

## VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 15<sup>th</sup> day of December 2016.*

On October 24, 2016 came the Virginia State Bar, by Michael W. Robinson, its President, and Karen A. Gould, its Executive Director and Chief Operating Officer, and presented to the Court a petition, approved by the Council of the Virginia State Bar, praying that Section IV, Paragraph 13-24 of the Rules of Integration of the Virginia State Bar, Part Six of the Rules of Court, be amended.

Amend Part Six, Section IV, Paragraph 13-24 to read as follows:

### **13. Procedure for Disciplining, Suspending, and Disbarring Attorneys.**

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#### **13-24. BOARD PROCEEDINGS UPON DISBARMENT, REVOCATION OR SUSPENSION IN ANOTHER JURISDICTION.**

A. Definitions Specific to Paragraph 13-24. The following terms shall have the meaning set forth below unless the content clearly requires otherwise:

1. "State Jurisdiction" means any state, United States Territory, or District of Columbia law licensing or attorney disciplinary authority, including the highest court of any such Jurisdiction, authorized to impose attorney discipline effective throughout the Jurisdiction.
2. "Jurisdiction" shall refer to either a "State Jurisdiction" or any federal court or agency authorized to discipline attorneys, including the United States military.

B. Initiation of Proceedings. Upon receipt of a notice from the Clerk of the Disciplinary System that another Jurisdiction has, as a disciplinary measure, suspended or revoked the law license of an Attorney ("Respondent") or has suspended or revoked

Respondent's privilege to practice law in that Jurisdiction, and that such action has become final (the "Suspension or Revocation Notice"), any Board member shall enter on behalf of the Board an order requiring Respondent to show cause why discipline that is the same or equivalent to the discipline imposed in the other Jurisdiction should not be imposed by the Board. If the Suspension or Revocation Notice is from a State Jurisdiction and the suspension or revocation has not been suspended or stayed, then the Board's order shall suspend Respondent's License pending final disposition of the Proceeding hereunder. The Board shall serve upon Respondent by certified mail the following: a copy of the Suspension or Revocation Notice; a copy of the Board's order; and a notice fixing the date, time and place of the hearing before the Board to determine what action should be taken in response to the Suspension or Revocation Notice and stating that the purpose of the hearing is to provide Respondent an opportunity to show cause why the same or equivalent discipline that was imposed in the other Jurisdiction should not be imposed by the Board. Notwithstanding the above, notice of a suspension or revocation for merely administrative reasons, such as the failure to pay dues or the failure to complete required continuing legal education, shall not be considered a Suspension or Revocation Notice.

C. Opportunity for Response. Within 14 days of the date of mailing of the Board order, via certified mail, to Respondent's last address of record with the Bar, Respondent shall file with the Clerk of the Disciplinary System a written response, which shall be confined to argument and exhibits supporting one or more of the following grounds for dismissal or imposition of lesser discipline:

1. The record of the proceeding in the other Jurisdiction would clearly show that such proceeding was so lacking in notice or opportunity to be heard as to constitute a denial of due process;
2. The imposition by the Board of the same or equivalent discipline upon the same proof would result in an injustice;
3. The same conduct would not be grounds for disciplinary action or for the same or equivalent discipline in Virginia; or
4. The misconduct found in the other Jurisdiction would warrant the imposition of substantially lesser discipline in the Commonwealth of Virginia.

D. Scheduling and Continuance of Hearing. Unless continued by the Board for good cause, the hearing shall be set not less than 21 nor more than 30 days after the date of the Board's order.

E. Provision of Copies. The Clerk of the Disciplinary System shall furnish to the Board members designated for the hearing and make available to Respondent copies of the Suspension or Revocation Notice, the Board's order against the Respondent, the notice of hearing, any notice of continuance of the hearing, and any written response or materials filed by Respondent or by Bar Counsel.

F. Hearing Procedures. Insofar as applicable, the procedures for Proceedings on allegations of Misconduct shall govern. Bar Counsel has discretion to put forth evidence and argument that one or more of the grounds specified in Paragraph 13-24.C exists. If Respondent does not file a timely written response, but appears at the hearing and expresses intent to present evidence or argument supporting the existence of one or more of the grounds specified in Paragraph 13-24.C, Respondent shall make a proffer to the Board. The Board may refuse to consider such evidence or argument as untimely. If the Board in its discretion is willing to consider such evidence or argument, then Bar Counsel, upon motion, may be entitled to a continuance.

G. Burden of Proof. The burden of proof to establish the existence of one or more of the grounds specified in Paragraph 13-24.C is clear and convincing evidence. Unless one or more of the grounds specified in Paragraph 13-24.C has been established by clear and convincing evidence, the Board shall conclude that Respondent was afforded due process by the other Jurisdiction and the findings of the other Jurisdiction shall be conclusive of all matters for purposes of the Proceeding before the Board.

H. Action by the Board. If the Board determines that none of the grounds specified in Paragraph 13-24.C exist by clear and convincing evidence, it shall impose the same or equivalent discipline as imposed in the other Jurisdiction. If the Board finds by clear and convincing evidence the existence of one or more of the grounds specified in Paragraph 13-24.C, the Board shall enter an order it deems appropriate. A copy of any order imposing discipline shall be served upon Respondent via certified mail, return receipt requested. Any such order shall be final and binding, subject only to appeal as set forth in the Rules of Court.

Upon consideration whereof, it is ordered that the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, be and the same hereby are amended in accordance with the prayer of the petition aforesaid, effective March 1, 2017.

A Copy,

Teste:

Clerk