and procedural review by ballot vote of 7-0 on January 3, 2011.
- Budget Committee approved by e-mail vote of 9-0 on January 6, 2011.
- Program Evaluation Committee approved strategic plan review by voice vote of 6-0 on January 27, 2011.

Board Action: Board of Governors approved on consent on March 25, 2011.

These amendments are included with this petition as they were inadvertently omitted from the bar's prior biennial petition in case number SC12-2234.

CHAPTER 6 LEGAL SPECIALIZATION AND EDUCATION PROGRAMS

SUBCHAPTER 6-3 FLORIDA CERTIFICATION PLAN

Rule 6-3.7 Emeritus Specialist Status

Explanation: Repeals Rule 6-3.7, Emeritus Specialist Status.

Reasons: As currently prescribed under this rule, emeritus specialist status is only available to members who no longer practice law. As such, it does not correlate to the original purpose of board certification, i.e., a means for the public to identify experienced, competent, practicing lawyers specializing in established fields of law and to encourage excellence in the practice of law. There are

increasing limitations on bar staff and administrative resources; the Board of Legal Specialization and Education's long term commitment must be focused on the highest and best use of such resources. Emeritus specialist status has the potential to cause public misunderstanding and confusion that, over time, may detract from the original intent of the Certification Program. Members formerly board certified may publicize prior dates of certification as a factual statement by which to acknowledge their previous credential, e.g., Joel Farmer, Board Certified in Real Estate Law 1987-2013. An announcement of this type conveys the information, but requires no administrative machinery or oversight.

Source: Board of Legal Specialization and Education

Background Information - Member Commentary/ Committee Action:

- Board of Legal Specialization and Education voted to repeal rule on March 15, 2013.
- Program Evaluation Committee approved on strategic basis by vote of 13-0 and on substantive basis by vote of 14-0 on December 12, 2013.
- Budget Committee approved by vote of 7-0 on January 9, 2014.
- Rules Committee approved by voice and e-mail vote of 6-0 on January 10, 2014.

Board Action: Board of Governors approved by voice vote with objection on March 28, 2014.

Rule 6-3.11 Fees

Explanation: Within subdivision (g), eliminates emeritus application fee.

Reasons: This amendment is contingent on this Court's approval of the proposed deletion of Rule Reg. The Fla. Bar 6-3.7 Emeritus Specialist Status above and, if approved, would delete the emeritus application fee and renumber other subdivisions.

Source: Board of Legal Specialization and Education

Background Information - Member Commentary/ Committee Action:

- Board of Legal Specialization and Education voted to repeal emeritus specialist rule on March 15, 2013.
- Program Evaluation Committee approved on strategic basis by vote of 13-0 and on substantive basis by vote of 14-0 on December 12, 2013.
- Budget Committee approved on January 9, 2014.
- Rules Committee approved 6-0 by voice and e-mail vote on January 10, 2014.

Board Action: Board of Governors approved on voice vote with objection on March 28, 2014.

Rule 6-29.1 Standards for Board Certification in Juvenile Law

Explanation: New subchapter 6-29.1 establishes a new area of certification in juvenile law.

Reasons: The addition of juvenile law as a certification area will expand the certification plan as a resource for the public to identify lawyers who meet established standards and are committed to excellence and professionalism in the practice of law. Lawyers who practice juvenile law will have the opportunity to achieve board certification and demonstrate their commitment to quality and professionalism in the delivery of legal services.

Source: Legal Needs of Children Committee/Public Interest Law Section/Board of Legal Specialization and Education

Background Information - Member Commentary/ Committee Action:

- On September 11, 2009, Children’s Law (later named Juvenile Law) was “conceptually” proposed to the Board of Legal Specialization and Education by John Copelan, Jr., Vice Chair of the Legal Needs of Children Committee and the late Tracey McPharlin, Chair of the Public Interest Law Section, following the recommendation of the Commission on the Legal Needs of Children. The proponents presented petitions signed by 152 Florida bar members in support of the new area. For a period of two years, the standards were vetted by the Legal Needs of Children Committee, the Public Interest Law Section, the Family Law Section and the certification committees for Marital and Family Law and Adoption Law. The various groups debated the grandfathering provision, the area’s definition, the substantial involvement criteria, and a perception that the area might be “too broad.” The Family Law Section, Adoption Law Certification Committee, and Marital and Family Law Certification Committee provided written comments to the Board of Legal Specialization and Education. Ultimately, all issues were resolved to the satisfaction of the Board of Legal Specialization and Education, and the amendments proposed address the concerns expressed in the written comments of the Family Law Section, Adoption Law Certification Committee, and Marital and Family Law Certification Committee.
- Board of Legal Specialization and Education voted unanimously to approve the standards as proposed on November 22, 2013.
- Program Evaluation Committee approved on a substantive and strategic basis, substituting "juvenile law" for "children's law" everywhere the term appears, by a vote of 10-0 on May 22, 2014.

- Budget Committee approved by e-mail vote of 7-0 on June 18, 2014.
- Rules Committee approved on procedural basis by e-mail vote of 7-0 on June 20, 2014.

Board Action: Board of Governors approved unanimously on July 25, 2014.

Rule 6-29.2 Definitions

Explanation: New subchapter 6-29.2 sets forth definitions for juvenile law certification rules for "juvenile law," "trial," "appellate proceeding" and "practice of law."

Reasons: The addition of juvenile law as a certification area will expand the certification plan as a resource for the public to identify lawyers who meet established standards and are committed to excellence and professionalism in the practice of law. Lawyers who practice juvenile law will have the opportunity to achieve board certification and demonstrate their commitment to quality and professionalism in the delivery of legal services.

Source: Legal Needs of Children Committee/Public Interest Law Section/ Board of Legal Specialization and Education

Background Information - Member Commentary/ Committee Action:

- On September 11, 2009, Children's Law (later named Juvenile Law) was "conceptually" proposed to the Board of Legal Specialization and Education by John Copelan, Jr., Vice Chair of the Legal Needs of Children Committee and the late Tracey McPharlin, Chair of the Public Interest Law Section, following the recommendation of the Commission on the Legal Needs of Children. The proponents presented petitions signed by 152 Florida bar members in support of the new area. For a period of two years, the standards were vetted by the Legal Needs of Children Committee, the Public Interest Law Section, the Family Law Section and the certification committees for Marital and Family Law and Adoption Law. The various groups debated the grandfathering provision, the area's definition, the substantial involvement criteria, and a perception that the area might be "too broad." The Family Law Section, Adoption Law Certification Committee, and Marital and Family Law Certification Committee provided written comments to the Board of Legal Specialization and Education. Ultimately, all issues were resolved to the satisfaction of the Board of Legal Specialization and Education, and the amendments proposed address the concerns expressed in the written comments of the Family Law Section, Adoption Law

Certification Committee, and Marital and Family Law Certification Committee.

- Board of Legal Specialization and Education voted unanimously to approve the standards as proposed on November 22, 2013.
- Program Evaluation Committee approved on a substantive and strategic basis, substituting "juvenile law" for "children's law" everywhere the term appears, by a vote of 10-0 on May 22, 2014.
- Budget Committee approved by e-mail vote of 7-0 on June 18, 2014.
- Rules Committee approved on procedural basis by e-mail vote of 7-0 on June 20, 2014.

Board Action: Board of Governors approved unanimously on July 25, 2014.

Rule 6-29.3 Minimum Standards

Explanation: New subchapter 6-29.3 sets forth minimum standards for lawyers seeking board certification in the area of juvenile law.

Reasons: The addition of juvenile law as a certification area will expand the certification plan as a resource for the public to identify lawyers who meet established standards and are committed to excellence and professionalism in the practice of law. Lawyers who practice juvenile law will have the opportunity to achieve board certification and demonstrate their commitment to quality and professionalism in the delivery of legal services.

Source: Legal Needs of Children Committee/Public Interest Law Section/Board of Legal Specialization and Education

Background Information - Member Commentary/ Committee Action:

- On September 11, 2009, Children's Law (later named Juvenile Law) was "conceptually" proposed to the Board of Legal Specialization and Education by John Copelan, Jr., Vice Chair of the Legal Needs of Children Committee and the late Tracey McPharlin, Chair of the Public Interest Law Section, following the recommendation of the Commission on the Legal Needs of Children. The proponents presented petitions signed by 152 Florida bar members in support of the new area. For a period of two years, the standards were vetted by the Legal Needs of Children Committee, the Public Interest Law Section, the Family Law Section and the certification committees for Marital and Family Law and Adoption Law. The various groups debated the grandfathering provision, the area's definition, the substantial involvement criteria, and a perception that the area might be "too broad." The Family Law Section, Adoption Law Certification Committee, and Marital and Family Law Certification

Committee provided written comments to the Board of Legal Specialization and Education. Ultimately, all issues were resolved to the satisfaction of the Board of Legal Specialization and Education, and the amendments proposed address the concerns expressed in the written comments of the Family Law Section, Adoption Law Certification Committee, and Marital and Family Law Certification Committee.

- Board of Legal Specialization and Education voted unanimously to approve the standards as proposed on November 22, 2013.
- Program Evaluation Committee approved on a substantive and strategic basis, substituting "juvenile law" for "children's law" everywhere the term appears, by a vote of 10-0 on May 22, 2014.
- Budget Committee approved by e-mail vote of 7-0 on June 18, 2014.
- Rules Committee approved on procedural basis by e-mail vote of 7-0 on June 20, 2014.

Board Action: Board of Governors approved unanimously on July 25, 2014.

Rule 6-29.4 Recertification

Explanation: New subchapter 6-29.4 sets forth standards for recertification in juvenile law.

Reasons: The addition of juvenile law as a certification area will expand the certification plan as a resource for the public to identify lawyers who meet established standards and are committed to excellence and professionalism in the practice of law. Lawyers who practice juvenile law will have the opportunity to achieve board certification and demonstrate their commitment to quality and professionalism in the delivery of legal services.

Source: Legal Needs of Children Committee/Public Interest Law Section/ Board of Legal Specialization and Education

Background Information - Member Commentary/ Committee Action:

- On September 11, 2009, Children's Law (later named Juvenile Law) was "conceptually" proposed to the Board of Legal Specialization and Education by John Copelan, Jr., Vice Chair of the Legal Needs of Children Committee and the late Tracey McPharlin, Chair of the Public Interest Law Section, following the recommendation of the Commission on the Legal Needs of Children. The proponents presented petitions signed by 152 Florida bar members in support of the new area. For a period of two years, the standards were vetted by the Legal Needs of Children Committee, the Public Interest Law Section, the Family Law Section and the certification committees for

Marital and Family Law and Adoption Law. The various groups debated the grandfathering provision, the area's definition, the substantial involvement criteria, and a perception that the area might be "too broad." The Family Law Section, Adoption Law Certification Committee, and Marital and Family Law Certification Committee provided written comments to the Board of Legal Specialization and Education. Ultimately, all issues were resolved to the satisfaction of the Board of Legal Specialization and Education, and the amendments proposed address the concerns expressed in the written comments of the Family Law Section, Adoption Law Certification Committee, and Marital and Family Law Certification Committee.

- Board of Legal Specialization and Education voted unanimously to approve the standards as proposed on November 22, 2013.
- Program Evaluation Committee approved on a substantive and strategic basis, substituting "juvenile law" for "children's law" everywhere the term appears, by a vote of 10-0 on May 22, 2014.
- Budget Committee approved by e-mail vote of 7-0 on June 18, 2014.
- Rules Committee approved on procedural basis by e-mail vote of 7-0 on June 20, 2014.

Board Action: Board of Governors approved unanimously on July 25, 2014.

CHAPTER 10 RULES GOVERNING THE INVESTIGATION AND PROSECUTION OF THE UNLICENSED PRACTICE OF LAW

SUBCHAPTER 10-2 DEFINITIONS

Rule 10-2.1 Generally

Explanation: Within subdivision (c), changes "state" to "jurisdiction."

Reasons: The amendment clarifies that the rule applies to a lawyer admitted in any jurisdiction other than Florida, not merely to a lawyer admitted in a state other than Florida, making clear that a lawyer admitted in any jurisdiction other than Florida commits the unlicensed practice of law by advertising to provide any service in Florida that the lawyer is not authorized by other law to perform in Florida.

Source: Bar Staff

Background Information - Member Commentary/ Committee Action:

- Rules Committee approved on substantive and procedural basis by on March 21, 2013.
- Budget committee approved by an e-mail vote of 7-0 on April 2, 2013.

- Program Evaluation Committee approved by vote of 8-0 on April 18, 2013.

Board Action: Approved by Board of Governors on consent calendar on May 31, 2013.

CHAPTER 18 MILITARY LEGAL ASSISTANCE COUNSEL RULE SUBCHAPTER 18.1 GENERALLY

Rule 18-1.1 Purpose

Explanation: Provision regarding the scope of services under Title 10 is proposed to be moved to this rule from rule 18-1.3 below.

Reasons: Amendments were proposed by the Standing Committee on Military Affairs which would have eliminated eligibility requirements for participants, eliminated the requirement for completion of the Practicing with Professionalism Program and eliminated restrictions on types of matters permitted to be handled. Those amendments were rejected by the Program Evaluation Committee, which instead approved amendments to this subchapter to conform to the style guide and other amendments to this subchapter noted below.

Source: Standing Committee on Military Affairs

Background Information - Member Commentary/ Committee Action:

- Standing Committee on Military Affairs approved on June 2010.
- Young Lawyers Division opposes this amendment.
- Program Evaluation Committee approved in concept 11-0 but with retaining the income guidelines for client eligibility and restrictions on types of legal issues handled and amendments to the Continuing Legal Education requirement on May 30, 2013.
- Program Evaluation Committee approved by vote of 9-0 on July 25, 2013.
- Rules Committee voted 3-1 approval on November 11, 2013, provided that (a) 18-1.2 (a) and (b) 18-1.4 (c) are both revised for clarity from a procedural standpoint.
- Rules Committee approved with revisions 5-0 by voice and e-mail vote on November 18, 2013.
- Budget Committee approved by vote of 7-0 on January 9, 2014.

Board Action: Board of Governors approved by voice vote on January 31, 2014.

Rule 18-1.2 Definitions

Explanation: Within subdivision (a)(4) of rule 18-1.2, changes the requirement for completion of the Practicing with Professionalism Program to the time limits set forth in rule 6-12.3.

Reasons: Amendments change the time frame allowed to complete the Practicing with Professionalism Continuing Legal Education requirement to allow additional time consistent with the time frame for others to complete the requirement. Amendments proposed by the Standing Committee on Military Affairs which would have eliminated eligibility requirements for participants, eliminated the requirement for completion of the Practicing with Professionalism Program and eliminated restrictions on types of matters permitted to be handled were rejected by the Program Evaluation Committee.

Source: Standing Committee on Military Affairs

Background Information - Member Commentary/ Committee Action:

- Standing Committee on Military Affairs approved on June 2010.
- Young Lawyers Division opposes this amendment.
- Program Evaluation Committee approved in concept 11-0 but with retaining the income guidelines for client eligibility and restrictions on types of legal issues handled and amendments to the Continuing Legal Education requirement on May 30, 2013.
- Program Evaluation Committee approved by vote of 9-0 on July 25, 2013.
- Rules Committee voted 3-1 approval on November 11, 2013, provided that (a) 18-1.2 (a) and (b) 18-1.4 (c) are both revised for clarity from a procedural standpoint.
- Rules Committee approved with revisions 5-0 by voice and e-mail vote on November 18, 2013.
- Budget Committee approved by vote of 7-0 on January 9, 2014.

Board Action: Board of Governors approved by voice vote on January 31, 2014.

Rule 18-1.3 Activities

Explanation: The provision regarding the scope of services under Title 10 is proposed to be moved to rule 18-1.1 as noted above.

Reasons: Amendments were proposed by the Standing Committee on Military Affairs which would have eliminated eligibility requirements for participants, eliminated the requirement for completion of the Practicing with Professionalism Program and eliminated restrictions on types of matters permitted to be handled. Those amendments were rejected by the Program Evaluation

Committee, which instead approved amendments to this subchapter to conform to the style guide and other amendments to this subchapter noted above and below.

Source: Standing Committee on Military Affairs

Background Information - Member Commentary/ Committee Action:

- Standing Committee on Military Affairs approved on June 2010.
- Young Lawyers Division opposes this amendment.
- Program Evaluation Committee approved in concept 11-0 but with retaining the income guidelines for client eligibility and restrictions on types of legal issues handled and amendments to the Continuing Legal Education requirement on May 30, 2013.
- Program Evaluation Committee approved by vote of 9-0 on July 25, 2013.
- Rules Committee voted 3-1 approval on November 11, 2013, provided that (a) 18-1.2 (a) and (b) 18-1.4 (c) are both revised for clarity from a procedural standpoint.
- Rules Committee approved with revisions 5-0 by voice and e-mail vote on November 18, 2013.
- Budget Committee approved by vote of 7-0 on January 9, 2014.

Board Action: Board of Governors approved by voice vote on January 31, 2014.

Rule 18-1.4 Supervision and Limitations

Explanation: Non-substantive amendments are proposed to conform to this Court's style guide.

Reasons: Amendments were proposed by the Standing Committee on Military Affairs which would have eliminated eligibility requirements for participants, eliminated the requirement for completion of the Practicing with Professionalism Program and eliminated restrictions on types of matters permitted to be handled. Those amendments were rejected by the Program Evaluation Committee, which instead approved amendments to this subchapter to conform to the style guide and other amendments to this subchapter noted above and below.

Source: Standing Committee on Military Affairs

Background Information - Member Commentary/ Committee Action:

- Standing Committee on Military Affairs approved on June 2010.
- Young Lawyers Division opposes this amendment.
- Program Evaluation Committee approved in concept 11-0 but with retaining the income guidelines for client eligibility and restrictions

on types of legal issues handled and amendments to the Continuing Legal Education requirement on May 30, 2013.

- Program Evaluation Committee approved by vote of 9-0 on July 25, 2013.
- Rules Committee voted 3-1 approval on November 11, 2013, provided that (a) 18-1.2 (a) and (b) 18-1.4 (c) are both revised for clarity from a procedural standpoint.
- Rules Committee approved with revisions 5-0 by voice and e-mail vote on November 18, 2013.
- Budget Committee approved by vote of 7-0 on January 9, 2014.

Board Action: Board of Governors approved by voice vote on January 31, 2014.

Rule 18-1.5 Certification

Explanation: Within subdivision (c)(2), changes the requirement for completion of the Practicing with Professionalism Program to the time limits set forth in rule 6-12.3.

Reasons: Amendments change the time frame allowed to complete the Practicing with Professionalism Continuing Legal Education requirement to allow additional time consistent with the time frame for others to complete this requirement. Proposed amendments proposed by the Standing Committee on Military Affairs which would have eliminated eligibility requirements for participants, eliminated the requirement for completion of the Practicing with Professionalism Program and eliminated restrictions on types of matters permitted to be handled were rejected by the Program Evaluation Committee.

Source: Standing Committee on Military Affairs

Background Information - Member Commentary/ Committee Action:

- Standing Committee on Military Affairs approved on June 2010.
- Young Lawyers Division opposes this amendment.
- Program Evaluation Committee approved in concept 11-0 but with retaining the income guidelines for client eligibility and restrictions on types of legal issues handled and amendments to the Continuing Legal Education requirement on May 30, 2013.
- Program Evaluation Committee approved by vote of 9-0 on July 25, 2013.
- Rules Committee voted 3-1 approval on November 11, 2013, provided that (a) 18-1.2 (a) and (b) 18-1.4 (c) are both revised for clarity from a procedural standpoint.

- Rules Committee approved with revisions 5-0 by voice and e-mail vote on November 18, 2013.
- Budget Committee approved by vote of 7-0 on January 9, 2014.

Board Action: Board of Governors approved by voice vote on January 31, 2014.

Official Notice of Amendments

Pursuant to R. Regulating Fla. Bar 1-12.1(g), formal notice of intent to file all the proposals in this petition, except amendments to rule 4-6.5, was published in the August 15, 2014 issue of the bar *News*. Official notice of proposed amendments to rule 4-6.5 was published in the October 15, 2014 issue of the bar *News* after the bar determined that some amendments to that rule had been inadvertently omitted from the 2012 biennial filing. A copy of both published notices, printed from the Internet version of those *News* issues, is included with this petition in Appendix C. This notice can also be found at the following links:

<http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/Articles/13895FEBD04AE96D85257D260049FFB1>

<http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/8c9f13012b96736985256aa900624829/e935e9aa4ed16e2f85257d5f00692986!OpenDocument>

Discrepancy with West's Online 2014

During the preparation of this petition, the bar noted minor formatting discrepancies between the Rules Regulating The Florida Bar as maintained by the bar and the Rules Regulating The Florida Bar as published online in the most recent version of West's Florida Rules of Court. The bar notified West's of these discrepancies.

Editorial Corrections and Request for Waiver of Rules Procedures

During the preparation of this petition, the bar detected a few minor editorial errors within proposals as officially noticed. These editorial errors were not reviewed by the Board of Governors, but were made under the authority granted to bar staff to correct errors in this Court's administrative order AOSC06-14, dated June 14, 2006. These editorial errors were not corrected in the official bar *News* notice.

Additionally, the bar determined that some of the amendments to rule 4-6.5 that were intended to be included in the 2012 rules petition were inadvertently omitted from that filing. An official notice of the bar's intent to file those amendments was published in the October 15, 2014 issue of the bar *News* as a supplement to the official notice of this filing.

The bar submits that these deviations from the requirements of R. Regulating Fla. Bar 1-12.1 are minimal and the amendments themselves are non-controversial. The bar therefore requests that these additional revised proposals be accepted by this Court, and that this Court waive approval by the Board of Governors as to all the edits and Board of Governors approval and official notice in the print version of the bar *News* for all necessary rules, pursuant to R. Regulating Fla. Bar 1-12.1(i).

All other requested amendments in this petition were promulgated in full compliance with applicable rules and policies.

Other Pending Amendments

One petition to amend R. Regulating Fla. Bar 1-7.3, filed by more than 50 members of the bar in good standing, is pending before this Court in case SC14-1165. The proposed amendments within this filing are unrelated to the pending petition in case SC14-1165 and may be considered independent of it. No proposed amendments to rule 1-7.3 are contained in this petition.

Contents of Appendices

The complete text of all proposals is included in Appendix A to this petition, in legislative format (i.e., deleted language struck through, shown first, followed by new language underlined).

A separate two-column presentation follows in Appendix B, which includes extracted text of affected rules with proposed substantive amendments in legislative format and an abbreviated recitation of the reasons for the changes. Non-substantive edits to conform rules to this Court's style guide are not noted separately.

The notice of intent to file this petition is provided in Appendix C.

Various communications of note that were received during the rules development process, and which are specifically referenced in this petition where relevant to specific amendments, are provided in Appendix D.

Comments in Response to Amendments

Comments received during the development of the proposed amendments contained in this petition are noted in the section discussing those proposed amendments. 1 comment from a law student was received by the bar in response to these amendments after publication of the official notices of the bar's intent to file this petition regarding 4-6.5, which appears in Appendix D. The comment did not suggest any substantive change; the comments proposed merely style changes.

Oral Argument Not Requested

The bar does not seek oral argument regarding these amendments, unless this Court orders oral argument or bar members file comments that require additional response or appearance by the bar.

Effective Date Request

As to all amendments sought in this filing, the bar requests that any changes be made effective no sooner than 60 days from the date of this Court's order so that the bar can educate its members regarding any amendments.

The bar requests that this Court enter an order amending the Rules Regulating The Florida Bar as requested in this petition.

Respectfully submitted,

/s/ John F. Harkness, Jr.

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President 2014-15
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CERTIFICATE OF TYPE SIZE AND STYLE

I certify that this petition is typed in 14 point Times New Roman Regular type.

/s/ John F. Harkness, Jr.

John F. Harkness, Jr.
Executive Director
Florida Bar Number 123390

CERTIFICATE OF READ-AGAINST

I certify that the Rules Regulating The Florida Bar set forth within this petition have been read against the on-line version of *West's Florida Rules of Court*.

/s/ John F. Harkness, Jr.

John F. Harkness, Jr.
Executive Director
Florida Bar Number 123390