

Rule 243. Rules Governing Lawyer Disability Proceedings

Rule 243.1. Disability Jurisdiction

Disability jurisdiction exists under this rule over the following persons:

- (a) A lawyer admitted, certified, or otherwise authorized to practice law in Colorado, regardless of where the lawyer's conduct occurs or where the lawyer resides; and
- (b) A lawyer not admitted to practice law in Colorado who provides or offers to provide any legal services in Colorado, including a lawyer who practices in Colorado pursuant to federal or tribal law.

Rule 243.2. Relevant Entities

- (a) Supreme Court. The supreme court has plenary and appellate authority under this rule. The supreme court has the authority to review any determination made in disability proceedings and to enter any order in such proceedings.
- (b) Advisory Committee. The Supreme Court Advisory Committee on the Practice of Law (Advisory Committee) is authorized to act with respect to this rule in accordance with the powers and duties set forth in C.R.C.P. 242.3(c).
- (c) Regulation Counsel. The Attorney Regulation Counsel (Regulation Counsel) represents the People of the State of Colorado in proceedings under this rule. The Regulation Counsel is authorized to act in disability proceedings in accordance with the powers and duties set forth in C.R.C.P. 242.5(c) and to perform the duties set forth in this rule.
- (d) Presiding Disciplinary Judge. The Presiding Disciplinary Judge is authorized to act in disability proceedings in accordance with the powers and duties set forth in C.R.C.P. 242.6(c) and to perform the duties set forth in this rule.
- (e) Hearing Boards. Hearing Boards are authorized to act in accordance with the powers and duties set forth in C.R.C.P. 242.7 as to consolidated disciplinary and disability reinstatement proceedings.

Rule 243.3. Immunity

- (a) Prohibition Against Lawsuit Based on Proceeding Under this Rule. A lawyer may not institute a civil lawsuit against any person based on testimony in a proceeding under this rule or other written or oral communications made to relevant entities described in this rule, those entities' members or employees, or persons acting on their behalf, including monitors and health care professionals.

(b) Immunity for Entities. All entities described in this rule and all individuals working or volunteering on behalf of those entities are immune from civil suit for conduct in the course of fulfilling their official duties under this rule.

Rule 243.4. Standard and Effect

(a) Standard. A lawyer is disabled under this rule and may be transferred to disability inactive status if the lawyer is unable to competently fulfill professional responsibilities as a result of a physical or behavioral health condition or disorder, including a mental, cognitive, emotional, substance use, or addictive issue.

(b) Effect. While a lawyer is on disability inactive status, the lawyer must not practice law. Disability inactive status is not a form of discipline. The pendency of a disability proceeding or a lawyer's transfer to disability inactive status does not stay a disciplinary proceeding against the lawyer, unless such an order is entered under C.R.C.P. 242.28 (governing alleged inability to defend disciplinary proceedings).

Rule 243.5. Judicial Duties to Report Lawyer Disability

A judge's duty to report a lawyer's disability is governed by Rule 2.14 of the Colorado Code of Judicial Conduct.

Rule 243.6. Transfer to Disability Inactive Status

(a) Procedure and Determination.

(1) Petition Filed by Regulation Counsel.

(A) Petition. If the Regulation Counsel has reason to believe that a lawyer is disabled, the Regulation Counsel may file a petition with the Presiding Disciplinary Judge alleging that the lawyer is disabled and requesting an order requiring the lawyer to undergo an independent medical examination or an order transferring the lawyer to disability inactive status. The Regulation Counsel must promptly serve on the lawyer a copy of the petition and file with the Presiding Disciplinary Judge proof of service.

(B) Show Cause Order. Unless the Regulation Counsel files an affidavit setting forth facts that clearly and convincingly show the lawyer is unable to respond, the Presiding Disciplinary Judge must afford the lawyer an opportunity to show cause in writing why the requested relief should not be granted.

(C) Determination. After considering the lawyer's response, the Presiding Disciplinary Judge may issue appropriate orders, such as ordering an independent medical examination of the lawyer by a qualified examiner designated by the Presiding Disciplinary Judge. If the Presiding Disciplinary Judge finds clear and convincing evidence that the lawyer is disabled, the Presiding Disciplinary Judge will transfer the lawyer to disability inactive status.

(2) Petition Premised on Reciprocal Disability.

(A) Duty to Notify. A lawyer who is transferred to disability inactive status in another jurisdiction must promptly inform the Regulation Counsel of the transfer.

(B) Petition. On learning that a lawyer has been transferred to disability inactive status in another jurisdiction, the Regulation Counsel may file with the Presiding Disciplinary Judge a certified copy of the order, accompanied by a petition for the lawyer's transfer to disability inactive status. The Regulation Counsel must promptly serve on the lawyer a copy of the petition and file with the Presiding Disciplinary Judge proof of service.

(C) Show Cause Order. Unless the Regulation Counsel files an affidavit setting forth facts that clearly and convincingly show the lawyer is unable to respond, the Presiding Disciplinary Judge must afford the lawyer an opportunity to show cause in writing why reciprocal transfer to disability inactive status should not be ordered.

(D) Answer. To contest transfer to disability inactive status, the lawyer must file with the Presiding Disciplinary Judge an answer asserting at least one of the defenses in subsection (E) below and a full copy of the record of the disability proceeding in the other jurisdiction.

(E) Determination. The Presiding Disciplinary Judge will order the lawyer's transfer to disability inactive status unless the lawyer demonstrates by clear and convincing evidence that (i) the procedure followed in the other jurisdiction did not comport with Colorado's requirements of due process of law; (ii) the reason for the original transfer to disability inactive status no longer exists; or (iii) the proof upon which the other jurisdiction based its determination of disability is so infirm that the determination of the other jurisdiction cannot be accepted. In all other respects, a final adjudication in another jurisdiction that a lawyer, whether or not admitted in that jurisdiction, should be transferred to disability inactive status conclusively establishes the disability for purposes of this rule.

(3) Petition Premised on Order of Commitment, Guardianship, or Judicial Declaration of Incompetence. On learning that a lawyer is subject to a valid and current order of commitment, is under guardianship, or is subject to a judicial declaration of incompetence to stand trial, the Regulation Counsel may file with the Presiding Disciplinary Judge a petition seeking the lawyer's transfer to disability inactive status, accompanied by proof of the basis for the petition. On receiving a properly supported petition, the Presiding Disciplinary Judge may transfer the lawyer to disability inactive status. The Presiding Disciplinary Judge must send notice of the transfer to the lawyer or, where applicable, to the lawyer's guardian or the director of the facility to which the lawyer has been committed.

(4) Verified Notice Filed By Lawyer. If a lawyer believes that she or he is disabled, the lawyer must, if able, file with the Presiding Disciplinary Judge a verified notice setting forth the basis

for the assertion of disability accompanied by proof thereof. On receiving a properly supported notice, the Presiding Disciplinary Judge will transfer the lawyer to disability inactive status.

(5) Allegation of Inability to Defend. After an allegation of inability to defend a disciplinary proceeding has been raised under C.R.C.P. 243.7, the Presiding Disciplinary Judge may transfer a respondent to disability inactive status either:

(A) If the respondent has raised the issue of disability as provided in C.R.C.P. 243.7(d)(1); or

(B) If, subject to the procedures in C.R.C.P. 243.7(f), clear and convincing evidence shows that the respondent is disabled within the meaning of C.R.C.P. 243.4(a).

(b) Service of Process. When a petition is filed under this rule, a lawyer may be served with process by personal service; by mail or email using the information provided by the lawyer under C.R.C.P. 227; by mail to any other address the lawyer has provided to the Regulation Counsel; or, if the lawyer is not admitted in Colorado, by mail or email to the lawyer's address of registration in any jurisdiction where the lawyer's registration is active. Service is deemed effective on the date that the lawyer is personally served, that the petition is placed in the mail, or that the email is sent.

(c) Hearings. Either party may request a hearing on the issue of whether the lawyer should be transferred to disability inactive status. The Presiding Disciplinary Judge also has discretion to hold a hearing to address any issue in a disability proceeding. The clerk of the Presiding Disciplinary Judge may issue subpoenas under C.R.C.P. 45. Disability hearings are conducted by the Presiding Disciplinary Judge, sitting without a Hearing Board. Except as otherwise provided in this rule, disability proceedings must be conducted in accordance with the Colorado Rules of Civil Procedure and civil trial practice in this state. The Presiding Disciplinary Judge may receive any evidence with probative value regardless of its admissibility under the rules of evidence if the lawyer has a fair opportunity to rebut hearsay evidence.

(d) Privilege Against Self-Incrimination and Adverse Inferences. A lawyer cannot be required to testify or to produce records over the lawyer's objection if doing so would violate the lawyer's constitutional privilege against self-incrimination. But in proceedings under this rule, the Presiding Disciplinary Judge may draw an adverse inference from a lawyer's failure to testify or to produce records. The Presiding Disciplinary Judge may also draw an adverse inference from a lawyer's disregard of orders issued in a disability proceeding.

(e) Confidentiality. An order transferring a lawyer to disability inactive status is available to the public. Otherwise, disability proceedings, files, and records are confidential and are not available to the public, except by order of the supreme court or the Presiding Disciplinary Judge. All entities described in this rule and all individuals working or volunteering on behalf of those entities have an ongoing duty to maintain the confidentiality mandated by this rule. But the Regulation Counsel may disclose any information reasonably necessary either to correct false or

misleading public statements made during a disability proceeding or to defend against litigation in which the Regulation Counsel is a named defendant. A lawyer may release information arising from the lawyer's own disability proceeding or authorize the Regulation Counsel to release such information, unless the information is made confidential by rule or order.

(f) Costs. The Regulation Counsel bears the costs of petitioning for a lawyer's transfer to disability inactive status, including examination costs, unless the Presiding Disciplinary Judge exercises discretion to order otherwise.

Rule 243.7. Alleged Inability to Defend Disciplinary Proceeding

(a) Overview. This section 243.7 sets forth the standards and procedures that apply when an issue is raised under C.R.C.P. 242.28 as to whether a respondent is able to defend a pending disciplinary proceeding. The Presiding Disciplinary Judge may initially direct the respondent to undergo an independent medical examination and may issue an interim stay of the disciplinary proceeding. Then, after considering all relevant information, the Presiding Disciplinary Judge may place a disciplinary proceeding in abeyance as provided below.

(b) Standard. A respondent is deemed unable to defend a disciplinary proceeding if the respondent has a medical, mental, or cognitive condition that renders the respondent unable to prepare or present a defense.

(c) Initiation.

(1) Under C.R.C.P. 242.28, the respondent, the respondent's counsel, the Presiding Disciplinary Judge, or the Regulation Counsel may raise an issue as to the respondent's ability to defend the proceeding.

(2) If the issue of inability to defend is raised as to a respondent who is unrepresented, the Presiding Disciplinary Judge may, in the Presiding Disciplinary Judge's discretion, appoint counsel to represent the respondent in a proceeding under this section 243.7 to determine whether the respondent is able to defend the disciplinary proceeding.

(d) Procedure. Depending on the entity raising the issue, the following procedures apply, subject to the Presiding Disciplinary Judge's discretion to adopt a different procedure:

(1) By Respondent. If a respondent or respondent's counsel alleges that the respondent is unable to defend a disciplinary proceeding:

(A) The Presiding Disciplinary Judge will direct the respondent to undergo an independent medical examination on the issues of whether the respondent is able to defend the disciplinary proceeding and to competently fulfill professional responsibilities;

(B) The Presiding Disciplinary Judge will issue an interim stay of the disciplinary proceeding under C.R.C.P. 242.28, which the Presiding Disciplinary Judge may subsequently lift on a showing of good cause;

(C) The Presiding Disciplinary Judge will treat a respondent's allegation of inability to defend as a waiver of the physician-patient and psychologist-client privileges under C.R.S. section 13-90-107(d) and (g) between the lawyer and any professional who has examined or treated the lawyer for any condition related to the alleged inability to defend; and

(D) The Presiding Disciplinary Judge will treat the allegation as a stipulation to the respondent's transfer to disability inactive status and will transfer the respondent to disability inactive status under C.R.C.P. 243.6(a)(5)(A).

(2) By Presiding Disciplinary Judge. If the Presiding Disciplinary Judge believes the respondent may be unable to defend a disciplinary proceeding, the Presiding Disciplinary Judge will follow the procedures set forth in subsections (d)(1)(A)-(B) above.

(3) By Regulation Counsel. If the Regulation Counsel moves to place a disciplinary proceeding in abeyance due to the respondent's inability to defend the disciplinary proceeding, where the respondent has already been transferred to disability inactive status, the Presiding Disciplinary Judge may grant the request without requiring the Regulation Counsel to provide proof or information about the disability in question.

(e) Hearings. The Presiding Disciplinary Judge has discretion to hold a hearing to address any issue in a proceeding under this section 243.7. The clerk of the Presiding Disciplinary Judge may issue subpoenas under C.R.C.P. 45. Hearings are conducted by the Presiding Disciplinary Judge, sitting without a Hearing Board. Except as otherwise provided in this rule, proceedings under this section must be conducted in accordance with the Colorado Rules of Civil Procedure and civil trial practice in this state. The Presiding Disciplinary Judge may receive any evidence with probative value regardless of its admissibility under the rules of evidence if the respondent has a fair opportunity to rebut hearsay evidence.

(f) Decision. After reviewing the report of an independent medical examination and any other relevant information, and after holding any hearing the Presiding Disciplinary Judge deems necessary, the Presiding Disciplinary Judge will, in the Presiding Disciplinary Judge's discretion, take one or more of the following actions:

(1) Transfer the respondent to disability inactive status under C.R.C.P. 243.6(a)(5) and place the disciplinary proceeding in abeyance under C.R.C.P. 242.28, if the Presiding Disciplinary Judge finds it is more likely than not that the respondent is unable to defend the proceeding or finds that justice otherwise so requires;

(2) Lift the interim stay on the disciplinary proceeding and order under C.R.C.P. 242.28 that the proceeding go forward with or without also transferring the respondent to disability inactive status under C.R.C.P. 243.6(a)(5); or

(3) Enter any other appropriate order, including an order directing further examination of the respondent, an order continuing the disciplinary proceeding, or an order immediately reinstating the respondent from disability inactive status without following the procedures set forth in C.R.C.P. 243.10(b).

(g) Subsequent Removal of Proceeding from Abeyance.

(1) If the respondent is subsequently reinstated from disability inactive status under C.R.C.P. 243.10, the Presiding Disciplinary Judge will remove the respondent's disciplinary proceeding from abeyance under C.R.C.P. 242.28.

(2) If the respondent has not been reinstated from disability inactive status under C.R.C.P. 243.10, the Presiding Disciplinary Judge may, in the Presiding Disciplinary Judge's discretion, remove a disciplinary proceeding from abeyance under C.R.C.P. 242.28 if:

(A) A preponderance of the evidence establishes that the respondent is able to defend the proceeding; or

(B) The Presiding Disciplinary Judge otherwise determines that justice so requires.

(h) Confidentiality. An order transferring a lawyer to disability inactive status is available to the public. Otherwise, disability proceedings, files, and records are not public, except by order of the supreme court or the Presiding Disciplinary Judge. All entities described in this rule and all individuals working or volunteering on behalf of those entities have an ongoing duty to maintain the confidentiality mandated by this rule. But the Regulation Counsel may disclose any information reasonably necessary either to correct false or misleading public statements made during a disability proceeding or to defend against litigation in which the Regulation Counsel is a named defendant. A lawyer may release information arising from the lawyer's own disability proceeding or authorize the Regulation Counsel to release such information, unless the information is made confidential by rule or order.

(i) Costs and Fees. The Presiding Disciplinary Judge, in the Presiding Disciplinary Judge's discretion, may order the respondent to pay all or any part of the costs arising under this section 243.7, including examination costs. Fees for appointed counsel may be paid by the Office of the Presiding Disciplinary Judge, and the Presiding Disciplinary Judge may condition reinstatement from disability inactive status on reimbursement of all or any part of those fees. Fees for appointed counsel are subject to payment caps as established by judicial policy governing analogous proceedings.

(j) Automatic Abeyance and Removal of Proceeding from Abeyance. If a respondent in a pending disciplinary proceeding has been transferred to disability inactive status under C.R.C.P. 243.6(a)(3), the Regulation Counsel must request that the Presiding Disciplinary Judge place a pending disciplinary proceeding in abeyance under C.R.C.P. 242.28. The Presiding Disciplinary Judge will grant a proper request. The Presiding Disciplinary Judge will remove the disciplinary proceeding from abeyance under C.R.C.P. 242.28 if the respondent is reinstated from disability inactive status.

Rule 243.8. Notices After Transfer to Disability Inactive Status

(a) Notice to Clients and Parties; Filing of Affidavit. A lawyer who is transferred to disability inactive status must, if able, comply with C.R.C.P. 242.32(b)-(i).

(b) Disclosure to Law Firm. A lawyer who is transferred to disability inactive status must, if able, disclose in writing the order to the lawyer's current law firm within 14 days of the order.

(c) Notice of Order to the Courts. The clerk of the supreme court must promptly notify all courts within the supreme court's jurisdiction of a final order transferring a lawyer to disability inactive status.

(d) Notice to ABA National Regulatory Data Bank. The Regulation Counsel must promptly transmit notice of a final order transferring a lawyer to disability inactive status to the National Regulatory Data Bank maintained by the American Bar Association.

Rule 243.9. Resignation

As provided in C.R.C.P. 227(A)(8), the supreme court may permit a lawyer to resign from the practice of law in Colorado. The Regulation Counsel must inform the supreme court whether any disciplinary or disability matter involving the lawyer should preclude the lawyer's resignation.

Rule 243.10. Reinstatement After Transfer to Disability Inactive Status

(a) Overview and Eligibility. The Presiding Disciplinary Judge considers petitions for reinstatement from disability inactive status under the standards set forth in subsection (b) below. If the lawyer has remained on disability inactive status for five years or longer, the lawyer must have satisfied the supreme court's bar examination and MPRE requirements within the eighteen months preceding the filing of the petition. But if a lawyer petitions for reinstatement within five years of the effective date of the lawyer's transfer to disability inactive status, the five-year period addressed in this subsection stops running until a final order is issued and any appeals have been decided.

(b) Procedure and Standards.

(1) Disability Cases Arising in Colorado.

(A) Standards. Unless a lawyer was transferred to disability inactive status based on reciprocal disability, a lawyer may be reinstated if the lawyer demonstrates by clear and convincing evidence that the lawyer is competent to resume the practice of law and meets the following eligibility requirements, as may be applicable to the facts of the matter, for the practice of law:

- (i) Honesty and candor with clients, lawyers, courts, regulatory authorities, and others;
- (ii) The ability to reason logically, recall complex factual information, and accurately analyze legal problems;
- (iii) The ability to use a high degree of organization and clarity in communicating with clients, lawyers, judicial officers, and others;
- (iv) The ability to use good judgment on behalf of clients and in conducting professional business;
- (v) The ability to act with respect for and in accordance with the law;
- (vi) The ability to exhibit regard for the rights and welfare of others;
- (vii) The ability to comply with the Colorado Rules of Professional Conduct; state, local, and federal laws; regulations, statutes, and rules; and orders of a tribunal;
- (viii) The ability to act diligently and reliably in fulfilling obligations to clients, lawyers, courts, and others;
- (ix) The ability to be honest and use good judgment in personal financial dealings and on behalf of clients and others; and
- (x) The ability to comply with deadlines and time constraints.

(B) Petition by Lawyer.

(i) A lawyer seeking reinstatement from disability inactive status must file a properly verified petition with the Presiding Disciplinary Judge and provide a copy to the Regulation Counsel. Within 14 days of receiving the petition, the Regulation Counsel must file a response indicating whether the Regulation Counsel objects to reinstatement, intends to stipulate to reinstatement, or believes further investigation is needed.

(ii) After receiving a petition and response, the Presiding Disciplinary Judge may order the lawyer to undergo an independent medical examination by a qualified examiner designated by the Presiding Disciplinary Judge.

(iii) The Presiding Disciplinary Judge has discretion to order reinstatement proceedings procedurally analogous to those set forth in C.R.C.P. 242.39. But the Presiding Disciplinary Judge considers reinstatement petitions from disability inactive status without a Hearing Board.

(iv) After considering the relevant information and holding any hearing, the Presiding Disciplinary Judge may grant or deny reinstatement.

(C) Stipulation to Reinstatement. Either before or after the filing of a petition, the parties may file a stipulated agreement that the lawyer should be reinstated from disability inactive status. After considering the relevant information and holding any hearing, the Presiding Disciplinary Judge may approve or reject the stipulation.

(2) Reciprocal Disability.

(A) Summary Reinstatement Premised on Reinstatement in Originating Jurisdiction. If a lawyer was transferred to disability inactive status under C.R.C.P. 243.6(a)(2) and has since been reinstated to practice law in the jurisdiction in which the reciprocal disability proceeding originated, the lawyer may file a petition seeking reinstatement, accompanied by a certified copy of the order reinstating the lawyer in the originating jurisdiction. Provided that the lawyer has not remained on disability inactive status under this rule for more than five years, the Presiding Disciplinary Judge may summarily reinstate the lawyer.

(B) No Reinstatement in Originating Jurisdiction. If a lawyer's petition demonstrates that good cause exists for not seeking reinstatement in the originating jurisdiction, the Presiding Disciplinary Judge may allow a lawyer subject to reciprocal disability to seek reinstatement in Colorado under subsection (b)(1) above without having been reinstated in the originating jurisdiction. A lawyer seeking reinstatement under this provision must attach to the petition for reinstatement a complete record of the disability proceeding in the originating jurisdiction and must certify in the petition that the lawyer was not subject in the originating jurisdiction to any disciplinary proceedings, including a disciplinary investigation, at the time the lawyer was transferred to disability inactive status.

(c) Disability Reinstatement Hearings. Disability reinstatement hearings are conducted by the Presiding Disciplinary Judge, sitting without a Hearing Board, except as provided in subsection (d) below. The clerk of the Presiding Disciplinary Judge may issue subpoenas under C.R.C.P. 45. Except as otherwise provided in this rule, reinstatement proceedings must be conducted in accordance with the Colorado Rules of Civil Procedure and civil trial practice in this state. The Presiding Disciplinary Judge may receive any evidence with probative value regardless of its admissibility under the rules of evidence if the lawyer has a fair opportunity to rebut hearsay evidence.

(d) Consolidated Disability and Disciplinary Reinstatement Proceedings. If a lawyer concurrently petitions for reinstatement from disability inactive status and reinstatement or readmission in a disciplinary case, the Presiding Disciplinary Judge may, if the lawyer consents, consolidate the proceedings. If so, a Hearing Board will consider both petitions together under C.R.C.P. 242.39, and the consolidated proceedings will be public.

(e) Costs. Unless the Presiding Disciplinary Judge orders otherwise, a lawyer may not file a petition for reinstatement under this section 243.10 until the lawyer has paid the costs incurred in the underlying disability proceeding, including the cost of any examinations ordered.

(f) Waiver of Privilege. For purposes of this rule, when a lawyer petitions for reinstatement from disability inactive status, the lawyer thereby waives the physician-patient and psychologist-client privileges under C.R.S. section 13-90-107(d) and (g) between the lawyer and any professional who has examined or treated the lawyer in connection with the disability. The Presiding Disciplinary Judge may order the lawyer to identify professionals who have examined or treated the lawyer in connection with the disability. The Presiding Disciplinary Judge may also order the lawyer to provide written consent for those professionals to disclose information and records pertaining to the lawyer's examination or treatment.

(g) Confidentiality. An order reinstating a lawyer from disability inactive status is available to the public. Otherwise, disability reinstatement proceedings, files, and records are confidential and are not available to the public, except by order of the supreme court or the Presiding Disciplinary Judge. All entities described in this rule and all individuals working or volunteering on behalf of those entities have an ongoing duty to maintain the confidentiality mandated by this rule. But the Regulation Counsel may disclose any information reasonably necessary either to correct false or misleading public statements made during a disability reinstatement proceeding or to defend against litigation in which the Regulation Counsel is a named defendant. A lawyer may release information arising from the lawyer's own disability reinstatement proceeding or authorize the Regulation Counsel to release such information, unless the information is made confidential by rule or order.

Rule 243.11. Notices After Reinstatement

(a) Notice of Order to the Courts. The clerk of the supreme court must promptly notify all courts within the supreme court's jurisdiction of a final order of reinstatement from disability inactive status.

(b) Notice to ABA National Regulatory Data Bank. The Regulation Counsel must transmit notice of reinstatement from disability inactive status to the National Regulatory Data Bank maintained by the American Bar Association.

Rule 243.12. Post-Hearing Relief and Appeals

(a) Post-hearing Relief. Within 14 days of entry of a final order in a disability proceeding under this rule, including a disability reinstatement proceeding, a party may move for post-hearing relief under C.R.C.P. 59.

(b) Appellate Review. A party may seek appellate review by the supreme court of a final decision in a proceeding under this rule. Part VIII of C.R.C.P. 242 governs appellate review.

(c) Stay Pending Appeal. If reinstatement is granted, the Regulation Counsel may at any time move the supreme court for a stay pending appeal. The supreme court should grant the stay if the Regulation Counsel demonstrates the stay is necessary to protect the public.

(d) Confidentiality. Proceedings under this section are confidential.

Rule 243.13. Contempt During Proceeding

(a) Applicability. If, during a proceeding under this rule, a person knowingly obstructs an investigation, fails to comply with a subpoena, refuses to answer a proper question when testifying, or disrupts through misbehavior the Presiding Disciplinary Judge in the performance of authorized duties, the person may be held in contempt and sanctioned. Authority conferred under this section 243.13 is in addition to any other authority to issue sanctions. C.R.C.P. 107 does not govern contempt proceedings under this section.

(b) Procedure for Direct Contempt. If a person commits contemptuous conduct that the Presiding Disciplinary Judge sees or hears and that is so extreme no warning is necessary, or that has been repeated despite a warning to desist, the Presiding Disciplinary Judge may summarily punish the conduct by imposing reasonable sanctions, including a fine. In such a case, the Presiding Disciplinary Judge will enter an order on the record reciting the facts constituting the contempt, including a description of the conduct, and finding that the conduct is offensive to the authority and dignity of the tribunal. Before the Presiding Disciplinary Judge imposes sanctions, the person held in contempt has the right to respond to the charge of contempt, including making a statement in mitigation.

(c) Procedure for Indirect Contempt.

(1) Motion. A party may file with the Presiding Disciplinary Judge a motion for an order to show cause alleging that a person has, outside of the direct sight or hearing of the Presiding Disciplinary Judge, as applicable, engaged in any of the conduct identified in subsection (a) above. The party must also serve the motion on the person alleged to be in contempt.

(2) Order to Show Cause. The Presiding Disciplinary Judge may enter an order to show cause directing the person alleged to be in contempt to appear at a specified time and place and to show cause why the person should not be held in contempt.

(3) Determination. If the Presiding Disciplinary Judge finds that the person has engaged in any of the conduct described in subsection (a) above, the Presiding Disciplinary Judge may hold the person in contempt and impose reasonable sanctions. The Presiding Disciplinary Judge also may order costs and reasonable attorney's fees.

(d) Disciplinary Charges. An allegation or a finding of contempt does not preclude the Regulation Counsel from filing disciplinary charges under C.R.C.P. 242 based on the same underlying conduct.

(e) Referral to Other Court. Nothing herein precludes the Regulation Counsel from referring a matter to another court of competent jurisdiction to commence other proceedings or to address other appropriate sanctions or remedies.

(f) Appeal. For the purposes of appeal, an order deciding the issue of contempt and sanctions is final.