

3-7.13 | INCAPACITY NOT RELATED TO MISCONDUCT

(a) Classification and Effect of Incapacity. Whenever an attorney who has not been adjudged incompetent is incapable of practicing law because of physical or mental illness, incapacity, or other infirmity, the attorney may be classified as an inactive member and shall refrain from the practice of law even though no misconduct is alleged or proved.

(b) Applicable Rules of Procedure. Proceedings under this rule shall be processed under the Rules of Discipline in the same manner as proceedings involving acts of misconduct except that emergency or interim proceedings authorized under rule 3-5.2 shall be processed as stated in that rule.

(c) Reinstatement to Practice. A member who has been classified as inactive under this rule may be reinstated in the same manner as in proceedings for reinstatement after suspension for acts of misconduct.

(d) Proceedings Upon Adjudication of Incapacity or Hospitalization Under the Florida Mental Health Act or Under the Authority of Applicable Law. An attorney who has been adjudicated as incapacitated from the practice of law or is hospitalized under the Florida Mental Health Act or the authority of other applicable law concerning the capability of an attorney to practice law may be classified as an inactive member and shall refrain from the practice of law. Upon receipt of notice that a member has been adjudicated as incapacitated or is hospitalized under the Florida Mental Health Act or the authority of other applicable law concerning the capability of an attorney to practice law, The Florida Bar shall file notice thereof with the Supreme Court of Florida. Thereafter the court shall issue an order classifying the member as an inactive member.

If an order of restoration is entered by a court having jurisdiction or the attorney is discharged from hospitalization under the Florida Mental Health Act or the authority of other applicable law concerning the capability of an attorney to practice law, the attorney may be reinstated in the same manner as in proceedings for reinstatement after suspension for acts of misconduct.



(e) Proceedings Upon Consent to Incapacity. An attorney may consent to incapacity not for misconduct in the same manner as provided in rule 3-7.9 of these Rules Regulating The Florida Bar.

(Former Rule 3-7.12 renumbered as Rule 3-7.13 March 16, 1990, effective March 17, 1990 (558 So.2d 1008). Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); July 17, 1997 (697 So.2d 115); March 23, 2000 (763 So.2d 1002); November 19, 2009, effective February 1, 2010 (SC08-1890), (34 Fla.L.Weekly S628a). Amended April 12, 2012, effective July 1, 2012 (101 So.3d 807).)

