

August 15, 2018

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Clayton Greene, Jr.

The Honorable Sally D. Adkins

The Honorable Robert N. McDonald,

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Joseph M. Getty,
Judges

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

Your Honors:

At the request of the Court, I submit this special One Hundred Ninety-Seventh Report and recommend that the Court adopt, as an emergency measure, the enclosed Rules Order amending Rule 19-215.

Subject to a number of conditions, Rule 19-215 permits the Clerk of the Court to issue a certificate permitting an attorney who is a member of the Bar of another State, but who is not a member of the Maryland Bar, to practice law in Maryland if associated with a legal services program as defined in the Rule. If the attorney is being compensated for his or her services, the certificate expires no later than two years after its effective date. If the attorney wishes to continue the employment, he or she must be admitted in the normal manner, by passing the Maryland Bar Examination or qualifying for admission under Rule 19-213 (Attorney Examination).

By letter of July 30, 2018, the Public Defender advised the Clerk that there were 15 attorneys then serving as assistant public defenders pursuant to Rule 19-215 whose certificates would expire prior to the July 2019 Bar Examination and, to continue their employment, would have to take either the

February 2019 Bar Examination or the special attorney examination. He noted that, in November 2017, the Court had approved a proposal to substitute the Uniform Bar Examination (UBE) for the existing Maryland Bar Examination, to permit persons who had achieved a qualifying score on the UBE in another State to use that score in lieu of retaking the UBE in Maryland, and to permit attorneys who were admitted to the Bar of another State to become a member of the Maryland Bar without having to take the attorney examination.

The Public Defender advised that the 15 attorneys would be able to take advantage of those provisions and asked the Clerk to extend the two-year limitation on their current certificates so that they would have the ability to do so.

The Court referred that request to the Rules Committee for review. The Committee had been working with the Board of Law Examiners in drafting the amendments to the Bar Admission Rules necessary to implement the Court's November decisions, and on August 7, 2018, the Attorneys and Judges Subcommittee approved a draft of amendments that will be presented to the full Committee on September 6, 2018. It is our expectation that, with whatever changes the full Committee may approve, those Rules will be transmitted to the Court and posted for comment in mid-September so that the Court would be able, should it choose to do so, to consider them in November and make them effective March 1, 2019. That would allow their full application in time for the July 2019 Bar Examination.

In reviewing the Public Defender's request, the Subcommittee noted that there was no provision in current Rule 19-215 permitting an extension of the two-year limitation and approved sending to the Court, as an emergency measure, an amendment allowing the Court to grant such an extension. We also have learned from the Maryland Legal Services Corporation that there are several attorneys employed by other legal services programs who are in the same position as the public defender attorneys and who also would benefit from an extension.

We have been assured that this is a "one time" problem. With the new Rules hopefully taking effect on or about March 1, 2019, attorneys who achieved a qualifying score on the UBE in any State that uses that examination and attorneys who qualify under Rule 19-213 would be able to become members of the Maryland Bar without having to take an additional examination. Attorneys whose qualifications would not provide a sufficient basis for admission without examination could take the July 2019

UBE in Maryland, and, if successful, become members of the Maryland Bar before the end of 2019. For these reasons, the proposed amendment accompanying this Report need not be permanent and can "sunset" on December 31, 2019.

We are advised that the Court desires to act on this matter quickly and, for that reason, we are transmitting the proposal as approved by the Attorneys and Judges Subcommittee and propose in the accompanying Rules Order an effective date of September 1, 2018. If the Order is adopted, we recommend that the Clerk inform the Public Defender and Ms. Susan M. Erlichman, Executive Director of the Maryland Legal Services Corporation, so that the affected attorneys can file their requests for extension.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:cmp
cc: Bessie M. Decker, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-215 (d) to permit the Court to extend a certain expiration date for good cause shown, as follows:

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

...

(d) Certificate of Authorization to Practice

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

later than two years after the effective date, unless the court extends that date for good cause shown. If the attorney is receiving no compensation other than reimbursement of reasonable and necessary expenses, no expiration date shall be stated.

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

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