

transfer to the patient care ombudsman, if any, the patient, and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care. The notice is subject to applicable nonbankruptcy law relating to patient privacy.

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Mar. 26, 2009, eff. Dec. 1, 2009.)

COMMITTEE NOTES ON RULES—2008

This rule is new. Section 704(a)(12), added to the Code by the 2005 amendments, authorizes the trustee to relocate patients when a health care business debtor's facility is in the process of being closed. The Code permits the trustee to take this action without the need for any court order, but the notice required by this rule will enable a patient care ombudsman appointed under §333, or a patient who contends that the trustee's actions violate §704(a)(12), to have those issues resolved before the patient is transferred.

This rule also permits the court to enter an order dispensing with or altering the notice requirement in proper circumstances. For example, a facility could be closed immediately, or very quickly, such that 10 days' notice would not be possible in some instances. In that event, the court may shorten the time required for notice.

Notices given under this rule are subject to the provisions of applicable federal and state law that relate to the protection of patients' privacy, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (HIPAA).

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2015.3. Reports of Financial Information on Entities in Which a Chapter 11 Estate Holds a Controlling or Substantial Interest

(a) **REPORTING REQUIREMENT.** In a chapter 11 case, the trustee or debtor in possession shall file periodic financial reports of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holds a substantial or controlling interest. The reports shall be prepared as prescribed by the appropriate Official Form, and shall be based upon the most recent information reasonably available to the trustee or debtor in possession.

(b) **TIME FOR FILING; SERVICE.** The first report required by this rule shall be filed no later than seven days before the first date set for the meeting of creditors under §341 of the Code. Subsequent reports shall be filed no less frequently than every six months thereafter, until the effective date of a plan or the case is dismissed or converted. Copies of the report shall be served on the United States trustee, any committee appointed under §1102 of the Code, and any other

party in interest that has filed a request therefor.

(c) **PRESUMPTION OF SUBSTANTIAL OR CONTROLLING INTEREST; JUDICIAL DETERMINATION.** For purposes of this rule, an entity of which the estate controls or owns at least a 20 percent interest, shall be presumed to be an entity in which the estate has a substantial or controlling interest. An entity in which the estate controls or owns less than a 20 percent interest shall be presumed not to be an entity in which the estate has a substantial or controlling interest. Upon motion, the entity, any holder of an interest therein, the United States trustee, or any other party in interest may seek to rebut either presumption, and the court shall, after notice and a hearing, determine whether the estate's interest in the entity is substantial or controlling.

(d) **MODIFICATION OF REPORTING REQUIREMENT.** The court may, after notice and a hearing, vary the reporting requirement established by subdivision (a) of this rule for cause, including that the trustee or debtor in possession is not able, after a good faith effort, to comply with those reporting requirements, or that the information required by subdivision (a) is publicly available.

(e) **NOTICE AND PROTECTIVE ORDERS.** No later than 14 days before filing the first report required by this rule, the trustee or debtor in possession shall send notice to the entity in which the estate has a substantial or controlling interest, and to all holders—known to the trustee or debtor in possession—of an interest in that entity, that the trustee or debtor in possession expects to file and serve financial information relating to the entity in accordance with this rule. The entity in which the estate has a substantial or controlling interest, or a person holding an interest in that entity, may request protection of the information under §107 of the Code.

(f) **EFFECT OF REQUEST.** Unless the court orders otherwise, the pendency of a request under subdivisions (c), (d), or (e) of this rule shall not alter or stay the requirements of subdivision (a).

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Mar. 26, 2009, eff. Dec. 1, 2009.)

COMMITTEE NOTES ON RULES—2008

This rule implements §419 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). Reports are to be made on the appropriate Official Form. While §419 of BAPCPA places the obligation to report upon the "debtor," this rule extends the obligation to include cases in which a trustee has been appointed. The court can order that the reports not be filed in appropriate circumstances, such as when the information that would be included in these reports is already available to interested parties.

Changes After Publication. In subdivision (e), the 20 day period was changed to 14 days. This better reconciles the timing of the notice and the scheduling of the §341 meeting of creditors, and it is also consistent with the upcoming time computation amendments.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses

(a) APPLICATION FOR COMPENSATION OR REIMBURSEMENT. An entity seeking interim or final compensation for services, or reimbursement of necessary expenses, from the estate shall file an application setting forth a detailed statement of (1) the services rendered, time expended and expenses incurred, and (2) the amounts requested. An application for compensation shall include a statement as to what payments have theretofore been made or promised to the applicant for services rendered or to be rendered in any capacity whatsoever in connection with the case, the source of the compensation so paid or promised, whether any compensation previously received has been shared and whether an agreement or understanding exists between the applicant and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any sharing of compensation or agreement or understanding therefor, except that details of any agreement by the applicant for the sharing of compensation as a member or regular associate of a firm of lawyers or accountants shall not be required. The requirements of this subdivision shall apply to an application for compensation for services rendered by an attorney or accountant even though the application is filed by a creditor or other entity. Unless the case is a chapter 9 municipality case, the applicant shall transmit to the United States trustee a copy of the application.

(b) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO ATTORNEY FOR DEBTOR. Every attorney for a debtor, whether or not the attorney applies for compensation, shall file and transmit to the United States trustee within 14 days after the order for relief, or at another time as the court may direct, the statement required by §329 of the Code including whether the attorney has shared or agreed to share the compensation with any other entity. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for the sharing of the compensation with a member or regular associate of the attorney's law firm shall not be required. A supplemental statement shall be filed and transmitted to the United States trustee within 14 days after any payment or agreement not previously disclosed.

(c) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO BANKRUPTCY PETITION PREPARER. Before a petition is filed, every bankruptcy petition preparer for a debtor shall deliver to the debtor, the declaration under penalty of perjury required by §110(h)(2). The declaration shall disclose any fee, and the source of any fee, received from or on behalf of the debtor within 12 months of the filing of the case and all unpaid fees charged to the debtor. The declaration shall also describe the services performed and documents prepared or caused to be prepared by the bankruptcy petition preparer. The declaration shall be filed with the petition. The petition preparer

shall file a supplemental statement within 14 days after any payment or agreement not previously disclosed.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 27, 2003, eff. Dec. 1, 2003; Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Rule 219. Many of the former rule's requirements are, however, set forth in the Code. Section 329 requires disclosure by an attorney of transactions with the debtor, §330 sets forth the bases for allowing compensation, and §504 prohibits sharing of compensation. This rule implements those various provisions.

Subdivision (a) includes within its provisions a committee, member thereof, agent, attorney or accountant for the committee when compensation or reimbursement of expenses is sought from the estate.

Regular associate of a law firm is defined in Rule 9001(9) to include any attorney regularly employed by, associated with, or counsel to that law firm. Firm is defined in Rule 9001(6) to include a partnership or professional corporation.

NOTES OF ADVISORY COMMITTEE ON RULES—1987
AMENDMENT

Subdivision (a) is amended to change "person" to "entity". There are occasions in which a governmental unit may be entitled to file an application under this rule. The requirement that the application contain a "detailed statement of services rendered, time expended and expenses incurred" gives to the court authority to ensure that the application is both comprehensive and detailed. No amendments are made to delineate further the requirements of the application because the amount of detail to be furnished is a function of the nature of the services rendered and the complexity of the case.

Subdivision (b) is amended to require that the attorney for the debtor file the §329 statement before the meeting of creditors. This will assist the parties in conducting the examination of the debtor. In addition, the amended rule requires the attorney to supplement the §329 statement if an undisclosed payment is made to the attorney or a new or amended agreement is entered into by the debtor and the attorney.

NOTES OF ADVISORY COMMITTEE ON RULES—1991
AMENDMENT

Subdivision (a) is amended to enable the United States trustee to perform the duty to monitor applications for compensation and reimbursement filed under §330 of the Code. See 28 U.S.C. §586(a)(3)(A).

Subdivision (b) is amended to give the United States trustee the information needed to determine whether to request appropriate relief based on excessive fees under §329(b) of the Code. See Rule 2017.

The words "with the court" are deleted in subdivisions (a) and (b) as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2003 AMENDMENT

This rule is amended by adding subdivision (c) to implement §110(h)(1) of the Code.

Changes Made After Publication and Comments. No changes since publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

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