STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its Two Hundred and Twenty-Second Report to the Supreme Court of Maryland, recommending proposed amendments to current Rules 2-512, 4-312, 19-102, 19-206, and 19-711.

The Committee's Two Hundred and Twenty-Second Report and the proposed Rules changes are set forth below.

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before August 19, 2024 any written comments they may wish to make to rules@mdcourts.gov or:

Sandra F. Haines, Esquire
Reporter, Rules Committee
Judiciary A-POD
580 Taylor Avenue
Annapolis, Maryland 21401

Gregory Hilton
Clerk
Supreme Court of Maryland

THE SUPREME COURT OF MARYLAND
STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Hon. ALAN M. WILNER, Chair
Hon. DOUGLAS R.M. NAZARIAN, Vice Chair
SANDRA F. HAINES, Reporter
COLBY L. SCHMIDT, Deputy Reporter
HEATHER COBUN, Assistant Reporter
MEREDITH A. DRUMMOND, Assistant Reporter

Judiciary A-POD
580 Taylor Avenue
Annapolis, Maryland
21401
(410) 260-3630
rules@mdcourts.gov

July 18, 2024

The Honorable Matthew J. Fader,
Chief Justice
The Honorable Shirley M. Watts
The Honorable Brynja M. Booth
The Honorable Jonathan Biran
The Honorable Steven B. Gould
The Honorable Angela M. Eaves,
Justices

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

Your Honors:

The Rules Committee submits this, its Two Hundred and Twenty-Second Report, and recommends that the Court adopt the amendments to the three sets of Rules submitted with this Report. They are Rules 2-512 and 4-312, which deal with the selection of jurors, Rule 19-711, which protects an attorney who is on a ballot for elective office from public exposure of the fact that an unresolved grievance had been filed against the attorney until after the election, and Rules 19-102 and 19-206, which are Bar Admission Rules. As will be explained, each of these proposals is time-sensitive.

Contemporaneously with this Report, the Committee has filed its Two Hundred and Twenty-Third Report, which contains 13 categories of other Rules changes that the Committee is recommending but that do not have the same time sensitivity as the proposals in this Report. The Court, of course, is free to consider any of the proposals in that Report in its hearing on this Report, should it choose to do so.

The issues addressed by Rules 2-512, 4-312, and 19-711 were referred to the Committee by Chief Justice Fader, with a request that the Committee act expeditiously regarding them. The State Board of Law Examiners has requested that consideration of the Bar Admission Rules also be expedited so that they can be in place for the next bar admission cycle.

JURY SELECTION: RULES 2-512 AND 4-312

This is not our first exposure to the jury selection issue. In *Pearson v. State,* 437 Md. 350 (2014), the defendant complained that the trial court abused its discretion in declining to ask if any prospective juror had ever been the victim of a crime, on the ground that the answer to that question would be likely to reveal a cause for disqualification or, in the alternative, facilitate the exercise of a peremptory challenge. The State responded that facilitating the exercise of a peremptory challenge was not a proper purpose for *voir dire*.

In footnote 1 to its Opinion, the Maryland Supreme Court (then known as the Court of Appeals) agreed that, in Maryland, unlike in other States, the intelligent exercise of peremptory challenges was not a proper purpose for *voir dire* but concluded (1) that it was not necessary in that case to determine whether that limitation should be changed and (2) that it would be imprudent to do so without a better understanding of the implications of making such a change. *Id.* at 357. To gather that information, the Court referred the matter to this Committee for its consideration and recommendation.

The Committee made a national study of the issue and found that (1) "[m]ost of the U.S. Courts of Appeals [had] explicitly adopted and applied the view that *voir dire* should generally be allowed to assist counsel in exercising peremptory challenges, subject to the overall control of the court with respect to particular questions or specific lines of inquiry" and (2) "aside from Maryland, only Pennsylvania, California in criminal cases, and Virginia purport[ed] clearly to limit *voir dire* to eliciting grounds for a challenge for cause." Standing Comm. on Rules of Prac. & Proc., 185th Report at 5 (July 15, 2014). Most of the other States, the Committee said, permit *voir dire* to be used to guide the exercise of peremptory challenges, either by authorizing it directly or simply allowing it in practice.

Based on that information, the Committee made five recommendations:

FIRST: Maryland should join the Federal courts and the great majority of State courts and permit *voir dire* to include relevant inquiries designed to facilitate or guide the intelligent exercise of peremptory challenges, in both civil and criminal cases.

SECOND: The process should remain subject to the overall supervision and control by the trial court, exercised in a manner that will permit a fair inquiry but (1) avoid unduly prolonging the *voir dire* process and inappropriate intrusions on jurors' privacy or security, and (2) preclude attempts to use the process for inappropriate purposes or in inappropriate ways.

THIRD: The purpose and scope of *voir dire* should be defined by Rule, as it was in several of the States, so that it can be coupled with the Rules that govern the process (Rules 2-512 and 4-312).

FOURTH: The MSBA Special Committee [on *Voir Dire*] should be encouraged to expand its work to develop form questions or lines of inquiry relevant to the intelligent exercise of peremptory challenges. The special committee, we said, seems to have a fair balance of knowledgeable practitioners and judges and appears fully competent to undertake that task.

FIFTH: Full implementation of the extension should await the completion of such form questions or lines of inquiry and review of those recommendations by the Rules Committee. The Committee believed that form questions or lines of inquiry, developed by judges and practitioners and with the imprimatur of the MSBA and the Rules Committee, and possibly the Court, can go a long way in providing some uniformity in the process and, coupled with overall court supervision and control, avoiding undesirable ramifications from the extension.

This clearly was intended as a collaborative approach between the Rules Committee and the MSBA, which the Committee had used successfully in other contexts (form interrogatories, guidelines regarding attorney fees and expenses, court interpreter inquiry questions).

The MSBA Special Committee commenced its work and, in 2018, published a set of Model Jury Selection Questions for Maryland Criminal & Civil Trials, which MSBA copyrighted and made available in pamphlet form. The Model Jury Selection Questions approved by the MSBA for criminal cases were updated in 2020, and they too were copyrighted.

What actually brought the matter back to the Committee was the referral by Chief Justice Fader, at the request of the General Assembly, following the failure of Senate Bill 827 in the 2024 session.[1] The principal issues with respect to that bill were the same ones the Committee had considered in its 185th Report --whether to extend the function of *voir dire* to provide guidance in the use of peremptory challenges and, if so, how that should be done.

Several new, but allied, considerations came before the Committee. One was whether to do away with peremptory challenges altogether. That had been suggested and was briefly considered and rejected.

Another, with greater traction, was the recognition of **implicit bias**, which had not been given serious consideration earlier but was raised by the Equal Justice Commission. It has been defined in a number of ways by various groups and individuals. The National Center for Biotechnology Information, which is part of the U.S. National Library of Medicine, has defined

[1] Senate Bill 827 would have expanded the purpose of *voir dire* to include allowing the parties to obtain information that may provide guidance for the use of peremptory challenges. It passed the Senate but was not brought to a vote in the House Judiciary Committee.

it as "unconscious biases [that] often affect behavior that leads to unequal treatment of people based on race, ethnicity, gender identity, sexual orientation, age, disability, health status, and other characteristics." Harini S. Shah & Julie Bohlen, Implicit Bias (Mar. 4, 2023), Nat'l Libr. of Med. NBK589697.

What is before the Court in this Report are the proposed amendments to Rules 2-512 and 4-312, some of which are essentially clarifying amendments. The substantive recommendation is found in the language added to section (d) of Rule 2-512 and section (e) of Rule 4-312, defining the purpose of *voir dire* to be both to identify and remove prospective jurors who are not legally qualified to serve or are unable to serve fairly and impartially **and** to allow the parties to obtain information that may provide guidance for the use of peremptory challenges and challenges for cause.

We direct the Court's attention to the Committee note under Rules 2-512 (d)(1) and 4-312 (e)(1), making clear that the ability to use the examination for that latter purpose does not limit or excuse the court's obligation to remove a juror who cannot serve fairly and impartially for cause.[2]

RULE 19-711

Proposed amendments to Rule 19-711 arise from what occurred in *Attorney Grievance Comm'n v. Pierre*, 485 Md. 56 (2023), where a complaint was filed against an attorney just over two months prior to an election in which the attorney was a candidate. As a prelude to its discussion of the nature of the complaint, the Court observed that "any investigation into a candidate for elected office that is undertaken at a sensitive point in the electoral process presents risks that should be avoided or minimized to the extent possible." *Id.* at 73.

To avoid the potentially corrosive effects arising from the pursuit of investigations into misconduct by a candidate in a judicial election, the Court concluded that such investigations generally should be postponed until after the election unless certain exigent circumstances exist, and the Committee was asked to develop a Rule to that effect.

The proposed amendments to Rule 19-711 are our response to that request. Amendments to section (b) define "election" for purposes of the Rule, and, subject to certain exceptions, require that all action on a complaint filed less than 90 days before an election be stayed until after the election.

[2] The Committee also has under consideration possible new Rules 2-512.1 and 4-312.1 clarifying the function of peremptory challenges but is not prepared at this point to make any recommendation regarding those proposals.

BAR ADMISSION RULES

At the request of the State Board of Laws Examiners, the Committee is recommending amendments to Rules 19-102 and 19-206 to implement its desire to post the Board's Rules on its Judicial website rather than pursuant to current Rule 19-102 (d).

The Board explained that the proposed change addresses the significant delay between posting a Board Rule revision on the Board's website pursuant to the current Rule, the effective date of the revised Rule, and the appearance of the revised Rule in printed volumes. The recommended change will increase applicants' accessibility to the Board's Rules and decrease the likelihood of confusion over the version of a Board Rule then in effect. See the Reporter's note to Rule 19-102.

The Board has requested that the proposed change be expedited.

For the further guidance of the Court and the public, following the proposed amendments to each Rule is a Reporter's note describing in further detail the reasons for the proposals. We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully Submitted,

/ s /

Alan M. Wilner
Chair

AMW:sdm
cc: Gregory Hilton, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 500 - TRIAL

AMEND Rule 2-512 by adding a reference to a certain statutory provision and replacing "may" with "shall" in subsection (a)(2), by replacing "same" qualifications with "required" qualifications in section (b), by deleting certain words from the tagline of section (d), by changing the tagline of subsection (d)(1), by adding language to subsection (d)(1) concerning the purpose of examination and the discretion of the court, by adding a Committee note after subsection (d)(1), by creating new subsection (d)(2) with language from current subsection (d)(1), by adding a Committee note concerning the Model Jury Selection Questions after section (d), by re-lettering current subsection (d)(2) as section (e), by re-lettering subsequent sections, by updating an internal reference in subsection (g)(3), and by making a stylistic change, as follows:

Rule 2-512. JURY SELECTION

(a) Jury Size and Challenge to the Array

(1) Size

Before a trial begins, the judge shall decide (A) the required number of sworn jurors, including any alternates, and (B) the size of the array of qualified jurors needed.

Cross reference: See Code, Courts Article, § 8-421(b).

(2) Insufficient Array

~~If~~ Subject to Code, Courts Article, § 8-421, if the array is insufficient for jury selection, the trial judge ~~may~~ shall direct that additional qualified jurors be summoned at random from the qualified juror pool as provided by statute.

(3) Challenge to the Array

A party may challenge the array on the ground that its members were not selected or summoned according to law, or on any other ground that would disqualify the array as a whole. A challenge to the array shall be made and determined before any individual member of the array is examined, except that the trial judge for good cause may permit the challenge to be made after the jury is sworn but before any evidence is received.

(b) General Requirements

All individuals to be impanelled on the jury, including any alternates, shall be selected in the same manner, have the ~~same~~ required qualifications, and be subject to the same examination.

(c) Jury List

(1) Contents

Before the examination of qualified jurors, each party shall be provided with a list that includes each juror's name, address, age, sex, education, occupation, spouse's occupation, and any other information required by Rule. Unless the trial judge orders otherwise, the address shall be limited to the city or town and zip code and shall not include the street address or box number.

(2) Dissemination

(A) Allowed

A party may provide the jury list to any person employed by the party to assist in jury selection. With permission of the trial judge, the list may be disseminated to other individuals such as the courtroom clerk or court reporter for use in carrying out official duties.

(B) Prohibited

Unless the trial judge orders otherwise, a party and any other person to whom the jury list is provided in accordance with subsection (c)(2)(A) of this Rule may not disseminate the list or the information contained on the list to any other person.

(3) Not Part of the Case Record; Exception

Unless the court orders otherwise, copies of jury lists shall be returned to the jury commissioner. Unless marked for identification and offered in evidence pursuant to Rule 2-516, a jury list is not part of the case record.

Cross reference: See Rule 16-934 concerning petitions to permit or deny inspection of a case record.

(d) Examination ~~and Challenges for Cause~~

(1) ~~Examination~~ Generally

The trial judge may permit the parties to conduct an examination of qualified jurors or may conduct ~~the~~ an examination after considering questions proposed by the parties. The purposes of an examination are to (A) identify and remove prospective jurors who are not legally qualified to serve as jurors or are unable to serve fairly and impartially and (B) allow the parties to obtain information that may provide guidance for the use of peremptory challenges and challenges for cause. Regardless of whether an examination is conducted

by a judge or by the parties, the court may preclude improper, excessive, or abusive questioning.

Committee note: The ability to use the examination of a prospective juror to obtain information that may provide guidance for the informed exercise of peremptory challenges does not limit or excuse the trial court's obligation to remove for cause a prospective juror who cannot serve fairly and impartially.

(2) Conduct of Examination

If the judge conducts the examination, the judge may permit the parties to supplement the examination by further inquiry or may submit to the jurors additional questions proposed by the parties. The jurors' responses to any examination shall be under oath. On request of any party, the judge shall direct the clerk to call the roll of the array and to request each qualified juror to stand and be identified when called.

Committee note: The Maryland State Bar Association, Inc. has promulgated Model Jury Selection Questions for Maryland Civil Trials, which may provide guidance to the court and parties in the formulation of relevant questions for the examination of jurors.

~~(2)~~(e) Challenge for Cause

A party may challenge an individual qualified juror for cause. A challenge for cause shall be made and determined before the jury is sworn, or thereafter for good cause shown.

~~(e)~~(f) Peremptory Challenges

(1) Designation of Qualified Jurors; Order of Selection

Before the exercise of peremptory challenges, the trial judge shall designate those individuals on the jury list who remain qualified after examination. The number designated shall be sufficient to provide the required

number of sworn jurors, including any alternates, after allowing for the exercise of peremptory challenges. The trial judge shall at the same time prescribe the order to be followed in selecting individuals from the list.

(2) Number; Exercise of Peremptory Challenges

Each party is permitted four peremptory challenges plus one peremptory challenge for each group of three or less alternates to be impanelled. For purposes of this section, all plaintiffs shall be considered as a single party and all defendants shall be considered as a single party unless the trial judge determines that adverse or hostile interests between plaintiffs or between defendants justify allowing one or more of them the separate peremptory challenges available to a single party. The parties shall simultaneously exercise their peremptory challenges by striking names from a copy of the jury list.

~~(f)~~(g) Impanelled Jury

(1) Impanelling

The individuals to be impanelled as sworn jurors, including any alternates, shall be called from the qualified jurors remaining on the jury list in the order previously designated by the trial judge and shall be sworn.

(2) Oath; Functions, Powers, Facilities, and Privileges

All sworn jurors, including any alternates, shall take the same oath and, until discharged from jury service, have the same functions, powers, facilities, and privileges.

(3) Discharge of Jury Member

At any time before the jury retires to consider its verdict, the trial judge may replace any jury member whom the trial judge finds to be unable or disqualified to perform jury service with an alternate in the order of selection set under ~~subsection (e)(1)~~ section (f) of this Rule. When the jury retires to consider its verdict, the trial judge shall discharge any remaining alternates who did not replace another jury member.

~~(g)~~(h) Foreperson

The trial judge shall designate a sworn juror as foreperson.

Source: This Rule is derived as follows:
Section (a) is in part derived from former Rules 754 a and Rule 543 c and in part new.
Section (b) is derived from former Rule 751 b and former Rule 543 b 3.
Section (c) is new.
Section (d) is in part derived from former Rules 752~~, 754 b,~~ and 543 d and in part new.
Section (e) is derived from former Rule 754 b.
Section ~~(e)~~(f) is derived from former Rules 753 and 543 a 3 and 4.
Section ~~(f)~~(g) is new.
Section ~~(g)~~(h) is derived from former Rule 751 d.

REPORTER'S NOTE

By letter dated April 11, 2024, the Chief Justice of the Supreme Court requested that the Rules Committee consider whether to recommend changes to the current scope of *voir dire*.

The topic of *voir dire* was raised during the General Assembly's 2024 legislative session in Senate Bill 827 ("SB827"). The bill received a report of Favorable with Amendment from the Judicial Proceedings Committee and passed (45-0) in the Senate. SB827 was referred to the Judiciary Committee of the House on March 5, 2024, but was not brought to a vote.

By letter to the Chief Justice dated April 4, 2024, Del. Luke H. Clippinger, Chair of the Judiciary Committee, and Sen. William C. Smith, Jr., Chair of the Judicial Proceedings Committee, outlined the proposals contained

in SB827 and indicated that the Rules Committee was the most appropriate body to consider concerns regarding the *voir dire* process. Accordingly, the Chief Justice's April 11, 2024 letter asked the Committee to address possible changes to *voir dire* at the May Committee meeting.

The Rules Committee most recently considered changes to the *voir dire* process in 2014. In *Pearson v. State*, 437 Md. 350, 357 n.1 (2014), the Court of Appeals, now the Supreme Court, declined to "address Pearson's contention that Maryland should discontinue limited *voir dire* by allowing *voir dire* to facilitate the intelligent use of peremptory challenges" and asked the Rules Committee "[t]o gather more information on the important issue of whether to maintain limited *voir dire*."

After discussing the topic at the June 19, 2014 Rules Committee meeting, the Committee transmitted its 185th Report with the results of its extensive research. The Report cited numerous resources, including publications from the National Center for State Courts ("NCSC") and standards and principles of the American Bar Association ("ABA").

The 185th Report contained five recommendations. In regard to the scope of *voir dire*, the Report stated, "The Court should join the Federal courts and the great majority of State courts and permit *voir dire* to include relevant inquiries designed to facilitate or guide the intelligent exercise of peremptory challenges, in both civil and criminal cases."

It appears that the research findings for the 185th Report concerning the national scope of *voir dire* remain accurate. As noted in the 185th Report, Standard 15-2.4 of the ABA Criminal Justice Standards sets forth an extended scope of *voir dire*: "Voir dire examination should be sufficient to disclose grounds for challenges for cause and to facilitate intelligent exercise of peremptory challenges." The same language appears in Principle 11(B)(3) of the ABA's Principles for Juries and Jury Trials.

Similarly, after surveying both federal and state jurisdictions, the 185th Report concluded that only Maryland, Pennsylvania, Virginia, and California (in criminal cases) purport to limit *voir dire* to only eliciting grounds for challenges for cause. As of 2024, the relevant Pennsylvania and Virginia laws remain valid. *See Commonwealth v. England*, 375 A.2d 1292 (Pa. 1977); *Green v. Commonwealth*, 580 S.E.2d 834 (Va. 2003). Although there have been changes to the jury selection process in California, the statutory language concerning the scope of *voir dire* in criminal cases remains unchanged. Cal. Civ. Proc. Code § 223.

In addition to the states cited in the 185th Report, Arizona now limits examination to questions that elicit information related to a challenge for

cause. Ariz. R. Civ. P. 47; Ariz. R. Crim. P. 18.5. However, the change in Arizona was prompted by the elimination of peremptory challenges, which are permitted in Maryland.

At the Rules Committee meetings on May 17, 2024 and June 20, 2024, the Committee reviewed the recommendations of the 185th Report and the updated research on the scope of *voir dire*.

The Committee received written comments and heard testimony at the May and June Rules Committee meetings from several interested parties about expanding the scope of *voir dire*. While some commenters supported expanding the scope of *voir dire* as suggested by SB827, others opposed the expansion, primarily due to logistical and administrative concerns. Those opposing the change highlighted that expanding *voir dire* may require larger venires due to the number of peremptory challenges in Maryland. Increased jury venires may lead to logistical backups and overcrowding at courthouses, as well as fiscal impacts. Other issues raised included the increased concern regarding the invasion of juror privacy and complications associated with the increased time that may be needed for *voir dire*.

After consideration of both oral and written comments, the Committee recommends expanding the scope of *voir dire* consistent with the scope found in most states, in ABA publications, and in SB827.

Several amendments to Rule 2-512 are proposed. Subsection (a)(2) addresses appropriate action if an array is insufficient for jury selection. Code, Courts Article, § 8-421(b) provides, "If the parties in a civil case agree, a trial judge may dispense with selecting an array of at least 14 qualified jurors." Section (c) contains a similar provision for criminal cases. Rule 2-512 (a)(2) is updated to reflect that, subject to § 8-421, the trial judge is required to direct that additional qualified jurors be summoned if the array is insufficient for jury selection.

In section (b), the word "same" is replaced with "required" to indicate that all individuals impanelled on the jury must have the certain qualifications that are required by law.

Proposed amendments to Rule 2-512 update the tagline of section (d) to refer only to examinations of prospective jurors. Language concerning challenges for cause has been moved to a new section.

A new tagline for subsection (d)(1) reflects that the subsection now addresses examinations, generally. A stylistic change is made in the first sentence of the subsection. Proposed new language defines the scope of *voir dire* examination, primarily using the language of SB827. In addition to

including the purposes of examination from the proposed legislation, amendments to subsection (d)(1) indicate that an examination may also aim to identify jurors who are not legally qualified to serve. The final sentence of the subsection notes that the court may preclude certain questioning.

A proposed Committee note after subsection (d)(1) notes that the expanded scope of *voir dire* does not minimize the obligation of the trial court to remove jurors for cause.

New subsection (d)(2) addresses the conduct of the examination using language from current subsection (d)(1).

A proposed Committee note after section (d) highlights the existence of Model Jury Selection Questions promulgated by the MSBA. The Committee has been advised that the MSBA is currently reviewing and, if needed, updating the Model Jury Selection Questions for both civil and criminal trials.

Current subsection (d)(2) is re-lettered as new section (e). Subsequent sections (e) through (g) are re-lettered as sections (f) through (h), respectively. In addition, an internal reference in subsection (g)(3) is updated.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 300 – TRIAL AND SENTENCING

AMEND Rule 4-312 by adding a reference to a certain statutory provision and replacing "may" with "shall" in subsection (a)(2), by replacing "same" qualifications with "required" qualifications in subsection (b)(1), by deleting certain words from the tagline of section (e), by changing the tagline of subsection (e)(1), by adding language to subsection (e)(1) concerning the purpose of examination and the discretion of the court, by adding a Committee note after subsection (e)(1), by creating new subsection (e)(2) with language from current subsection (e)(1), by adding a Committee note concerning the Model Jury Selection Questions after section (e), by re-lettering current subsection (e)(2) as section (f), by re-lettering subsequent sections, by correcting an internal reference in subsection (h)(3), and by making stylistic changes, as follows:

Rule 4-312. JURY SELECTION

(a) Jury Size and Challenge to the Array

(1) Size

Before a trial begins, the trial judge shall decide (A) the required number of sworn jurors, including any alternates and (B) the size of the array of qualified jurors needed.

Cross reference: See Code, Courts Article, § 8-420(b).

(2) Insufficient Array

~~If~~ Subject to Code, Courts Article, § 8-421, if the array is insufficient for jury selection, the trial judge ~~may~~ shall direct that additional qualified jurors be summoned at random from the qualified juror pool as provided by statute.

(3) Challenge to the Array

A party may challenge the array on the ground that its members were not selected or summoned according to law, or on any other ground that would disqualify the array as a whole. A challenge to the array shall be made and determined before any individual member of the array is examined, except that the trial judge for good cause may permit the challenge to be made after the jury is sworn but before any evidence is received.

(b) General Requirements

(1) Uniform Method of Impaneling

All individuals to be impaneled on the jury, including any alternates, shall be selected in the same manner, have the ~~same~~ required qualifications, and be subject to the same examination.

(2) Jurors Not to Be Addressed by Name

In any proceeding conducted in the courtroom or in chambers, a juror shall be referred to by juror number and not by name.

Committee note: The judge should advise prospective jurors and remind impaneled jurors that (1) it is standard procedure for jurors to be referred to in open court only by juror number and not by name, and (2) they may disclose their names to each other if they wish and, when not in open court, refer to each other by name, but they may not specifically disclose the names of other jurors to anyone else unless authorized by the judge.

(c) Jury List

(1) Contents

Subject to section (d) of this Rule, before the examination of qualified jurors, each party shall be provided with a list that includes each juror's name, city or town of residence, zip code, age, gender, education, occupation, and spouse's occupation. Unless the trial judge orders otherwise, the juror's street address or box number shall not be provided.

(2) Dissemination

(A) Allowed

A party may provide the jury list to any person employed by the party to assist in jury selection. With permission of the trial judge, the list may be disseminated to other individuals such as the courtroom clerk or court reporter for use in carrying out official duties.

(B) Prohibited

Unless the trial judge orders otherwise, a party and any other person to whom the jury list is provided in accordance with subsection (c)(2)(A) of this Rule may not disseminate the list or the information contained on the list to any other person.

(3) Not Part of the Case Record; Exception

Unless the court orders otherwise, copies of jury lists shall be returned to the jury commissioner. Unless marked for identification and offered in evidence pursuant to Rule 4-322, a jury list is not part of the case record.

Cross reference: See Rule 16-913 (a) concerning disclosure of juror information by a custodian of court records.

(d) Nondisclosure of Names and City or Town of Residence

(1) Finding by the Court

If the court finds from clear and convincing evidence or information, after affording the parties an opportunity to be heard, that disclosure of the names or the city or town of residence of prospective jurors will create a substantial danger that (i) the safety and security of one or more jurors will likely be imperiled, or (ii) one or more jurors will likely be subjected to coercion, inducement, other improper influence, or undue harassment, the court may enter an order as provided in subsection (d)(2) of this Rule. A finding under this section shall be in writing or on the record and shall state the basis for the finding.

(2) Order

Upon the finding required by subsection (d)(1) of this Rule, the court may order that:

(A) the name and, except for prospective jurors residing in Baltimore City, the city or town of residence of prospective jurors not be disclosed in voir dire; and

(B) the name and, except for jurors residing in Baltimore City, the city or town of residence of impaneled jurors not be disclosed (i) until the jury is discharged following completion of the trial, (ii) for a limited period of time following completion of the trial, or (iii) at any time.

Committee note: Nondisclosure of the city or town in which a juror resides is in recognition of the fact that some counties have incorporated cities or towns, the disclosure of which, when coupled with other information on the jury list,

may easily lead to discovery of the juror's actual residence. The exception for Baltimore City is to take account of the fact that Baltimore City is both an incorporated city and the equivalent of a county, and because persons are not eligible to serve as jurors in the Circuit Court for Baltimore City unless they reside in that city, their residence there is necessarily assumed.

Cross reference: See Rule 16-913 (a).

(3) Extent of Nondisclosure

An order entered under this section may direct that the information not be disclosed to (A) anyone other than the judge and counsel; (B) anyone other than the judge, counsel, and the defendant; or (C) anyone other than the judge, counsel, the defendant, and other persons specified in the order. If the court permits disclosure to counsel but not the defendant, the court shall direct counsel not to disclose the information to the defendant, except pursuant to further order of the court.

(4) Modification of Order

The court may modify the order to restrict or allow disclosure of juror information at any time.

Committee note: Restrictions on the disclosure of the names and city or town of residence of jurors should be reserved for those cases raising special and legitimate concerns of jury safety, tampering, or undue harassment. See *United States v. Deitz*, 577 F.3d 672 (6th Cir. 2009); *United States v. Quinones*, 511 F.3d 289 (2nd Cir. 2007). When dealing with the issues of juror security or tampering, courts have considered a mix of five factors in deciding whether such information may be shielded: (1) the defendant's involvement in organized crime, (2) the defendant's participation in a group with the capacity to harm jurors, (3) the defendant's past attempts to interfere with the judicial process, (4) the potential that, if convicted, the defendant will suffer a lengthy incarceration, and (5) extensive publicity that could enhance the possibility that jurors' names would become public and expose them to intimidation or harassment. See *United States v. Ochoa-Vasquez*, 428 F.3d 1015 (11th Cir. 2005); *United States v. Ross*, 33 F.3d 1507 (11th Cir. 1994). Although the possibility of a lengthy incarceration is a factor for the court to consider, the court should not shield that information on that basis alone. In particularly

high profile cases where strong public opinion about a pending case is evident, the prospect of undue harassment, not necessarily involving juror security or any deliberate attempt at tampering, may also be of concern.

(e) Examination ~~and Challenges for Cause~~

(1) ~~Examination~~ Generally

The trial judge may permit the parties to conduct an examination of qualified jurors or may conduct ~~the~~ an examination after considering questions proposed by the parties. The purposes of an examination are to (A) identify and remove prospective jurors who are not legally qualified to serve as jurors or are unable to serve fairly and impartially and (B) allow the parties to obtain information that may provide guidance for the use of peremptory challenges and challenges for cause. Regardless of whether an examination is conducted by a judge or by the parties, the court may preclude improper, excessive, or abusive questioning.

Committee note: The ability to use the examination of a prospective juror to obtain information that may provide guidance for the informed exercise of peremptory challenges does not limit or excuse the trial court's obligation to remove for cause a prospective juror who cannot serve fairly and impartially.

(2) Conduct of Examination

If the judge conducts the examination, the judge may permit the parties to supplement the examination by further inquiry or may submit to the jurors additional questions proposed by the parties. The jurors' responses to any examination shall be under oath. On request of any party, the judge shall direct the clerk to call the roll of the array and to request each qualified juror to stand and be identified when called.

Committee note: The Maryland State Bar Association, Inc. has promulgated Model Jury Selection Questions for Maryland Criminal Trials, which may provide guidance to the court and parties in the formulation of relevant questions for the examination of jurors.

~~(2)~~(f) Challenges for Cause

A party may challenge an individual qualified juror for cause. A challenge for cause shall be made and determined before the jury is sworn, or thereafter for good cause shown.

~~(f)~~(g) Peremptory Challenges

Before the exercise of peremptory challenges, the trial judge shall designate those individuals on the jury list who remain qualified after examination. The number designated shall be sufficient to provide the required number of sworn jurors, including any alternates, after allowing for the exercise of peremptory challenges pursuant to Rule 4-313. The judge shall at the same time prescribe the order to be followed in selecting individuals from the list.

~~(g)~~(h) Impaneled Jury

(1) Impaneling

The individuals to be impaneled as sworn jurors, including any alternates, shall be called from the qualified jurors remaining on the jury list in the order previously designated by the trial judge and shall be sworn.

(2) Oath; Functions, Powers, Facilities, and Privileges

All sworn jurors, including any alternates, shall take the same oath and, until discharged from jury service, have the same functions, powers, facilities, and privileges.

(3) Discharge of Jury Member

At any time before the jury retires to consider its verdict, the trial judge may replace any jury member whom the trial judge finds to be unable or disqualified to perform jury service with an alternate in the order of selection set under section ~~(e)~~(g) of this Rule. When the jury retires to consider its verdict, the trial judge shall discharge any remaining alternates who did not replace another jury member.

~~(h)~~(i) Foreperson

The trial judge shall designate a sworn juror as foreperson.

Source: This Rule is derived as follows:
Section (a) is in part derived from former Rule 754 a and in part new.
Section (b) is derived from former Rule 751 b.
Section (c) is new.
Section (d) is new.
Section (e) is derived in part from former Rule 752 ~~and 754 b~~ and is in part new.
Section (f) is derived from former Rule 754 b.
Section ~~(f)~~(g) is derived from former Rule 753.
Section ~~(g)~~(h) is new.
Section ~~(h)~~(i) is derived from former Rule 751 d.

REPORTER'S NOTE

The Rules Committee was recently asked to consider the scope of *voir dire* examination. For additional information, see the Reporter's note to Rule 2-512.

Consistent with the changes proposed to Rule 2-512, amendments are proposed to Rule 4-312. Subsection (a)(2) addresses appropriate action if an array is insufficient for jury selection. Code, Courts Article, § 8-421(b) provides, "If the parties in a civil case agree, a trial judge may dispense with selecting an array of at least 14 qualified jurors." Section (c) contains a similar provision for criminal cases. Rule 4-312 (a)(2) is updated to reflect that,

subject to § 8-421, the trial judge is required to direct that additional qualified jurors be summoned if the array is insufficient for jury selection.

In subsection (b)(1), the word "same" is replaced with "required" to indicate that all individuals impanelled on the jury must have the certain qualifications that are required by law. A stylistic change is also made in the Committee note following subection (e)(4)

Proposed amendments to Rule 4-312 update the tagline of section (e) to refer only to examinations of prospective jurors. Language concerning challenges for cause has been moved to a new section.

A new tagline for subsection (e)(1) reflects that the subsection now addresses examinations, generally. A stylistic change is made in the first sentence of the subsection. Proposed new language defines the scope of *voir dire* examination, primarily using the language of SB827. In addition to including the purposes of examination from the proposed legislation, amendments to subsection (e)(1) indicate that an examination may also aim to identify jurors who are not legally qualified to serve. The final sentence of the subsection notes that the court may preclude certain questioning.

A proposed Committee note after subsection (e)(1) notes that the expanded scope of voir dire does not minimize the obligation of the trial court to remove jurors for cause.

New subsection (e)(2) addresses the conduct of the examination using language from current subsection (e)(1).

A proposed Committee note after section (e) highlights the existence of Model Jury Selection Questions promulgated by the MSBA. The Committee has been advised that the MSBA is currently reviewing and, if needed, updating the Model Jury Selection Questions for both civil and criminal trials.

Current subsection (e)(2) is re-lettered as new section (f). Subsequent sections (f) through (h) are re-lettered as sections (g) through (i), respectively. In addition, an internal reference in subsection (h)(3) is corrected.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

AMEND Rule 19-711 by adding new subsection (b)(3) pertaining to allegations of misconduct by an attorney who is a candidate for public office, by making conforming amendments to subsection (b)(4), by updating internal references, and by making stylistic changes, as follows:

Rule 19-711. COMPLAINT; INVESTIGATION BY BAR COUNSEL

(a) Who May Initiate

Bar Counsel may file a complaint on Bar Counsel's own initiative, based on information from any source. Any other person also may file a complaint with Bar Counsel. Any communication to Bar Counsel that (1) is in writing, (2) alleges that an attorney has engaged in professional misconduct or has an incapacity, (3) includes the name and contact information of the person making the communication, and (4) states facts which, if true, would constitute professional misconduct by or demonstrate an incapacity of an attorney constitutes a complaint.

(b) Review of Complaint

(1) Generally

Bar Counsel shall make an inquiry concerning every complaint that is not facially frivolous, unfounded, or duplicative.

(2) Declining Complaint

If Bar Counsel concludes that a complaint is without merit, does not allege facts which, if true, would demonstrate either professional misconduct or incapacity, or is duplicative, Bar Counsel shall decline the complaint and notify the complainant. Bar Counsel also may decline a complaint submitted by an person who provides information about an attorney derived from published news reports or third party sources where the complainant appears to have no personal knowledge of the information being submitted.

(3) When Attorney is a Candidate for Election

(A) Definitions

For purposes of this Rule, (i) "election" means a general election, primary election, or special election in Maryland or elsewhere, whether arising under the Code, Election Article, a city ordinance, or an equivalent source, and (ii) "candidate" means an individual who files a certificate of candidacy for a public office.

Committee note: Although in this Rule "election" is broadly defined to include local elections in small municipalities and elections in other jurisdictions, nothing in this Rule imposes a duty on Bar Counsel to determine the existence of a candidacy that cannot be readily discerned from the State Board of Elections website, the complainant's completed complaint form, or well-publicized media coverage in the State.

(B) Generally

If a complaint is received or initiated by Bar Counsel less than 90 days before an election in which the attorney is a candidate, all action in the matter shall be stayed until the attorney's candidacy is finally determined unless:

(i) the complaint is declined pursuant to subsection (b)(2) of this Rule;

(ii) Bar Counsel is proceeding in accordance with Rule 19-732;

(iii) the attorney submits a written waiver of the stay to Bar Counsel; or

(iv) seven Commission members present or participating by remote electronic means determine that the stay should be lifted because: (a) deferring action could put an individual or the public at risk from the attorney's past or potential future misconduct that is within the purview of the Commission and the risk could be avoided or mitigated by prompt investigation or (b) prompt investigation is necessary to preserve evidence. Upon a determination by the Commission to lift the stay in whole or in part, Bar Counsel shall proceed as directed by the Commission.

Cross reference: *See Attorney Grievance Commission v. Pierre*, 485 Md. 56 (2023).

Committee note: When subsection (b)(3) of this Rule applies, all action on a complaint is stayed prior to any notification by Bar Counsel to the attorney. The Committee recognizes that the complainant or other individual may make the existence of the complaint public despite the stay. Subsection (b)(3)(B)(iii) addresses the circumstance in which the attorney has been made aware of the existence of a complaint and wishes to decline the stay.

(4) After Attorney Response

Unless a complaint is declined for one of the reasons set forth in subsection (b)(2) of this Rule or the action is subject to a stay pursuant to subsection (b)(3) of this Rule that has not been lifted or expired, Bar Counsel ordinarily shall obtain a written response from the attorney who is the subject of a complaint and consider other appropriate information to assist in evaluating the merits of the complaint. If Bar Counsel determines based upon such evaluation that an insufficient basis exists to demonstrate misconduct or

incapacity or that the overall circumstances do not warrant investigation, Bar Counsel may close the file without approval of the Commission. Otherwise, subject to subsection ~~(b)(5)~~(b)(6) of this Rule, Bar Counsel shall (A) docket the complaint, (B) notify the complainant and explain in writing the procedures for investigating and processing the complaint, (C) comply with the notice requirement of section (c) of this Rule, and (D) conduct an investigation to determine whether there exists a substantial basis to conclude the attorney committed professional misconduct or is incapacitated.

~~(4)~~(5) If Complaint Declined or Closed

If a complaint is declined or closed by Bar Counsel, allegations made in the complaint may not be used in any disciplinary proceeding against the attorney. If additional information becomes known to Bar Counsel regarding a complaint that was declined or closed before docketing, the earlier allegations may be reopened.

Committee note: In this Rule, "docket" refers to the process of listing a complaint on the docket of active investigations maintained by Bar Counsel, rather than on a docket maintained by the clerk of a court. Before determining whether a complaint is frivolous or unfounded, Bar Counsel may contact the attorney and obtain an informal response to the allegations.

~~(5)~~(6) Pending Civil or Criminal Action

If Bar Counsel concludes that a civil or criminal action involving material allegations against the attorney substantially similar or related to those alleged in the complaint is pending in any court of record in the United States, or that substantially similar or related allegations presently are under investigation by a law enforcement, regulatory, or disciplinary agency, Bar Counsel, with the

approval of the Commission, may defer action on the complaint pending a determination of those allegations in the pending action or investigation. Bar Counsel shall notify the complainant of that decision and, during the period of the deferral, shall report to the Commission, at least every 90 days, the status of the other action or investigation. The Commission, at any time, may direct Bar Counsel to proceed in accordance with subsection (b)(1) or ~~(3)~~(4) of this Rule.

(c) Notice to Attorney

(1) Generally

Except as otherwise provided in this section, Bar Counsel shall notify the attorney who is the subject of the complaint that Bar Counsel is undertaking an investigation to determine whether the attorney has engaged in professional misconduct or is incapacitated. The notice shall be given before the conclusion of the investigation and shall include the name and contact information of the complainant and the general nature of the professional misconduct or incapacity under investigation. As part of the notice, Bar Counsel may demand that the attorney provide information and records that Bar Counsel deems appropriate and relevant to the investigation. The notice shall state the time within which the attorney shall provide the information and any other information that the attorney may wish to present. The notice shall be served on the attorney in accordance with Rule 19-708.

(2) Exceptions

Bar Counsel need not give notice of investigation to an attorney if, with the approval of the Commission, Bar Counsel proceeds under Rule 19-737, 19-738, or 19-739.

(d) Time for Completing Investigation

(1) Generally

Subject to ~~subsection (b)(5)~~ subsections (b)(3) and (b)(6) of this Rule or unless the time is extended pursuant to subsection (d)(2) of this Rule, Bar Counsel shall complete an investigation within 120 days after docketing the complaint.

(2) Extension

(A) Upon written request by Bar Counsel and a finding of good cause by the Commission, the Commission may grant an extension for a specified period. Upon a separate request by Bar Counsel and a finding of good cause, the Commission may renew an extension for a specified period.

(B) The Commission may not grant or renew an extension, at any one time, of more than 60 days unless it finds specific good cause for a longer extension.

(C) If an extension exceeding 60 days is granted, Bar Counsel shall provide the Commission with a status report at least every 60 days.

(3) Sanction

For failure to comply with the time requirements of section (d) of this Rule, the Commission may take any action appropriate under the circumstances, including dismissal of the complaint and termination of the investigation.

Source: This Rule is derived in part from former Rule 16-731 (2016) and is in part new.

REPORTER'S NOTE

The Supreme Court of Maryland in *Attorney Grievance Commission v. Pierre*, 485 Md. 56 (2023) and in a letter to the Chair of the Rules Committee dated September 21, 2023 requested that the Committee consider proposing a Rule addressing how and when attorney misconduct investigations and proceedings should be handled during an election campaign in which the respondent attorney is a candidate.

The Attorneys and Judges Subcommittee, in conjunction with the then-recently appointed Bar Counsel, considered the Court's request at its January 9, 2024 meeting. Following that meeting, additional research was conducted to identify approaches taken in other jurisdictions and by organizations interested in attorney disciplinary matters, and a special drafting group was convened to prepare amendments to Rule 19-711.

Rule 19-711 is proposed to be amended to add new subsection (b)(3), which governs how complaints against an attorney who is a candidate for public office will proceed. The definition of "election" is broadly defined to include all elections in Maryland and in other jurisdictions. A Committee note is proposed following subsection (b)(3)(A) to clarify that Bar Counsel is not expected to be aware of any elections not readily discernable from the State Board of Elections website, not disclosed in the complaint, or not the subject of well-publicized media coverage in Maryland.

The revisions provide that action on any complaint against an attorney who is a candidate for public office that is received or initiated less than 90 days before the election is stayed until after the election unless (1) the complaint is declined by Bar Counsel pursuant to subsection (b)(2) of the Rule; (2) Bar Counsel proceeds in accordance with Rule 19-732; (3) the attorney waives the stay in writing; or (4) the stay is lifted by a vote of at least seven members of the Attorney Grievance Commission.

Amendments to subsection (b)(4) of this Rule clarify that a stay pursuant to subsection (b)(3) applies to the procedure of Bar Counsel seeking a written response to the allegations in the complaint from the subject attorney.

Stylistic changes are also proposed to this Rule and internal references are updated.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 100 – STATE BOARD OF LAW EXAMINERS AND CHARACTER COMMITTEES

AMEND Rule 19-102 by deleting a provision from subsection (c)(2) linking Board Rules to Title 19, Chapter 200 of these Rules; by adding a provision to subsection (c)(2) concerning the location of Board Rules; by adding a clarifying provision to section (d) concerning the location of amendments to Board Rules; and by making a stylistic change, as follows:

Rule 19-102. STATE BOARD OF LAW EXAMINERS

(a) Appointment

There is a State Board of Law Examiners. The Board shall consist of seven members appointed by the Court. Each member shall be an attorney admitted and in good standing to practice law in Maryland. The terms of members shall be as provided in Code, Business Occupations and Professions Article, § 10-202(c).

(b) Quorum

A majority of the authorized membership of the Board is a quorum.

(c) Authority

(1) Generally

The Board shall exercise the authority and perform the duties assigned to it by the Rules in this Chapter and Chapter 200 of this Title, including general supervision over the character and fitness requirements and procedures set forth in those Rules and the operations of the character committees.

(2) Adoption of Rules

The Board may adopt rules to carry out the requirements of this Chapter and Chapter 200 of this Title. The Rules of the Board shall ~~follow Chapter 200 of Title 19~~ be posted conspicuously on the Board's page of the Judiciary website.

(d) Amendment of Board Rules—Posting

Any amendment of the Board's rules shall be posted on the Board's page of the Judiciary website at least 45 days before the amendment is to become effective.

(e) Professional Assistants

The Board may appoint the professional assistants necessary for the proper conduct of its business. Each professional assistant shall be an attorney admitted and in good standing to practice law in Maryland and shall serve at the pleasure of the Board.

Committee note: Professional assistants primarily assist grading the bar examination. Section (e) of this Rule does not apply to the secretary and director or to administrative staff.

(f) Compensation of Board Members and Assistants

The members of the Board and assistants shall receive the compensation fixed by the Court.

(g) Secretary and Director to the Board

The Court may appoint an individual to serve as the secretary and director to the Board. The individual shall hold office at the pleasure of the Court. The secretary and director shall be a member of a Bar of a state. The secretary and director shall have the administrative powers and duties prescribed by the Board and shall serve as the administrative director of the Office of the State Board of Law Examiners.

(h) Fees

The Board shall prescribe the fees, subject to approval by the Court, to be paid by applicants under Rules 19-205, 19-206, 19-207, and 19-210 and by petitioners under Rule 19-216.

Cross reference: See Code, Business Occupations and Professions Article, § 10-208(b) for maximum examination fee allowed by law.

Source: This Rule is derived as follows:
Section (a) is new.
Section (b) is new.
Sections (c) through (g) are derived from former Rule 20 of the Rules Governing Admission to the Bar of Maryland (2016).
Section (h) is derived from former Rule 18 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

Rule 19-102 (d) currently requires the State Board of Law Examiners to post notice of changes to the Board Rules on the Board's page of the Judiciary website for at least 45 days before the effective date of the changes. The Board has requested proposed revisions to this Rule to address the often significant and problematic delay between the posting of a Board Rule revision on the Board's website pursuant to Rule 19-102 (d), the effective date of the revised Board Rule, and the appearance of the revised Board Rule in official online Reporters and printed Rules volumes. Moving the location of the official

publication of the Board's Rules from official online Reporters and printed Rules volumes to the Board's website will increase applicant accessibility to the Board Rules and decrease the likelihood of confusion over the version of a Board Rule that is currently in effect.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR

GENERAL ADMISSION

AMEND Rule 19-206 by revising the deadline in section (b) so that it is established by the Board and not fixed by Rule, by revising the filing deadlines in section (c), by adding a Committee note following section (c), by adding language to section (c) permitting submission of satisfactory evidence of a law degree, by revising section (d) so that the filing deadline is established by the Board instead of fixed by Rule, and by making stylistic changes, as follows:

Rule 19-206. NOTICE OF INTENT TO TAKE THE UBE IN MARYLAND

(a) Filing

An applicant may file a Notice of Intent to Take the UBE in Maryland if the applicant:

(1) meets the pre-legal educational requirements of Rule 19-201 (a)(1);

(2) unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), meets the legal education requirements of Rule 19-201 (a)(2), or will meet those requirements before the first day of taking the UBE in Maryland; and

(3) contemporaneously files, or has previously filed, a completed ~~character questionnaire~~ Character Questionnaire pursuant to Rule 19-205 that has not

been withdrawn pursuant to Rule 19-205 (f), and the applicant has not withdrawn or been denied admission pursuant to Rule 19-204.

The Notice of Intent shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

(b) Request for Test Accommodation

An applicant who seeks a test accommodation under the ADA for the bar examination shall indicate that request on the Notice of Intent to Take the UBE in Maryland, and shall file with the Board an "Accommodation Request" ~~on~~ in a form prescribed by the Board, together with the supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline ~~stated in section (d) of this Rule~~ established by the Board for filing the Notice of Intent to Take the UBE in Maryland. The Board may reject an accommodation request that is (1) substantially incomplete or (2) filed untimely. The Board shall notify the applicant in writing of the basis of the rejection and shall provide the applicant an opportunity to correct any deficiencies in the accommodation request before the filing deadline for the current examination or, if the current deadline has passed, before the filing deadline for the next administration of the examination.

Committee note: An applicant who may need a test accommodation is encouraged to file an Accommodation Request as early as possible.

Cross reference: See Rule 19-208 for the procedure to appeal a denial of a request for a test accommodation.

(c) Verification of Legal Education

Unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), the applicant shall aver under oath that the applicant has met, will meet, or will be unqualifiedly eligible to meet those requirements prior to the first day of the applicant taking the UBE in Maryland. No later than the ~~first day of September following~~ first day of July preceding an examination taken in July or the ~~fifteenth day of March following~~ first day of February preceding an examination taken in February, the applicant shall cause the Board to receive an official transcript or other satisfactory evidence that reflects the date of the award to the applicant of a qualifying law degree under Rule 19-201, unless the official transcript already is on file with the Board's administrative office.

Committee note: "Other satisfactory evidence" normally consists of a letter from the law school dean or other authorized law school official certifying the date of graduation or unqualified eligibility where the law school transcript is unavailable, such as a late graduation or a financial hold on the transcript.

(d) Time for Filing

~~An applicant who intends to take the examination in July shall file the Notice of Intent to Take the UBE in Maryland no later than the preceding May 20. An applicant who intends to take the examination in February shall file the Notice of Intent to Take the UBE in Maryland no later than the preceding December 20.~~ An applicant who intends to take the UBE in Maryland shall file the Notice of Intent to Take the UBE by the appropriate deadline established by the Board through its rule-making authority pursuant to Rule 19-102 (c)(2). Upon written request of an applicant and for good cause shown, the Board may accept a Notice of Intent to Take the UBE in Maryland filed after that deadline.

If the Board rejects the Notice of Intent to Take the UBE in Maryland for lack of good cause for the untimeliness, the Board shall transmit written notice of the rejection to the applicant. The applicant may file an exception with the Court within five business days after notice of the rejection is transmitted.

(e) Withdrawal of Notice of Intent to Take the UBE in Maryland or Absence from Examination

If an applicant withdraws the Notice of Intent to Take the UBE in Maryland or fails to attend and take the examination, the examination fee shall not be refunded. The Board may apply the examination fee to a subsequent examination if the applicant establishes good cause for the withdrawal or failure to attend.

Source: This Rule is derived from former Rule 19-204 (2018).

REPORTER'S NOTE

Proposed changes to Rule 19-206 (c) reflect the fact that most official law school transcripts are delivered electronically and can be obtained prior to the bar exam. Advancing the due date for transcripts increases the incidence of definitive confirmation of eligibility prior to the bar exam and reduces the possibility of having ineligible applicants sit for the bar exam. "Other satisfactory evidence" normally consists of a letter from the law school dean or other authorized law school official certifying the date of graduation or unqualified eligibility where the law school transcript is unavailable, such as a late graduation or a financial hold on the transcript.

In recent exam sessions, the State Board of Law Examiners (SBLE) has experienced a significant increase in the number of requests for ADA testing accommodations sought by applicants pursuant to Rule 19-206 (b). The current filing deadlines in Rule 19-206 (d) compress the period between the filing deadline and the date of the bar exam in which the SBLE must perform its required tasks related to review and determination of ADA test accommodations and for the Accommodations Review Committee to conduct its

reviews pursuant to Rule 19-208. The suggested revisions to Rule 19-206 (b) and (d) allow the SBLE to adjust the filing deadline as needed, pursuant to Rule 19-102, and would greatly assist the SBLE in managing the additional workload created by the increase in number of accommodation requests.