

MEDICAL MALPRACTICE RULES OF PRACTICE

Rule 3. Designation of Panel; Certificate of Parties

(a) *Designation of Panel.* — Upon receipt of a request for the appointment of a medical review panel, the Supreme Court of Virginia shall designate the panel within sixty days after receipt of the request.

(b) *Composition.* — The panel so designated shall consist of two impartial attorneys and two impartial health care providers, licensed and actively practicing their professions, and a circuit court judge of the court in which the action was filed who shall preside over the panel but need not attend or participate in the deliberations of the panel.

(c) *Attorney Members.* — The Supreme Court of Virginia shall select the attorney members of each panel from a list provided by the Virginia State Bar. The Virginia State Bar shall provide to the Executive Secretary of the Supreme Court of Virginia a list of ~~two hundred forty~~ sixty actively practicing attorneys. Such list shall include the office address and telephone number of each attorney. One third of such list shall be replaced each year but members may be reappointed to the list without limit in time. In compiling the list, the Virginia State Bar shall endeavor to include attorneys from throughout the Commonwealth.

(d) *Health Care Provider Members.* — The Supreme Court of Virginia shall select the health care provider members of the panel from a list provided by the State Board of Medicine. The State Board of Medicine shall provide to the Executive Secretary of the Supreme Court of Virginia a list of ~~nine hundred fifteen~~ two hundred thirty-five health care providers. Such a list shall include the office address and telephone number of each health care provider. In compiling the list, the State Board of Medicine shall endeavor to include health care providers from throughout the Commonwealth. The list furnished by the State Board of Medicine shall be by classification, as stated in [Section 8.01-581.1](#) of the Code, and, where practical, by specialty as follows:

(1) Physicians (~~605~~ 140). ~~Seventy-five~~ Fifteen in General Practice; ~~sixty ten~~ in Surgery; ~~fifty ten~~ in Internal Medicine; ~~thirty ten~~ in Orthopedic Surgery; ~~sixty ten~~ in Obstetrics and Gynecology; ~~thirty ten~~ in Anesthesiology; ~~forty ten~~ in Emergency Medicine; and ~~twenty five~~ in each of the following: Dermatology, Neurology, Neurosurgery, Ophthalmology, Otorhinolaryngology, Pediatrics, Pathology, Physical Medicine, Plastic Surgery, Radiology, Urology, Psychiatry and Osteopathy.

(2) Hospitals (~~40~~ 10). ~~Forty~~ Ten hospital administrators.

(3) Dentists (~~60~~15). ~~Twenty~~ Seven in General Practice. ~~Ten~~ Two in each of the following specialties: Oral Surgery, Endodontics, Orthodontics and Periodontics.

(4) Pharmacists (~~40~~10). ~~Twenty~~ Five each in community pharmacy and hospital pharmacy.

- (5) Registered or Licensed Practical Nurses or Nurse Practitioners (~~40~~ 10).
- (6) Optometrists (~~20~~ 5).
- (7) Podiatrists (~~20~~ 5).
- (8) Chiropractors (~~10~~ 5).
- (9) Physical Therapists (~~10~~ 5).
- (10) Physical Therapy Assistants (~~10~~ 5).
- (11) Clinical Psychologists (~~10~~ 5).
- (12) Nursing homes (~~20~~ 5). Twenty nursing home administrators.
- (13) Clinical Social Workers (~~10~~ 5).
- (14) Professional Counselors (~~10~~ 5).
- (15) Dental Hygienists (~~10~~ 5).

It shall be the responsibility of the State Board of Medicine to coordinate with the State Board of Health, State Board of Dentistry, State Board of Pharmacy, State Board of Nursing, State Board of Optometry, and such other regulatory boards as may be necessary to compile this list. A new list shall be provided every three years but members may be reappointed to the list without limit in time.

(e) *Withdrawal from List.* — (1) An individual whose name is included on any list may have his or her name withdrawn from the list by notifying the Virginia State Bar or the State Board of Medicine. Upon receipt of such notification, the Virginia State Bar or the State Board of Medicine shall advise the Executive Secretary of the Supreme Court of Virginia of this change and submit a replacement.

(2) Any person subject to disciplinary action by his or her profession shall be automatically removed from the list by the appropriate regulatory body and a replacement submitted to the Executive Secretary of the Supreme Court not later than 90 days after the effective date of the disciplinary action.

(3) Any person who is unable through sickness, disability, or for any other reason to serve regularly on a panel shall be removed from the list and a replacement submitted to the Executive Secretary of the Supreme Court.

(4) The Executive Secretary of the Supreme Court may request that a name be removed from the list because of ~~constant~~ repeated refusal to serve.

(f) *Manner of Selection.* — (1) Selection from the lists by the Supreme Court of Virginia will be rotated based on availability with due regard to the nature of the claim.

(2) Unless it shall prove impracticable, one health care provider on the panel shall represent the medical specialty involved in the claim.

(3) Any member of the panel may disqualify himself if he believes that his presence constitutes a conflict of interest or gives the appearance of impropriety. A party may move for such disqualification for cause within ten days after receiving notice of designation of the panel. The motion shall be in writing addressed to the judge presiding over the panel and served by mail on the opposing party or its counsel. The judge shall act on the motion unless the panel member in question disqualifies himself. In the event of such disqualification, the Supreme Court of Virginia shall designate a new panel member.

(g) *Rescission.* — A party may rescind a request for review by a panel at any time prior to the selection of the panel, in which event, if no other party had also requested the panel, the presiding judge shall dismiss the panel. After the selection of the members of the review panel, the requesting party may rescind a request for review by the panel only with the consent of all parties or with leave of the judge presiding over the panel. The Executive Secretary of the Supreme Court of Virginia shall be notified of any dismissal.

Last amended by Order dated April 17, 2017; effective July 1, 2017.