

AGENDA ITEM

JULY 54-152

MCLE - Recommendation regarding Members in Noncompliance.

A list of members in compliance group 1 who, if not in compliance by August 31, 2010, will be placed on "Not Eligible to Practice" status effective September 1, 2010.

DATE: June 25, 2010

TO: Members of the Board Committee on Member Involvement, Relations, and Services
Members of the Board of Governors

FROM: Dina DiLoreto, Director of Administration, Member Services

SUBJECT: MCLE - Recommendation re Members in Noncompliance

ATTACHMENTS: List of members in noncompliance (available at meeting)

EXECUTIVE SUMMARY

Pursuant to California Rules of Court, rule 9.31, the Member Services Center requests permission to administratively enroll all members of MCLE Compliance Group 1 (last names A-G) who have not complied with the MCLE requirement by August 31, 2010, as involuntary inactive members and place them on "Not Eligible to Practice" status effective September 1, 2010. Please note that unlike the procedure for suspending members for non-payment of fees, this action only requires approval by the Board of Governors or its designee. This item also authorizes staff to remove members from involuntary inactive status once the member has provided proof of compliance and paid all non-compliance fees.

Questions on this item should be directed to Dina DiLoreto at (415) 538-2121 or Dina.DiLoreto@calbar.ca.gov.

BACKGROUND

On June 25, 2010, Member Services Center (MSC) staff sent MCLE Noncompliance 60-Day Notices to members of Compliance Group 1 (last names beginning with A-G when assigned to the compliance group) who have not complied with their MCLE requirement. Prior to the notice sent on June 25, 2010, members of Compliance Group 1 were contacted by mail on at least two separate occasions: January 26, 2010, and May 14, 2010.

Those members of Compliance Group 1 who had provided The State Bar of California with an e-mail address also received e-mailed reminders in December 2009, January 2010, and May 2010. (Those with no email address were sent a hard copy mailing in December, prior to January's first fee statement notice.)

Staff will send by Certified Mail, on or about August 6, 2010, a "Final Notice" to the members of Compliance Group 1, who have not complied with the MCLE requirement. Those members of Compliance Group 1 will also receive a courtesy call at their telephone number of record by MSC staff by August 24, 2010. Those members of Compliance Group 1 that have still not complied with the MCLE requirement as of August 31, 2010, will be moved to "Not Eligible" status effective September 1, 2010.

BOARD AUTHORITY

The Supreme Court has delegated to the Bar the authority to administratively enroll members of the State Bar who fail to comply with the MCLE requirement on involuntary inactive status. Rule 9.31, California Rules of Court, provides that "A member of the State Bar who fails to satisfy the requirements of the State Bar's minimum continuing legal education program must be enrolled as an inactive member of the State Bar under rules adopted by the Board of Governors of the State Bar."

Pursuant to Rule 9.31, the Board of Governors adopted the MCLE Rules and Regulations, which are now incorporated within the Rules of the State Bar ("Rules"). The Rules establish the procedures for noncompliance with the MCLE requirement. Rule 2.32(A) of the Rules provides that "A member who fails to meet requirements for Minimum Continuing Legal Education (MCLE) will be involuntarily enrolled as inactive." Rule 2.92 of the Rules provides that "A member who fails to comply with a notice of noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required. "

Please note that the procedure for placing members on involuntary inactive status for failure to comply with the MCLE requirement is unlike the procedure for suspending members for non-payment of membership fees. For MCLE, the Supreme Court has delegated to the Bar the authority to change members' status. In the case of non-payment of membership fees, the Board submits a list to the Supreme Court for action.

The Rules define noncompliance to include failure to report compliance or claim exempt status, and/or failure to pay all noncompliance fees (Rule 2.90.) As members bring themselves into compliance, staff removes them from the noncompliance list. Only members who do not bring themselves into compliance by the final deadline of August 31, 2010, will be placed on inactive status. (A member placed on inactive status for failure to comply with the MCLE requirement is not eligible to practice law while on such status.)

A list of members in noncompliance with their MCLE requirement will be available upon request at the board meeting.

FISCAL AND PERSONNEL IMPACT

These actions were included in the 2010 budget and personnel planning; there will be no additional fiscal or personnel impact.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None

RULE AMENDMENTS

None

PROPOSED RESOLUTIONS

If the Members of the Board Committee on Member Involvement, Relations, and Services concur with the recommendation, adoption of the following resolution would be in order:

RESOLVED: pursuant to California Rule of Court 9.31 and the Rules of the State Bar, that the Board Committee on Member Involvement, Relations, and Services recommends that the Board of Governors authorize that those members of MCLE Compliance Group 1 who do not bring themselves into compliance with their MCLE requirement by August 31, 2010, shall be enrolled as inactive members of the State Bar of California and placed on “Not Eligible to Practice” status, effective September 1, 2010; and it is

FURTHER RESOLVED: that the Board Committee on Member Involvement, Relations, and Services recommends that the Board of Governors authorize staff

to remove members from administrative inactive status once the member has provided proof of compliance and paid all noncompliance fees.

If the Board concurs with the recommendation of Board Committee on Member Involvement, Relations, and Services, adoption of the following resolution would be in order:

RESOLVED: pursuant to California Rule of Court 9.31 and the Rules of the State Bar, and upon recommendation of the Board Committee on Member Involvement, Relations, and Services, that the Board of Governors hereby authorizes that those members of MCLE Compliance Group 1 who do not bring themselves into compliance with their MCLE requirement by August 31, 2010, shall be enrolled as inactive members of the State Bar of California and placed on "Not Eligible to Practice" status, effective September 1, 2010; and it is,

FURTHER RESOLVED: that the Board of Governors hereby authorizes staff to remove members from administrative inactive status once the member has provided proof of compliance and paid all noncompliance fees.