

Rule 15-523. Proceedings in which licensed paralegal practitioner is declared to be incompetent or alleged to be incapacitated.

1 (a) Involuntary commitment or adjudication of incompetency. If a licensed paralegal
2 practitioner has been judicially declared incompetent or is involuntarily committed on the
3 grounds of incompetency, OPC counsel, upon proper proof of the fact, shall file a petition with
4 the district court for the immediate transfer of the licensed paralegal practitioner to disability
5 status for an indefinite period until further order of the district court. A copy of the order shall be
6 served by OPC counsel upon the licensed paralegal practitioner or the licensed paralegal
7 practitioner's guardian or, if no guardian or legal representative has been appointed, upon the
8 director of the institution to which the licensed paralegal practitioner has been committed.

9 (b) Inability to properly defend. If a licensed paralegal practitioner alleges in the course of a
10 disciplinary proceeding an inability to assist in the defense due to mental or physical incapacity,
11 the district court shall immediately transfer the licensed paralegal practitioner to disability status
12 pending determination of the incapacity.

13 (b)(1) If the district court determines the claim of inability to defend is valid, the disciplinary
14 proceeding shall be deferred and the licensed paralegal practitioner retained on disability status
15 until the district court subsequently considers a petition for transfer of the licensed paralegal
16 practitioner to active status. If the district court considering the petition for transfer to active
17 status determines the petition should be granted, the interrupted disciplinary proceedings may
18 resume.

19 (b)(2) If the district court determines the claim of incapacity to defend to be invalid, the
20 disciplinary proceeding shall resume.

21 (c) Proceedings to determine incapacity. Information relating to a licensed paralegal
22 practitioner's physical or mental condition which adversely affects the licensed paralegal
23 practitioner's ability to practice law as a licensed paralegal practitioner shall be investigated, and
24 if warranted, shall be the subject of formal proceedings to determine whether the licensed
25 paralegal practitioner shall be transferred to disability status. Hearings shall be conducted in the
26 same manner as disciplinary proceedings, except that all of the proceedings shall be confidential.
27 The district court shall provide for such notice to the licensed paralegal practitioner of
28 proceedings in the matter as it deems proper and advisable and may appoint counsel to represent
29 the licensed paralegal practitioner if the licensed paralegal practitioner is without adequate

30 representation. The district court may take or direct whatever action it deems necessary or proper
31 to determine whether the licensed paralegal practitioner is so incapacitated, including the
32 examination of the licensed paralegal practitioner by qualified experts designated by the district
33 court. If, upon due consideration of the matter, the district court concludes that the licensed
34 paralegal practitioner is incapacitated from continuing to practice law as a licensed paralegal
35 practitioner, it shall enter an order transferring the licensed paralegal practitioner to disability
36 status for an indefinite period and until the further order of the district court. Any pending
37 disciplinary proceedings against the licensed paralegal practitioner shall be held in abeyance.

38 (d) Reinstatement from disability status.

39 (d)(1) Court order. No licensed paralegal practitioner transferred to disability status may
40 resume active status except by order of the district court.

41 (d)(2) Petition. Any licensed paralegal practitioner transferred to disability status shall be
42 entitled to petition for transfer to active status once a year, or at whatever shorter intervals the
43 district court may direct in the order transferring the licensed paralegal practitioner to disability
44 status or any modifications thereof.

45 (d)(3) Examination. Upon the filing of a petition for transfer to active status, the district court
46 may take or direct whatever action it deems necessary or proper to determine whether the
47 disability has been removed, including a direction for an examination of the licensed paralegal
48 practitioner by qualified experts designated by the district court. In its discretion, the district
49 court may direct that the expense of the examination be paid by the licensed paralegal
50 practitioner.

51 (d)(4) Waiver of privilege. With the filing of a petition for reinstatement to active status, the
52 licensed paralegal practitioner shall be required to disclose the name of each psychiatrist,
53 psychologist, physician or other health care provider and hospital or other institution by whom or
54 in which the licensed paralegal practitioner has been examined or treated related to the disability
55 since the transfer to disability status. The licensed paralegal practitioner shall furnish written
56 consent to each listed provider to divulge information and records relating to the disability if
57 requested by the district court or district court's appointed experts.

58 (d)(5) Learning in law; Licensed Paralegal Practitioner Examination. The district court may
59 also direct that the licensed paralegal practitioner establish proof of competence and learning in

60 law, which proof may include certification by the Bar of successful completion of an
61 examination for licensure to practice as a licensed paralegal practitioner.

62 (d)(6) Granting petition for transfer to active status. The district court shall grant the petition
63 for transfer to active status upon a showing by clear and convincing evidence that the disability
64 has been removed.

65 (d)(7) Judicial declaration of competence. If a licensed paralegal practitioner transferred to
66 disability status on the basis of a judicial determination of incompetence is subsequently
67 judicially declared to be competent, the district court may dispense with further evidence that the
68 licensed paralegal practitioner's disability has been removed and may immediately order the
69 licensed paralegal practitioner's reinstatement to active status upon terms as are deemed proper
70 and advisable.

Effective November 1, 2018