

RULES REGULATING THE FLORIDA BAR

CHAPTER 13. AUTHORIZED LEGAL AID PRACTITIONERS RULE

13-1. GENERALLY

RULE 13-1.1 PURPOSE

The purpose of this chapter is to expand the delivery of legal services to poor people. This chapter authorizes attorneys licensed to practice law in jurisdictions other than Florida to be certified to practice in Florida for up to 1 year while employed by a legal aid organization. The attorney so certified must take the next available Florida bar examination.

RULE 13-1.2 DEFINITIONS

(a) Authorized Legal Aid Practitioner. An "authorized legal aid practitioner" is any person who:

(1) was engaged in the active practice of law for 3 years immediately preceding the application for certification under this chapter;

(2) is a member in good standing of the entity governing the practice of law of any other state or territory or the District of Columbia and has not been disciplined for professional misconduct by the bar or courts of any jurisdiction within the past 15 years;

(3) has not failed the Florida bar examination and has not been denied admission to the courts of any jurisdiction during the preceding 15 years;

(4) agrees to abide by the Rules Regulating The Florida Bar and submit to the jurisdiction of the Supreme Court of Florida for disciplinary purposes;

(5) neither asks for nor receives compensation of any kind from the person on whose behalf the practitioner renders legal services hereunder (this shall not prevent the approved legal aid organization from paying compensation to the attorney); and

(6) is certified under rule 13-1.5.

(b) Approved Legal Aid Organization. An "approved legal aid organization" for the purposes of this chapter is a not-for-profit legal aid organization that is approved by the Supreme Court of Florida as set forth herein. A legal aid organization seeking approval from the Supreme Court of Florida for the purposes of this chapter shall file a petition with the clerk of the Supreme Court of Florida certifying that it is a not-for-profit organization and stating with specificity:

(1) the structure of the organization and whether it accepts funds from its clients;

(2) the major sources of funds used by the organization;

(3) the criteria used to determine potential clients' eligibility for legal services performed by the organization;

(4) the types of legal and nonlegal services performed by the organization;

(5) the names of all members of The Florida Bar who are employed by the organization or who regularly perform legal work for the organization; and

(6) the existence and extent of malpractice insurance that will cover the authorized legal aid practitioner.

(c) Supervising Attorney. A "supervising attorney" as used herein is a member in good standing of The Florida Bar who directs and supervises an authorized legal aid practitioner engaged in activities permitted by this chapter. The supervising attorney must:

(1) be employed by or be a participating volunteer for an approved legal aid organization; and

(2) assume personal professional responsibility for supervising the conduct of the matter, litigation, or administrative proceeding in which the authorized legal aid practitioner participates.

RULE 13-1.3 ACTIVITIES

(a) Permissible Activities. An authorized legal aid practitioner, in association with an approved legal aid organization and under the supervision of a supervising attorney, may perform the following activities:

(1) Appear in any court or before any administrative tribunal in this state on behalf of a client of an approved legal aid organization if the person on whose behalf the authorized legal aid practitioner is appearing has consented in writing to that appearance and a supervising attorney has given written approval for that appearance. The written consent and approval shall be filed in each case and shall be brought to the attention of a judge of the court or the presiding officer of the administrative tribunal.

(2) Prepare pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the authorized legal aid practitioner is involved. Such pleadings also shall be signed by the supervising attorney.

(3) Prepare legal documents, provide legal advice, and otherwise engage in the practice of law.

(4) Engage in such other preparatory activities as are necessary for any matter in which the practitioner is involved.

(b) Determination of Scope of Participation. The presiding judge or hearing officer may, in the judge's or officer's discretion, determine the extent of the authorized legal aid practitioner's participation in any proceeding.

RULE 13-1.4 SUPERVISION AND LIMITATIONS

(a) Supervision by Attorney. An authorized legal aid practitioner must perform all activities authorized by this chapter under the direct supervision of a supervising attorney.

(b) Representation of Bar Membership Status. Authorized legal aid practitioners permitted to perform services under this chapter are not, and shall not represent themselves to be, active members of The Florida Bar licensed to practice law in this state.

(c) Payment of Expenses and Award of Fees. The limitation on compensation for the authorized legal aid practitioner contained in rule 13-1.2(a)(5) shall not prevent the approved legal aid organization from reimbursing the authorized legal aid practitioner for actual expenses incurred while rendering services hereunder nor shall it prevent the approved legal aid organization from making such charges for its services as it may otherwise properly charge. The approved legal aid organization shall be entitled to receive all court-awarded attorney's fees for any representation rendered by the authorized legal aid practitioner.

RULE 13-1.5 CERTIFICATION

Permission for an authorized legal aid practitioner to perform services under this chapter shall become effective upon filing with and approval by the clerk of the Supreme Court of Florida of:

(a) A certification by an approved legal aid organization stating that the authorized legal aid practitioner is currently associated with that legal aid organization and that an attorney employed by or participating as a volunteer with that organization will assume the duties of the supervising attorney required hereunder.

(b) A certificate from the highest court or agency in the state, territory, or district in which the authorized legal aid practitioner is licensed to practice law certifying that the authorized legal aid practitioner is a member in good standing and has a clear disciplinary record as required by rule 13-1.2(a)(2). The certificate shall also advise of any pending complaints and/or investigations involving the authorized legal aid practitioner.

(c) A sworn statement by the authorized legal aid practitioner that the practitioner:

(1) has read and is familiar with chapter 4 of the Rules Regulating The Florida Bar as adopted by the Supreme Court of Florida and will abide by the provisions thereof;

(2) submits to the jurisdiction of the Supreme Court of Florida for disciplinary purposes, as defined by chapter 3 of the Rules Regulating The Florida Bar and by rule 13-1.7, and authorizes the practitioner's home state to be advised of any disciplinary action taken in Florida; and

(3) will take the next available Florida bar examination.

RULE 13-1.6 WITHDRAWAL OR TERMINATION OF CERTIFICATION

(a) **Cessation of Permission to Perform Services.** Permission to perform services under this chapter shall cease immediately upon the earliest of the following events:

(1) The passage of 1 year from the date of the authorized legal aid practitioner's certification by the court; provided, however, the certification of any authorized legal aid practitioner who has passed the Florida bar examination shall continue in effect until the date the practitioner is admitted to practice.

(2) Failure of the Florida bar examination.

(3) The filing with the clerk of the Supreme Court of Florida of a notice by the approved legal aid organization stating that:

(A) the authorized legal aid practitioner has ceased to be associated with the organization, which notice must be filed within 5 days after such association has ceased; or

(B) certification of such attorney is withdrawn. An approved legal aid organization may withdraw certification at any time and it is not necessary that the notice state the cause for such withdrawal. A copy of the notice filed with the clerk of the Supreme Court of Florida shall be mailed by the organization to the authorized legal aid practitioner concerned.

(4) The filing with the clerk of the Supreme Court of Florida of a notice by the Supreme Court of Florida, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice shall be mailed by the clerk of the Supreme Court of Florida to the authorized legal aid practitioner involved and to the approved legal aid organization to which the practitioner had been certified. The certified legal aid attorney shall have 15 days to request reinstatement for good cause.

(b) Notice of Withdrawal of Certification. If an authorized legal aid practitioner's certification is withdrawn for any reason, the supervising attorney shall immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the authorized legal aid practitioner was involved.

RULE 13-1.7 DISCIPLINE

(a) Contempt; Withdrawal of Certification. In addition to any appropriate proceedings and discipline that may be imposed by the Supreme Court of Florida under chapter 3 of these Rules Regulating The Florida Bar, the authorized legal aid practitioner shall be subject to the following disciplinary measures:

(1) the presiding judge or hearing officer for any matter in which the authorized legal aid practitioner has participated may hold the authorized legal aid practitioner in civil contempt for any failure to abide by such tribunal's order, in the same manner as any other person could be held in civil contempt; and

(2) the Supreme Court of Florida or the approved legal aid organization may, at any time, with or without cause, withdraw certification hereunder.

(b) Notice to Home State of Disciplinary Action. The Florida Bar shall notify the appropriate authority in the authorized legal aid attorney's home state of any disciplinary action taken against the authorized legal aid practitioner.