

Board Committee on Operations

Referral List
February 9, 2012

Category I - Change in Date Only

None

Category II – Possible Committee Reassignments

None

Category III – New Matters Requiring Assignment to Appropriate Board Committee

February # 1

Proposed Increase in Reimbursement Rate for Local Bars for Assigned Fee Arbitration or Mediation Cases

Currently, the State Bar's Mandatory Fee Arbitration Program reimburses local bar programs for the arbitrations they administer. The bar enters into a contract with each of the local bar associations that wishes to receive reimbursement. Currently, the State Bar reimburses each local bar association \$36 for each arbitration they assigned to an arbitrator. This proposal would increase that amount to \$50 for each arbitration matter that is assigned.

Responsible Staff: Doug Hull

Recommendation: Planning– May

BOT- May

February # 2

Enhance MCLE Requirements for Lawyers

It has been requested that the following be referred to MOC to explore and report back, during this board year, with a time line and future action plan on the following:

- Raising the number of required hours of MCLE per compliance period (currently 25 hours every 3 years).
- Increasing the number of required hours of ethics education (currently 4 hours per compliance period).
- Adding a “new lawyer” mandatory public protection component to MCLE such as a “scared straight” boot camp program.
- Including law practice management as a mandatory MCLE subject (this would include risk management and professional responsibility programming, not marketing and business enhancement programming).

Responsible Staff: Pam Wilson

Recommendation: MOC– Feb

BOT - TBD

February # 3

Enhance and Automate MCLE Compliance Self-Reporting Process for Attorneys

It has been requested that staff develop and bring to MOC, a time line and action plan to effectuate this board year.

Responsible Staff: Pam Wilson

Recommendation: MOC– Feb

BOT - TBD

February # 4

Enhance MCLE Requirements for MCLE Providers

It has been requested that the following be referred to MOC to report back, during this board year, with a time line and future action plan on the following;

- Study of whether the former MCLE Standing Committee should be re-established to review, approve and monitor MCLE programming.
- Review of the current criteria for certifying providers to determine whether certification requirements should be enhanced.
- New proposed rules and procedures enhanced auditing of MCLE programs provided by certified providers.

Responsible Staff: Pam Wilson/Gayle Murphy

Recommendation: MOC– Feb

BOT - TBD

February # 5

Establish Mandatory “New Lawyer” Education

It has been requested that this be referred to MOC to research and report back, during this board year, with a time line and future action plan.

Responsible Staff: Pam Wilson

Recommendation: MOC– Feb

BOT - TBD

February # 6

Professional Liability Insurance- Renewal of the Brokerage and Administration Agreement

This is a request to renew the PLI Agreement between the State Bar and Marsh US Consumer. The proposed renewal is for a 5 year term effective April 1, 2012.

Responsible Staff: Dina DiLoreto, Cynthia Abramov

Recommendation: MOC – March

BOT – March

February # 7

Lawyers Assistance Program – Future of the Program

It has been requested that this issue be referred to MOC to study and report back, with a time line and future action plan. At MOCs March meeting, the LAP will present its Annual Report. MOC will determine at that time next steps to address the future of the program.

Responsible Staff: Richard Carlton and Bob Hawley

Recommendation: MOC – March

BOT - TBD

February # 8

Suspension For Failure To Comply With Child Or Family Support Order

Amendments will be proposed for Rule of Court 9.22 and State Bar rule 2.32, which govern the State Bar's process for suspension of members who fail to comply with a child or family support order. The proposed amendments are intended to streamline the process for reinstating members from suspension and to authorize the State Bar to transmit the names of delinquent members to the Supreme Court on a biannual basis. If approved for MOC in March, it will be for 30-day public comment in order to return to MOC/BOT in May and to transmit to the Court soon thereafter.

Responsible Staff: Dina DiLoreto, Mary Yen

Recommendation: MOC – Mar/May

BOT - May

February # 9

Refusal-of-Admission and Suspension for Tax Delinquency (AB 1424, Stats. 2011, Ch. 455)

AB 1424 is new legislation providing for refusal-of-admission and suspension of licensed professionals, including attorneys, who are on a certified list of the Franchise Tax Board or a certified list of the Board of Equalization as being the state's top 500 delinquent tax payers. The statute providing for refusal-of-admission and suspension becomes effective July 1, 2012. An agenda item requesting public comment on two proposed new rules of court and proposed addition or amendment of related State Bar rules will be submitted at the March meeting. It is expected that the item will return from public comment to the May meeting of MOC, RAD and the Board so that the proposal can be transmitted to the Supreme Court before the effective date of the legislation.

Responsible Staff: Dina DiLoreto, Mary Yen

**Recommendation: MOC – Mar/May
RAD – Mar/May**

BOT - May

February # 10

Pro Bono Practice Program (Title 3, Division 2, Chapter 8 of the State Bar Rules and Regulations)

Board Member Samson Elsbernd, the CYLA Representative, has requested that the requirements for participation in the Pro Bono Practice Program (PBPP) be changed to allow young lawyers to benefit from the membership fee waivers of the program. The changes proposed are either 1) to require that participating attorneys provide pro bono service only in their area of practice; or 2) to change (eliminate or reduce) experience requirements so as to open the program up to some, even if not all, of the young lawyer population.

Because the Standing Committee on Delivery of Legal Services (SCDLS) is already looking at possible modifications to the PBPP, staff recommends that this be referred for preliminary discussion to the March MOC meeting, but that MOC then refer the issue to SCDLS for follow up and recommendation to the Board by the May meeting. If proposed rule amendments are recommended, they could come back in July after Public Comment.

Both SCDLS and staff have expressed concern about lowering the experience requirement any further than the 5-year requirement established in 2008. The PBPP was not intended to be a training program for young lawyers, but a program that reinvests the legal skills and experience of retired and non-practicing attorneys to serve the legal needs of low-income and other underrepresented individuals. Reports from the field indicate that training and supervising new attorneys take much more time than training and supervising attorneys with some legal experience, even if working outside their usual area of practice. The resources of legal services programs are stretched to the limit, and they lack the capacity to offer the level of training and supervision that would be required. Study will be necessary to determine whether some modifications might be appropriate that would expand participation, but not put undue burdens on already under-staffed legal services programs – with the ultimate goal of expanding the resources available to legal services programs and their clients by utilizing the legal skills and expertise of attorneys who would not otherwise be engaged in the active practice of law.

Responsible Staff: Mary Lavery Flynn

Recommendation: MOC- Mar/May/July

BOT - July

February # 11

Enhancement of Law School Regulation and Readiness for Practice Standards

It has been requested that the following be referred to RAD to report back, during this board year, with a time line and future action plan on the following:

- Study of whether a new State Bar Committee should be created to set standards for and monitor Cal-accredited and registered unaccredited law schools;
- Review advantages and disadvantages of unaccredited law school system and whether changes to that system are appropriate such as a plan to require a mandatory accreditation track for unaccredited law schools;
- Confer with the Committee of Bar Examiners to discuss its progress on setting minimum requirements for bar examination pass rates for Cal-accredited and registered unaccredited law schools.

Responsible Staff: Gayle Murphy

Recommendation: RAD – Feb

BOT - TBD

February # 12

Enhanced Integration of OCTC Enforcement with Law Enforcement

It has been requested that staff report to RAD on establishing law enforcement liaison positions within OCTC for regular communications with law enforcement agencies.

Liaisons to work with law enforcement to help identify and anticipate trends in criminal/unethical behavior.

Responsible Staff: Jayne Kim

Recommendation: RAD – Feb

BOT - TBD

February # 13

Increase Detection and Prosecution of Professional Misconduct

It has been requested that staff report to RAD on exploring increasing outreach/communication with courts to identify reoccurring problems/concerns in court proceedings and to ensure that courts are complying with the obligation to report misconduct. Also report on the possibility of designating OCTC representatives to participate in regular meetings with the various courts.

Responsible Staff: Jayne Kim

Recommendation: RAD – Feb

BOT - TBD

February # 14

Update to Santa Barbara County Bar Association Rules of Procedure for Fee Arbitrations

The Santa Barbara County Bar Association seeks to modify its rules of procedures for fee arbitrations. The Committee on Mandatory Fee Arbitration (“CMFA”) considered this proposal at its January meeting to ensure that the modifications comport with the Minimum Standards and Guidelines for the Operation of Fee Arbitration Programs. The CMFA approved of the proposed modifications. This item will be presented to RAD for adoption.

Responsible Staff: Doug Hull

Recommendation: RAD – March

BOT- N/A

February # 15

Update to Los Angeles County Bar Association Rules of Procedure for Fee Arbitrations

Los Angeles County Bar Association seeks to modify its rules of procedures for fee arbitrations. The Committee on Mandatory Fee Arbitration (“CMFA”) considered this proposal at its January meeting to ensure that the modifications comport with the Minimum Standards and Guidelines for the Operation of Fee Arbitration Programs. The CMFA approved of the proposed modifications. This item will be presented to RAD for adoption.

Responsible Staff: Doug Hull

Recommendation: RAD – March

BOT- N/A

February # 16

ABA Resolution 108 on Military Spouse Attorneys

The ABA has requested that the State Bar co-sponsor this resolution at their House of Delegates vote in New Orleans in February. Board Member Karen Goodman was approached about this resolution and asks that this item be placed on the RAD agenda for discussion.

Responsible Staff: Doug Hull

Recommendation: RAD – March

BOT- TBD

February # 17

Proposed modification to the Rule 31 of the State Bar Rules of Procedure for Fee Arbitrations re: subpoenas

The Committee on Mandatory Fee arbitration is considering modifications to the subpoena rules in the State Bar Rules of Procedure for Fee Arbitrations. These will be forwarded to RAD with a request for release for public comment, then a subsequent request for adoption by RAD and the Board of Trustees for adoption.

Responsible Staff: Doug Hull

Recommendation: RAD – Mar/May

BOT- May

February # 18

Proposed modification to the Rule 30 of the State Bar Model Rules of Procedure for Fee Arbitrations re: subpoenas

The Committee on Mandatory Fee arbitration is considering modifications to the subpoena rules in the State Bar Model Rules of Procedure for Fee Arbitrations. These will be forwarded to RAD with a request for release for public comment, then a subsequent request for adoption by RAD and the Board of Trustees for adoption.

Responsible Staff: Doug Hull

Recommendation: RAD – Mar/May

BOT- May

February # 19

How Realities of Law Practice are Forcing Changes in Legal Education

This non-action item will involve discussion of how the practice of law is evolving, how law schools are changing to better prepare law students, and the role of the State Bar to ensure public protection.

Responsible Staff: Mary Lavery Flynn

Recommendation: Stakeholders – February

BOT - NA

February # 20

Report on the Civil Justice Crisis Hearings Co-sponsored by the State Bar, Access to Justice Commission and the California Chamber of Commerce

Cuts to the California civil justice system, to both courts and legal help for low-income residents, have created a civil justice crisis. Four hearings were held across California to demonstrate the fundamental role of both the courts and legal assistance in our society and explore the devastating effects of chronic underfunding and recent budget cuts.

Responsible Staff: Mary Lavery Flynn

Recommendation: Stakeholders – March

BOT - NA

February # 21

Enhance the Effectiveness of Pro Bono Service

It has been requested that this proposed project be referred to Stakeholders to work with the Commission on Access to Justice and the Standing Committee on the Delivery of Legal Services and report back, during this board year, with a time line and action plan to effectuate this board year. The proposed schedule includes an initial report in March on the planning for this project and the conduct of a Needs Assessment, with follow up at the July meeting.

Responsible Staff: Mary Lavery Flynn

Recommendation: Stakeholders –Mar/July

BOT - TBD

February # 22

Enhance the Effectiveness of Senior Legal Services

It has been requested that this examination of ways to improve legal services for vulnerable seniors be referred to Stakeholders to work with the Commission on Access to Justice, the Legal Services Trust Fund Commission and the Standing Committee on the Delivery of Legal Services and report back, during this board year, with a time line and action plan to effectuate this board year. The following schedule the proposed schedule includes an initial discussion in March, with follow up at the July meeting.

Responsible Staff: Mary Lavery Flynn

Recommendation: Stakeholders –Mar/July

BOT - TBD

February # 23

Enhance Support for the Legal Services Delivery System

It has been requested that this examination of the Legal Aid Delivery System be referred to Stakeholders to work with the Commission on Access to Justice and the Legal Services Trust Fund Commission and report back, during this board year, with a time line and action plan. The proposed schedule includes an initial discussion in March on the planning for this project, with follow up at the July meeting.

Responsible Staff: Mary Lavery Flynn

Recommendation: Stakeholders –Mar/July

BOT - TBD

February # 24

Workers' Compensation Section Executive Committee—Interim Appointment of Member

This executive committee has a new vacancy due to recent resignation and has requested to fill the vacancy at the Board's March meeting.

Responsible Staff: Pam Wilson

Recommendation: NAC – March

BOT – March

February # 25

Criminal Law Section Executive Committee—Interim Appointment of Members

This executive committee received two resignations and has requested to fill the two vacancies at the Board's March meeting.

Responsible Staff: Pam Wilson

Recommendation: NAC – March

BOT – March