

AGENDA ITEM

113 JULY

DATE: July 18, 2013

TO: Members, Board Committee on Operations
Members, Board of Trustees

FROM: Robert A. Hawley, Deputy CEO/Deputy Executive Director

SUBJECT: Amendments to Oath Required on Admission to Practice Law

EXECUTIVE SUMMARY

This item presents in “concept” potential amendments to the oath required of all California attorneys upon admission to practice law. The California State Organization - American Board of Trial Advocates (“CAL-ABOTA”) has for the last several years been urging attorney regulatory authorities in each state to amend the attorney oath upon admission to add aspirational commitments to professionalism. Staff is currently exploring the possibility of seeking such modifications of the oath in California. Staff seeks here Board endorsement of this initiative in concept form. Any actual amendments to the oath that the State Bar initiates will come before the appropriate board committees for release for public comment and potential approval thereafter. Members of the Committee or Board who have questions about this agenda item may contact Deputy Executive Director Robert A. Hawley at Robert.Hawley@calbar.ca.gov, (415) 538-2277.

BACKGROUND

Business and Professions Code section 6067 currently embodies the oath taken upon admission. It provides, in pertinent part, that: “[e]very person on his admission shall take an oath to support the Constitution of the United States and the Constitution of the State of California, faithfully to discharge the duties of an attorney at law to the best of his knowledge and ability.” Taking this oath is a requirement for all persons certified by the Supreme Court to practice law.

The California State Organization - American Board of Trial Advocates (“CAL-ABOTA”) has for the last couple of years been urging attorney regulatory authorities in each state to amend their attorney oaths to add professionalism commitments. The letter the State Bar received from CAL-ABOTA in this regard will be distributed at the meeting when this agenda item is addressed.

ISSUE

Whether the concept of seeking amendments to the attorney oath in California to include professionalism commitments is endorsed by the Board Committee and Board of Trustees.

CONCLUSION

State Bar staff recommends that the Committee and the Board endorse this initiative in concept.

DISCUSSION

Currently, the State Bar promotes attorney professionalism and civility primarily through education and the State Bar's online collection of resources designated as the [Civility Toolkit](#). The Civility Toolkit includes *California Attorney Guidelines of Civility and Professionalism*. As summarized in the Civility Toolkit, at the request of Shelly Sloan, then President-Elect of the Board of Governors of the State Bar, the Board appointed the Attorney Civility Task Force in August 2006 to study and recommend aspirational civility guidelines for adoption by the Board. After extensively vetting draft guidelines throughout the state, in May 2007 the task force reported to the Board Committee on Member Oversight ("MOC") with a request for public comment on a proposed new set of voluntary guidelines called the *California Attorney Guidelines of Civility and Professionalism* ("Guidelines"). MOC authorized publication of the proposal for a 30-day public comment period. After reviewing the public comments, the task force further revised the Guidelines. In July 2007, the Board adopted the Guidelines as best practices of civility in the practice of law in California. Since the Board's adoption of the Guidelines in 2007, ongoing interest throughout the state has resulted in adoption and implementation of the Guidelines at local levels. Among the local jurisdictions that have adopted the Guidelines are the following: Los Angeles County Superior Court; Orange County Superior Court; Riverside County Superior Court; Sacramento County Superior Court; and Santa Clara County Superior Court.

Amendments to the attorney oath of the nature proposed are consistent with the State Bar's past and ongoing efforts to enhance lawyer professionalism and civility. In particular, it would emphasize the goal of professionalism and civility to all persons entering the profession at the time of admission, and also when being reinstated.

Like the Guidelines adopted by the Board in 2007, the oath of professionalism and civility is an aspirational statement. The aspirational nature of this concept would leave intact the disciplinary function of the existing attorney oath. Business and Professions Code section 6103, in part, provides that any "violation of the oath" taken by an attorney "constitutes causes for disbarment or suspension." However, California Supreme Court precedent limits the circumstances when this section may be used for disciplinary charges. See *Read v. State Bar* (1991) 53 Cal.3d 394 [279 Cal.Rptr. 818]. As an aspirational statement, the professionalism commitments to be added to the oath are not intended to define a professional conduct standard enforceable through State Bar discipline.

FISCAL / PERSONNEL IMPACT:

None

RULE AMENDMENTS:

None

BOARD BOOK IMPACT:

None

RECOMMENDATION

State Bar staff recommends that the Committee and the Board endorse this initiative in concept.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Board Committee on Operations agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Board Committee on Operations recommends that the Board endorses in concept the initiative to amend the attorney oath in California to include aspirational professionalism commitments.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Board Committee on Operations's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby endorses in concept the initiative to amend the attorney oath in California to include aspirational professionalism commitments.