

Please email comments about the State Bar of California's Task Force on Admissions Regulation Reform Draft Rules to:

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MEMORANDUM TO ALL INTERESTED PARTIES

Date: August 14, 2014

Re: Task Force on Admission Regulation Reform Phase II Implementing Recommendations

The State Bar of California Task Force on Admissions Regulations Reform (“TFARR”) was charged in April 2012 by the Board of Trustees of the Bar to examine whether a new set of training requirements focusing on competency and professionalism should be adopted in California in order to better prepare new lawyers for successful transition into law practice.

TFARR’s work has taken place in two phases. In Phase I, TFARR concluded that, as increasing numbers of new lawyers graduate from law school and transition into the practice of law without access to mentoring and other modes of informal practice-based training that, in previous eras, were more readily available, three new admissions requirements should be adopted:

Pre-admission Competency Training: There will be two routes for fulfillment of this pre-admission competency training requirement: (a) at any time in law school, a candidate for admission must have taken at least fifteen units of practice-based, experiential course work that is designed to develop law practice competencies, and (b) in lieu of some or all of the fifteen units of practice-based, experiential course work, a candidate for admission may opt to participate in a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school.

50-Hour Pro Bono or Modest Means Service Requirement: This new requirement could be met either at the pre- or post- admission stage. It would require that, prior to admission or within the first year of practice, the new admittee devote at least 50 hours of supervised legal services to pro bono or modest means clients. Credit towards those hours would be available for “in-the-field,” supervised experience while in law school. This new requirement, which borrows from and largely tracks a recently adopted rule in New York, is designed to generate opportunities for real world experience with clients, and to inculcate as a core professional value readiness to provide service to those who cannot afford or have limited means to afford representation.

Enhanced Post-Admission Practical Skills Training: Ten additional hours of MCLE courses for new lawyers, over and above the required MCLE hours for all active members of the Bar, specifically focused on law practice competency training or participation in a Bar-certified voluntary mentoring program.

These proposed recommendations and the rationale for advancing them are set forth in detail in TFARR’s June 24, 2013 Phase I Final Report. The State Bar Board of Trustees unanimously adopted the TFARR’s Phase I Final Report on October 12, 2013.

Over the course of the last nine months, Phase II of TFARR’s work has focused on developing rules for the implementation of its Phase I recommendations. TFARR II’s work began in

December 2013 and has taken place in a series of seven open meetings, the most recent of which was on July 28, 2014. To develop implementing recommendations, TFARR II organized itself into three working groups, each dedicated to drafting proposals for revisions to the State Bar Act and/or revisions to the State Bar Rules. Each of the TFARR Phase II working groups presented its proposals in finished form to all TFARR members in attendance at the July 28, 2014 meeting. Following plenary discussion and deliberation, the TFARR took a straw vote at that meeting to gauge support for a motion to adopt all three proposals. The straw vote indicated unanimous support for such a motion among the 21 TFARR members in attendance.

Based on the straw vote taken at TFARR's July 28, I have determined that, subject to any changes that may be warranted after receiving public comment, TFARR is ready to submit to the Board of Trustees its proposed implementing recommendations for adoption. The process of taking public comment will take place in two steps. First, over the next 30 days, TFARR will seek comments proactively from interested and potentially affected groups who have been monitoring TFARR's work actively (*e.g.* California Law Schools, County and Specialty Bar Associations, Legal Services Providers, State Bar Sections, the ABA Accreditation Committee, the Association of American Law Schools, and the Clinical Legal Education Association). Second, in mid-September, upon authorization from the Executive Committee of the Board of Trustees, TFARR will officially post its recommendations for a 45-day period of public comment. TFARR anticipates that its implementing recommendations be placed on the agenda for adoption at the Board of Trustees' November 7, 2014 meeting following the 45-day period of official public comment.

As the first step toward bringing the work of TFARR to final closure, I am distributing this memorandum, accompanied by the implementing proposals from each of the TFARR Phase II working groups. With some minor adjustments to the Phase I recommendations, the proposals by all three working groups are designed to create a statutory and regulatory structure for carrying the recommendations into effect over a gradual period, beginning with the new MCLE requirements, followed by the new pro bono/modest means service requirement, and the new pre-admission competency training requirement. It is important to note that this anticipated timetable for introduction of these new requirements, assuming that they are adopted by the State Bar Board of Trustees, is ultimately predicated on approval of the recommendations by the California Supreme Court. Please submit any comments that you or the organization or institution with which you are affiliated to the attention of Ms. Teri Greenman at the State Bar by September 15, 2014. Ms. Greenman's contact information is as follows: Teri Greenman, Executive Offices, The State Bar of California, 180 Howard Street, San Francisco, California, 94105. (415) 538-2454. teri.greenman@calbar.ca.gov.

Jon B. Streeter
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State Bar President (2011-2012)

DRAFT
TFARR: Recommendation A
Summary of Rules
[8/11/14]

INTRODUCTION

The State Bar of California is proposing new requirements in order to ensure that new admittees are better prepared for practice. Applicants for the Bar will now have to meet a practice-based experiential professional competency training requirement prior to admission to practice. The Bar recognizes that today's law graduates must not only understand legal doctrine but have the ability to apply that doctrine in practice settings. Moreover, the Bar believes that the distinction between doctrine and skills is often an artificial one and has designed this competency requirement to reflect the synthesis of doctrine and skills that lawyers find in practice. The Bar expects that most applicants will be able to satisfy the practice-based professional competency training requirement through experiential coursework in law school. For applicants who graduate from law schools accredited by the American Bar Association, the proposed practice-based professional competency training requirement coheres with ABA accreditation standards through a "safe harbor" provision; courses that satisfy the ABA "experiential course" requirement will also satisfy the practice-based professional competency training requirement.¹ The proposed rule also affords an option for applicants to complete a portion of the professional competency training requirement through Bar or law school approved apprenticeships or clerkships. With this option, the Bar hopes to encourage experienced lawyers and judges to provide substantial mentoring to new applicants. The Bar expects these mentors to provide high-quality training, professional-level assignments, and direct supervision and feedback to the applicants, which will foster the applicants' development of practice-based professional competencies and benefit the profession as a whole. The proposed practice-based experiential competency training requirement does not apply to applicants who have already been admitted to practice law in another United States jurisdiction and who have practiced full-time for at least one year or half-time for two years, or to foreign law graduates who earn an LLM degree in the United States.

PROPOSED RULE CHANGES

The proposed rules will require that an applicant for admission to practice law in California take 15 units of practice-based experiential coursework in a graduate professional law school designed to foster the development of professional competencies. For a course to meet the requirement, it must develop the concepts

¹ The ABA has approved a new Accreditation Standard 303(a)(3), which would require students to complete one or more "experiential courses" totaling at least 6 credit hours, and defining an experiential course as a simulation class, clinic or field placement. The Standard will replace current Standard 302(a)(4), which now requires one professional skills course in addition to first-year legal writing.

underlying the practice competencies being taught, provide opportunities for performance by each student other than traditional classroom discussion, provide for regular individualized student feedback from a faculty member, and provide opportunities for student self-evaluation. A course that is designated by a school as an experiential course under “the ABA Standards and Rules of Procedure for Approval of Law Schools” shall also be considered a “practice-based, experiential course” under this rule. The proposed rule does not apply to traditional first year Legal Writing and Research and first-year Moot Court class or to upper division traditional academic seminars.

Each applicant shall provide a certificate from the law school, designating the courses taken by the applicant that meet the requirement, and stating whether the applicant has satisfied the requirement in whole or in part. A law school may count a portion of a given course’s units toward this requirement provided no less than .5 unit is so designated. Any partial credit must reflect the proportion of the course dedicated to developing a student’s competency in the articulated skill. If the applicant’s school does not provide certificates, the applicant may present syllabi or other evidence that courses taken by the applicant should count toward the requirement. Traditional large classroom courses are encouraged to integrate practice-based exercises into their curriculum. For purposes of the proposed rule, the practice-based experiential courses that meet the professional competency training requirement include but are not limited to the following topics:

- *Oral presentation and advocacy;*
- *Interviewing;*
- *Counseling;*
- *Client service and business development;*
- *Negotiation, mediation, arbitration and other alternate dispute resolution methods;*
- *Advanced legal research and writing (excluding first year legal research and writing and papers completed in a traditional academic seminar), first-year Moot Court class;*
- *Applied legal writing (e.g. drafting of contracts, pleadings and other legal instruments);*
- *Law practice management and the use of technology in law practice;*
- *Cultural competency;*
- *Collaboration and project management;*
- *Financial analysis (e.g. accounting, budgeting, project management and valuation);*
- *Cost benefit analysis in administrative agencies;*
- *Use of technology, data analyses, predictive coding;*
- *Practical writing (e.g. drafting of contracts, pleadings and other legal instruments);*
- *Business strategy and behavior;*
- *Pre-trial preparation, fact investigation (e.g. discovery, e-discovery, motion*

- practice, assessing evidence, utilizing experts);*
- *Trial practice;*
- *Professional civility and applied ethics;*
- *Law Clinics, including classroom component;*
- *Legal Externships, including classroom component.*

Applicants to the Bar are strongly encouraged to meet a portion of these units by taking a law clinic or an externship.

To provide flexibility in meeting this requirement and to encourage collaboration with practicing attorneys, an applicant may fulfill up to six (6) of the fifteen (15) units through Committee-approved apprenticeships or clerkships or apprenticeships or clerkships that have been approved by a law school. For the purpose of this rule, fifty (50) hours of work in an apprenticeship or clerkship is the equivalent of one law school unit. A Bar approved or law school approved apprenticeship or clerkship must provide the applicant with the opportunity to further develop some or all of the following:

- *Knowledge of the law;*
- *Marshaling information, e.g. fact investigation, researching scientific, technical, and financial or other issues related to legal issues;*
- *Analysis, critical reasoning and problem solving;*
- *Application of facts to law;*
- *Legal expression, e.g. persuasive or objective oral and written communication;*
- *Practice competencies, e.g. litigation and transactional projects;*
- *Professionalism;*
- *Client service;*
- *Leadership, e.g. communicating and effectively influencing others;*
- *Collaboration;*
- *Management, e.g. giving feedback, planning and implementing tasks, organizing and managing workloads.*

To become a program approved by the Bar, the program must provide an orientation session, active supervision, a system for assignments, timely oral and written feedback, a diversity of tasks and an opportunity for reflection. All apprenticeship and clerkship programs meeting the standards above may apply to become a Bar-approved program by completing the approval process specified by the State Bar. Initially, the Bar will review each program at the end of the first year and subsequently every three years. The State Bar intends to partner with local Bar associations in the development of apprenticeship and clerkship programs.

Any law school offering an apprenticeship or clerkship option will be responsible for the development and oversight of its program. The Bar will not be responsible for approval of law school apprenticeship and clerkship programs. Law school programs must ensure that placements provide an orientation session, active supervision, a system for assignments, timely oral and written feedback, a diversity of tasks and an

opportunity for reflection.

An applicant seeking to satisfy the practice-based competency training requirement in part through the apprenticeship or clerkship option shall provide a certification from the program that the applicant has satisfied the requirements of the apprenticeship or externship. The certification must include the number of hours worked by the applicant.

The Bar considered whether this new Rule should apply to applicants to the California Bar who are already admitted to practice in another United States jurisdiction. The Bar determined that the practice-based competency training requirement should not apply to these lawyers if they have practiced full-time in another United States jurisdiction for at least one year or half-time for two years. The Bar also considered whether this new Rule should be extended to foreign lawyers who have earned an LLM from a law school in the United States and sit for the California Bar. The Bar concluded that this group of applicants should be excluded from the practice-based competency training requirement given that LLM programs are typically one year in duration and the number of LLM students sitting for the California Bar remains quite low.

The State Bar intends to review this new requirement, including the apprenticeship or clerkship option, in 3 years. During that review, the Bar will address whether to require applicants to the Bar to meet a portion of the 15 unit competency requirement by completing a law clinic or an externship during law school. The review should also engage practitioners, law schools, students and graduates, and receive feedback from them.

PROPOSED ADDITIONS AND AMENDMENTS TO CALIFORNIA BUSINESS AND PROFESSIONS CODE AND TO STATE BAR RULES

The following additions and amendments to the California Business and Professions Code and the Rules of The State Bar of California are recommended to implement this recommendation:

- *[AMENDMENT] Business and Professions Code, section 6060 Qualifications; Examination and Fee*
- *[AMENDMENT] Rules of the State Bar, rule 4.15 Certification to Supreme Court*
- *[NEW] Rules of the State Bar, rule 4.34 Competency Training Requirements*
- *[NEW] Rules of the State Bar, rule 4.35 Approved Apprenticeship and Clerkship*

Working Group A

BUSINESS & PROFESSIONS CODE

Division 3. Professions and Vocations Generally

Chapter 4. Attorneys

Article 4. Admission to the Practice of law

6060. Qualifications; Examination and Fee

- (i) Have met the practice-based experiential competency training requirement as adopted by the examining committee and approved by the board. The board shall adopt regulations for the administration of this subdivision.

RULES OF THE STATE BAR OF CALIFORNIA

Title 4. Admissions and Educational Standards

Division 1. Admission To Practice Law In California

Rule 4.15 Certification to California Supreme Court

To be eligible for certification to the California Supreme Court for admission to the practice of law, an applicant for admission must:

- (A) be at least eighteen years of age;
- (B) file an Application for Admission with the Committee;
- (C) meet the requirements of these rules regarding education or admission as an attorney in another jurisdiction, determination of moral character, and examinations;
- (D) be in compliance with California court-ordered child or family support obligations pursuant to Family Code § 17520;
- (E) be in compliance with tax obligations pursuant to Business and Professions Code section 494.5;
- (F) **be in compliance with the practice-based experiential competency training requirement pursuant to Business and Professions Code section 6060(i);**
- (G) until admitted to the practice of law, notify the Committee within thirty days of any change in information provided on an application; and
- (H) otherwise meet statutory criteria for certification to the Supreme Court.

RULES OF THE STATE BAR OF CALIFORNIA

Title 4. Admissions and Educational Standards

Division 1. Admission To Practice Law In California

Chapter 3. Required Education **and Practice-Based Experiential Competency Training**

Rule 4.34 Practice-Based Experiential Competency Training

- (A) A general applicant qualifying to take the California Bar Examination through legal education must have successfully completed fifteen units of practice-based experiential competency training.
- (B) The practice-based experiential competency training requirement does not apply to:
 - (1) an applicant who is admitted to and has practiced in another United States jurisdiction full-time for at least one year or half-time for two years; or
 - (2) an applicant who has received a law degree outside the United States, and then received an LLM degree from a law school within the United States.
- (C) Definitions
 - (1) “unit” is the academic credit a law school gives for course work completed or, in the case of a Committee-approved apprenticeship or clerkship or law school-approved apprenticeship or clerkship for which academic credit is not awarded, 50 hours of qualifying work as defined in Rule 4.34 (H);
 - (2) “externship” is a placement during law school in a private, public or non-profit law office for which the applicant is awarded units;
 - (3) “clerkship” is a placement in a judge’s chambers during or following law school for which an applicant may be awarded units;
 - (4) “apprenticeship” is a placement after completion of the first year of law school or following law school in a private, public or non-profit law office for which an applicant may receive compensation but is not awarded academic credits.
- (D) Competency training must develop the concepts underlying a particular subject matter, provide opportunities for student performance in addition to traditional classroom discussion, provide for regular individualized student feedback from a faculty member, and provide opportunities for student self-evaluation. Credit

toward the fifteen unit requirement may be given upon successful completion of training that includes but is not limited to the following topics:

- (1) oral presentation and advocacy;
- (2) interviewing;
- (3) counseling;
- (4) client service and business development;
- (5) negotiation, mediation, arbitration or other alternate dispute resolution methods;
- (6) advanced legal research and writing (excluding the first-year legal research and writing class and any paper completed in a traditional academic seminar), first-year Moot Court class;
- (7) applied legal writing such as drafting of contracts, pleadings or other legal instruments;
- (8) law practice management or the use of technology in law practice;
- (9) cultural competency;
- (10) collaboration or project management;
- (11) financial analysis, such as accounting, budgeting, project management and valuation;
- (12) cost benefit analysis in administrative agencies;
- (13) use of technology, data analyses, or predictive coding;
- (14) business strategy and behavior;
- (15) pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts;
- (16) trial practice;
- (17) professional civility and applied ethics;
- (18) a law clinic that includes a classroom component; and
- (19) a legal externship that includes a classroom component.

- (E) No less than .5 units of a portion of a course dedicated to developing a student's competency in a particular skill may be used to satisfy this requirement.
- (F) This requirement may be satisfied through qualifying study not certified by a law school upon completion of the practice-based experiential competency requirement and submission of the required form with the fee set forth in the Schedule of Charges and Deadlines.
- (G) Courses that satisfy the "experiential courses" requirement of law schools accredited by the American Bar Association will also satisfy this requirement.
- (H) An applicant may satisfy no more than six units of this requirement through a Committee-approved apprenticeship or clerkship or law school-approved apprenticeship or clerkship for which academic credit is not awarded, provided that 50 hours of qualifying work is completed for each unit earned.
- (I) An apprenticeship or clerkship approved by the Committee or by a law school must provide the opportunity to further develop any or all of the following:
 - (1) knowledge of the law;
 - (2) effective research and organization of legally relevant information derived from non-legal sources, such as investigation records, economic research, and technical analyses;
 - (3) analysis, critical reasoning and problem solving;
 - (4) application of facts to law;
 - (5) legal expression, such as persuasive and objective oral or written communication;
 - (6) practice competencies, such as litigation or transactional projects;
 - (7) professionalism;
 - (8) client service;
 - (9) leadership, such as communicating and effectively influencing others;
 - (10) collaboration; and

- (11) management, such as giving feedback, planning and implementing tasks, organizing or managing workloads.
- (J) An applicant who intends to satisfy a portion of this requirement through an apprenticeship or clerkship program must submit the required form with the fee set forth in the Schedule of Charges and Deadlines.

RULES OF THE STATE BAR OF CALIFORNIA

Title 4. Admissions and Educational Standards

Division 1. Admission To Practice Law In California

Chapter 3. Required Education and Practice-Based Experiential Competency Training

Rule 4.35 Approved Apprenticeship and Clerkship Programs

- (A) To be approved by the Committee or a law school, an apprenticeship or clerkship program must provide:
 - (1) an orientation session;
 - (2) individualized supervision;
 - (3) a system for assignments;
 - (4) timely oral and written feedback;
 - (5) diversity of tasks; and
 - (6) opportunity for reflection.
- (B) The supervisor of an applicant in an approved apprenticeship or clerkship program must:
 - (1) have practiced law for at least two years immediately preceding the time of supervision; and
 - (2) submit the required form certifying that all requirements specified by the Committee have been met.

DRAFT
TFARR: Recommendation B
Summary of Rules
[8/11/14]

INTRODUCTION

On October 12, 2013, the State Bar's Board of Trustees adopted the Phase I Final Report and three proposed competency training proposals of the Task Force on Admissions Regulation Reform (TFARR)

- A. Pre-admission: 15 Units of Practice-Based Experiential Training in Law School with an Apprenticeship Option;*
- B. **Pre-admission or post-admission: 50 Hours Pro Bono or Reduced-Fee Legal Services;** and*
- C. Post-admission: 10 Hours Competency Training MCLE, or participation in a Bar-certified voluntary mentoring program.*

Recommendation B proposes that all new members provide fifty hours of pro bono or reduced-fee legal services at any point during law school or study of law in a law office or judge's chambers and no later than one year following admission. While the proposed requirement will increase practical competency skills in furtherance of the State Bar's public protection mission, the pro bono aspect will also help inculcate pro bono as a core value of professionalism and help address California's justice gap—the shortfall between those who need legal assistance but cannot afford to pay for it, and the availability of lawyers to meet that need. A model for this aspect of the recommendation is New York's 50 hour pre-admission pro bono requirement. However, Recommendation B goes even further by including reduced-fee legal services to those who do not qualify for free legal services, but who also cannot afford traditionally priced legal services, as an alternate way to fulfill the requirement. By including this form of practice, new lawyers will be exposed to the possibilities of serving clients with limited ability to pay, and who often are in underserved communities.

TFARR Phase II was formed at the end of 2013 to implement Recommendations A, B and C. Three working groups were formed, one for each Recommendation. The working group for Recommendation B recommends implementing new rules within a newly created Division 6. (New Member Requirement to Provide Supervised Pro Bono or Reduced-Fee Legal Services) of Title 2. (Rights and Responsibilities of Members) of the Rules of the State Bar of California.

New Member Requirement to Provide 50 Hours Supervised Pro Bono or Reduced-Fee Legal Services

Pro Bono

For purposes of the new requirement, pro bono is defined as (1) providing or enabling the direct delivery of legal services without expectation of compensation from the clients to persons of limited means; (2) to organizations designed primarily to address the needs of persons of limited means; or (3) to a wider range of individuals or organizations in the areas of civil rights, civil liberties or public rights. The general definition of pro bono in the proposed new member requirement is consistent with California Rules of Professional Conduct, proposed Rule 6.1, which was adopted by the State Bar Board of Trustees in 2010 and is now pending review by the California Supreme Court. The adoption of proposed Rule 6.1 demonstrates the State Bar's commitment to pro bono and is in line with longstanding national trends.

The definition is broad enough so that a wide range of opportunities will be available either within or outside of California. Receiving academic credit or compensation while doing pro bono work is allowed. The pro bono definition does not include section (b)(3) of proposed Rule 6.1 because, as a "catch-all," it has no nexus to experiential training and no connection to the direct delivery of legal services.

Reduced-fee legal services

Reduced-fee is defined as providing or enabling direct delivery of legal services at a substantially reduced rate. Working Group B recognizes that lawyers and their clients have the right to determine who qualifies to receive legal services at a reduced fee and what constitutes a substantially reduced fee, but wants to provide some guidance on what counts without trying to dictate or impact the market rate. While the area of reduced-fee legal services is still evolving, the Working Group compiled information from modest means providers in California and other states, including lawyer referral services, incubator programs and entities that charge reduced fees to those without the means to pay legal fees at the prevailing rate. The definition of reduced-fee is consistent with proposed Rule 6.1(b)(1) and (b)(2).

The Working Group proposes that those who qualify as "low-income", "very low-income", or "extremely low-income" under the current California Department of Housing and Community Development Official State Income Limits by county found at <http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html>, or under comparable official state income limits in another United States jurisdiction be deemed qualified under the rules to receive a substantially reduced fee for limited scope representation. Modest means programs of State Bar certified lawyer referral services are a good source of examples of substantially reduced and flat fees for limited scope services. Substantially reduced fees as defined by State Bar certified lawyer referral modest means programs represent the lower threshold of what is known as "low bono" work.

“Dual credit”

The pro bono or reduced-fee requirement and up to 6 units of the pre-admission practice-based experiential competency training requirement (see Recommendation A) may be concurrently satisfied by completion of an externship or apprenticeship with a qualified legal services project under Business & Professions Code section 6213(a) or support center under Business & Professions section 6213(b), a court-based self-help center under California Rule of Court 10.960, or a law school legal clinic or law school credit-bearing experiential program at which the applicant’s work qualifies as pro bono legal services as defined in 2.151 (A)(1) and (A)(2) of the proposed new rules.

In another United States jurisdiction, the externship or apprenticeship must be completed at a legal services organization or support center that primarily provides legal services without charge to indigent persons, and is funded by either the Legal Services Corporation, the Older Americans Act, the jurisdiction’s interest on lawyers trust account program, or a law school legal clinic at law school credit-bearing experiential program at which the applicant’s work qualifies as pro bono legal services as defined in 2.151 (A)(1) and (A)(2) of the proposed rules.

Using a more narrow definition of pro bono to receive dual or concurrent credit incentivizes experiences that lead to direct legal services to low-income clients. It also sends an important message to law students and new lawyers about the importance of pro bono. The Working Group discussed the possibility of creating a limited expansion for dual credit to include government agencies and other qualified nonprofit organizations, but decided it was better for the State Bar to revisit this after the first few years of implementation.

Exclusions and Exemptions

Newly admitted attorneys employed by a qualified legal services project or support center at which the work qualifies as pro bono legal services as defined in 2.151 (A)(1) or (A)(2) will be deemed to have satisfied the 50 hour requirement upon completion of fifty hours. Active members who have been admitted and active in a jurisdiction outside of California (United States or foreign) for four years immediately preceding the application for admission or applicants who have received a law degree outside the United States and then received an LL.M. degree from a law school within the United States are exempt from the pro bono or reduced-fee requirement.

Supervision

TFARR Phase I recommended that the 50 hour requirement be completed at a Bar-certified pro bono or modest means program. Many public comments expressed concern about the potential impact of the 50 hour requirement on legal services providers, creation of more bureaucracy, the need for more flexibility to complete the 50 hours and adequate supervision. Working Group B took those comments seriously and decided it was unnecessary and too cumbersome to create a separate list of Bar-certified providers. With respect to qualifications and duties of supervising attorneys, they are required to have practiced law for at least two years immediately preceding the time of supervision, and must provide or ensure active and

timely written or oral feedback, and verify the number of completed hours of pro bono or reduced-fee legal services on a State Bar compliance form. Also, in the proposed revised and new rules, the word “supervised” modifies “pro bono or reduced-fee legal services” to emphasize the importance of supervision.

Compliance

Members must submit their member compliance form by the end of one year following admission. They must also retain a copy of the member compliance form and all original supervising attorney compliance form or forms until the end of two years following admission. Noncompliance by end of the first year of admission may ultimately result in the member being involuntarily enrolled as inactive. After a member receives notification of noncompliance, State Bar staff will assist the member to come into compliance before the member is enrolled as inactive.

The noncompliant member placed on inactive status who otherwise would be ineligible to practice law will be able to provide supervised pro bono or reduced-fee legal services solely for the purpose of complying with the pro bono or reduced-fee legal services requirement.

PROPOSED ADDITIONS AND AMENDMENTS TO CALIFORNIA BUSINESS AND PROFESSIONS CODE AND TO STATE BAR RULES

The following additions and amendments to the California Business and Professions Code and the Rules of The State Bar of California are recommended to implement the proposed new 50 hour supervised pro bono or reduced-fee requirement:

- *[NEW] Business & Professions Code section 6060.4 Provision of supervised pro bono or supervised reduced-fee legal services*
- *[AMENDMENT] Business & Professions Code section 6073 Fulfilling ethical commitment to provide pro bono services, in part, by providing financial support to organizations providing free legal services*
- *[AMENDMENT] Rules of the State Bar, Rule 2.30 Member Status*
- *[NEW] Rules of the State Bar, Rule 2.37 Inactive enrollment for failure to comply with supervised pro bono or reduced-fee legal services requirement*
- *[NEW] Rules of the State Bar, Title 2, Division 6 New Member Requirement to Provide Supervised Pro Bono or Supervised Reduced-Fee Legal Services (11 new rules)*

Working Group B

BUSINESS & PROFESSIONS CODE

Division 3. Professions and Vocations Generally

Article 4. Admission to the Practice of Law

§ 6060.4 Provision of supervised pro bono or supervised reduced-fee legal services

By the end of one year following admission to the State Bar, a new member must provide fifty hours of supervised pro bono or supervised reduced-fee legal services in accordance with rules adopted by the Board of Trustees of the State Bar. A member who fails to satisfy this requirement shall be enrolled as inactive.

BUSINESS & PROFESSIONS CODE

Division 3. Professions and Vocations Generally

Chapter 4. Attorneys

Article 4.8. Pro Bono Services

§ 6073. Fulfilling ethical commitment to provide pro bono services, in part, by providing financial support to organizations providing free legal services

It has been the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer. Every lawyer authorized and privileged to practice law in California is expected to make a contribution. In some circumstances, it may not be feasible for a lawyer to directly provide pro bono services. In those circumstances, a lawyer may instead fulfill his or her individual pro bono ethical commitment, in part, by providing financial support to organizations providing free legal services to persons of limited means. In deciding to provide that financial support, the lawyer should, at minimum, approximate the value of the hours of pro bono legal service that he or she would otherwise have provided. In some circumstances, pro bono contributions may be measured collectively, as by a firm's aggregate pro bono activities or financial contributions. Lawyers also make invaluable contributions through their other voluntary public service activities that increase access to justice or improve the law and the legal system. In view of their expertise in areas that critically affect the lives and well-being of members of the public, lawyers are uniquely situated to provide invaluable assistance in order to benefit those who might otherwise be unable to assert or protect their interests, and to support those legal organizations that advance these goals. **This section does not exempt members from, or provide an alternative means of compliance with, the requirements of Business and Professions Code, section 6060.4.**

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members,

Division 3. Member Status

Rule 2.30

- (A) Any member not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request¹, be enrolled as an inactive member. The Secretary may, in any case in which to do otherwise would work an injustice and subject to any direction of the board permit retroactive enrollment of inactive members.
- (B) No member practicing law, or occupying a position in the employ of or rendering any legal service for an active member, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive member.
- (C) Notwithstanding (A) and (B) a member serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive member if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.
- (D) Notwithstanding (A), (B), and (C), above, a member placed on inactive status pursuant to Business & Professions Code Section 6060.4 may provide supervised pro bono or supervised reduced-fee legal services solely to comply with the supervised pro bono or supervised reduced-fee legal services requirements of Business and Professions Code, section 6060.4.

¹ Rule 2.31(A).

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members,

Division 3. Member Status

Rule 2.37 Inactive enrollment for failure to comply with supervised pro bono or supervised reduced-fee legal services requirement

- (A) A member who fails to provide the supervised pro bono or supervised reduced-fee legal services required by Business and Professions Code section 6060.4 must be involuntarily enrolled inactive.
- (B) To terminate inactive enrollment for failure to provide the supervised pro bono or supervised reduced-fee legal services required by Business and Professions Code section 6060.4, a member must comply with the supervised pro bono or supervised reduced-fee legal services rules governing reinstatement.²

² See Rule 2.160.

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members,

Division 6. New Member Requirement to Provide Supervised Pro Bono or Supervised Reduced-Fee Legal Services

Rule 2.150 Purpose of supervised pro bono or supervised reduced-fee legal services requirement

The purpose of requiring newly admitted members to complete fifty hours of supervised pro bono or supervised reduced-fee legal services is to increase their practical skills by providing direct delivery of legal services as defined by these rules and to further the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer.³

Rule 2.151 Definitions

- (A) “Pro bono” means providing or enabling direct delivery of supervised legal services without expectation of compensation from the client other than reimbursement of expenses to:
- (1) persons of limited means as defined by Business & Professions Code section 6213(d) in California, or by the interest on lawyers trust account program in another United States jurisdiction;
 - (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; or
 - (3) individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate.
- (B) “Reduced-fee” means providing or enabling direct delivery of supervised legal services at a substantially reduced rate affordable to:
- (1) individuals qualified as “low-income”, “very low-income”, or “extremely low-income” under the current California Department of Housing and Community Development Official State Income

³ Business & Professions Code section 6073.

Limits at the State of California Web site, or under comparable official state income limits in another United States jurisdiction, or

- (2) organizations set forth in (A)(2) and (A)(3).

Rule 2.152 Standards

- (A) Following commencement of law school or filing with the State Bar the Notice of Intent to Study Law in a Law Office or Judge's Chambers and by the end of one year following admission, a new member must provide fifty hours of pro bono or reduced-fee legal services in accordance with these rules.⁴
- (B) In California the pro bono or reduced-fee requirement,⁵ and the practical skills training required prior to admission⁶ may be concurrently satisfied by completion of an externship or apprenticeship with a qualified legal services project,⁷ a qualified support center,⁸ a court-based self-help center,⁹ a law school legal clinic or law school credit-bearing experiential program at which the applicant's work qualifies as pro bono as defined in 2.151 (A)(1) and (A)(2) and the supervising attorney satisfies the requirements set forth in 2.155.
- (C) In another United States jurisdiction, the pro bono or reduced-fee requirement,¹⁰ and the practical skills training required prior to admission¹¹ may be concurrently satisfied by an externship or apprenticeship completed at a legal services organization or support center that primarily provides legal services without charge to indigent persons and is funded by either the Legal Services Corporation, the Older Americans Act, or the jurisdiction's interest on lawyers trust account program, a law school legal clinic or law school program at which the applicant's work qualifies as pro bono legal services as defined in 2.151 (A)(1) and (A)(2) and the supervising attorney satisfies the requirements set forth in 2.155.
- (D) Members employed by a qualified legal services project¹² or support center¹³ at which the applicant's work qualifies as pro bono legal services

⁴ See Business and Professions Code section 6060.4.

⁵ Rule 4.34 and Rule 2.152(a).

⁶ Rule 4.34.

⁷ Business and Professions Code section 6213(a)(1).

⁸ Business and Professions Code section 6213(b).

⁹ California Rules of Court, rule 10.960.

¹⁰ Rule 2.152(a).

¹¹ Rule 4.34.

¹² Business and Professions Code section 6213(a)(1).

¹³ Business and Professions Code section 6213(b).

as defined in 2.151 (A)(1) and (A)(2), are deemed to have satisfied this requirement upon completion of fifty hours of pro bono or reduced-fee legal services.

Rule 2.153 Exemptions

Applicants are exempt from the pro bono or reduced-fee requirement if:

- (A) admitted and active in a jurisdiction outside of California for at least four years immediately preceding the application for admission or
- (B) received a law degree outside the United States, and then received an LLM degree from a law school within the United States.

Rule 2.154 Modifications

A member unable to fulfill the pro bono or reduced-fee requirement due to a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply to the State Bar for approval of any modification of the requirement.

Rule 2.155 Supervising attorney

(A) Qualifications

“Supervised” as used in Rules 2.30, 2.37 and this division means supervision by an attorney who:

- (1) is admitted in any United States jurisdiction; and
- (2) has practiced law for at least two years immediately preceding the time of supervision

(B) Duties

- (1) Provides or ensures active and timely written or oral feedback;
- (2) ensures that the relationship between the supervising attorney and supervisee is in compliance with current state and federal labor laws; and
- (3) verifies the number of hours of pro bono or reduced-fee legal services completed by the supervisee and compliance with these rules using the supervising attorney compliance form.

Rule 2.156 Reporting to the State Bar

Upon completing the requirements of these rules, a member must report compliance of the pro bono or reduced-fee requirement no later than one year following the date of admission. The report must be made online using My State Bar Profile or with a Pro Bono Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.

Rule 2.157 Record of Pro Bono or Reduced-Fee Requirement

For two years after reporting pro bono or reduced-fee compliance, a member must retain and provide upon demand and to the satisfaction of the State Bar:

- (A) a record of pro bono or reduced-fee legal services that includes the entity and date of service, and all original supervising attorney compliance forms; or
- (B) proof of exempt status.

Rule 2.158 Noncompliance

Noncompliance is failure to:

- (A) complete the pro bono or reduced-fee requirement by the end of one year following admission or an extension of it;
- (B) report completion of the pro bono or reduced-fee requirement by the end of one year following admission or claim exemption from the pro bono or reduced-fee requirement;
- (C) keep a record of the pro bono or reduced-fee requirement;
- (D) comply with the requirements of these rules; or
- (E) pay fees for noncompliance.

Rule 2.159 Enrollment as inactive for noncompliance

- (A) A member who is sent a notice of noncompliance must comply with its terms.¹⁴
- (B) A member who fails to comply with a notice of noncompliance is enrolled as inactive and is not eligible to practice law.¹⁵ The enrollment is administrative and no hearing is required.

Rule 2.160 Reinstatement following noncompliance

Enrollment as inactive for noncompliance with the pro bono or reduced-fee requirement terminates when a member submits proof of compliance and pays noncompliance fees.

¹⁴ See Rule 2.30.

¹⁵ See Rule 2.30.

DRAFT
TFARR: Recommendation C
Summary of Rules
[8/11/14]

INTRODUCTION

On October 12, 2013, the State Bar's Board of Trustees adopted the Phase I Final Report and three proposed competency training proposals of the Task Force on Admissions Regulation Reform (TFARR).

- A. Pre-admission: 15 Units of Practice-Based Experiential Training in Law School with an Apprenticeship Option;*
- B. Pre-admission or post-admission: 50 hours Pro Bono or Reduced-Fee Legal Services; and*
- C. Post-admission: 10 hours Competency Training MCLE, or participation in a Bar-certified voluntary mentoring program.***

Recommendation C proposes the adoption of statutes and State Bar rules requiring newly licensed attorneys to complete ten hours of minimum continuing legal education (MCLE) within the first year following admission. This would comprise six hours of first-year basic skills and four hours of first-year legal ethics education. All new members not licensed in another U.S. jurisdiction with less than four years of experience will be required to fulfill this requirement. New members admitted in another U.S. jurisdiction with at least four years of experience need only complete the four-hour first-year legal ethics portion of the training. New attorneys must complete first-year MCLE requirements in addition to the recurrent MCLE requirement for non-exempt active bar members.¹ All ten hours must be taken for participatory course credit, and attorneys will certify compliance and be subject to audit.

These recommendations will ensure that newly licensed attorneys quickly receive practical skills in core competencies that typically are not covered by doctrinal learning. This proposal will help new attorneys access fundamental concepts that are necessary to the practice of law. The proposed change will also ensure new attorneys gain access to legal ethics in the context of a specific practice area. Early development of these skills will not only be beneficial to new attorneys' careers, but will also further the State Bar's mission of public protection by ensuring that new attorneys learn how to adequately and ethically represent their clients. New attorneys are strongly

¹ The State Bar Board of Trustees will be considering a proposed change to the calculation of "proportional requirements due" (which applies to most attorneys during their first regular compliance cycle). The proposed change would ensure that one hour of Elimination of Bias credit and one hour of Substance Abuse (Competence Issues) credit will also be required within an attorney's first regular compliance cycle, regardless of the total pro-rated number of hours due. This addresses the concern that new attorneys currently can go three to six years before education in those areas is required.

encouraged to complete their entire ten hours of first-year MCLE in a designated practice area. The Committee believes this will help new attorneys gain background in their particular area of practice. Provided that new licensees complete their first-year MCLE requirements with one legal education provider, the Committee recommends that new licensees obtain a certificate of completion in the particular completed practice area. The Committee encourages MCLE providers to offer the first-year MCLE requirements at no cost or a nominal cost.

The post-admission ten hour MCLE requirement has two components. Six hours will be devoted to first-year basic skills training, preferably in a single practice area as noted above. New members must also complete four of the ten MCLE hours in first-year legal ethics. The legal ethics hours must contain training on best practices in ethical situations lawyers face in their daily practice. For purposes of fulfilling the four hour first-year legal ethics requirement, courses that meet this requirement might include, but are not limited to the following:

- *Ethical issues in pro bono representation*
- *Conflicts of interest in law practice*
- *Ethics for commercial litigators*
- *Ethics for corporate lawyers*
- *Ethics for discovery*
- *Ethics for financial industry lawyers*
- *Ethics for in-house lawyers*
- *Ethics for litigators*
- *Ethics for the negotiation and mediation*
- *Maintaining Good Standing with the State Bar*
- *Social media ethics*
- *Attorney-client privilege and work product; maintaining client confidences*
- *Attorney advertisement and solicitation*
- *Ethical issues in fee agreements, billing and collection*
- *Ethical issues relating to candor*
- *Ethical issues relating to relationships with clients, including communication*
- *Starting and terminating attorney client relationships*

The Committee acknowledges that applicants, prior to admission, already are required under the rules to complete fifteen units of practical skills coursework. Therefore, the Committee carefully crafted the six remaining post-admission hours of first-year basic skills training to reinforce the skills gained in the fifteen units of foundational law school coursework. The six-hour first-year basic skills requirement might be fulfilled by, but are not limited to, the following courses in fundamental skills:

- *Accounting for lawyers; financial statements; business concepts for lawyers*
- *Administrative law*

- *ADR*
- *Appellate law*
- *Bankruptcy*
- *Civility and professionalism*
- *Contract drafting fundamentals*
- *Corporate*
 - o *Preparation of initial public offering*
 - o *Federal and state securities law compliance*
 - o *SEC requirements*
 - o *Securities arbitration*
- *Criminal defense*
- *Elder law*
- *Employment law*
- *Estate planning*
- *Family law*
- *Guardianship*
- *Immigration*
- *Insurance law*
- *Intellectual property*
- *Juvenile law*
- *Landlord-tenant*
- *Law practice management*
 - o *Attorney fee agreements*
 - o *Client trust accounts*
 - o *Managing a virtual law office*
 - o *Technology*
 - o *Employees/independent contractors*
 - o *Opening your own law office*
 - o *Insurance*
- *Limited scope representation*
- *Litigation*
- *Nonprofit*
- *Personal injury*
- *Probate*
- *Real estate*
 - o *Map Act*
 - o *Mechanic's liens*
 - o *Residential/commercial purchase/lease agreements*
 - o *Real estate broker practice*
 - o *Construction law*
- *School law*
- *Veteran law*

The proposal will help new lawyers with little or no practical experience gain professional competency and successfully transition into the practice of law. Therefore,

the Committee proposes that the first-year MCLE requirements should apply to all newly admitted attorneys, regardless of status. Out of state attorneys with less than four years of experience are also required to complete first-year MCLE. Foreign attorneys are required to complete all ten hours of MCLE. However, new admittees from U.S. jurisdictions outside of California with more than four years' experience are not required to complete the first-year basic skills training component (six hours) although they will be required to complete the first-year legal ethics component (four hours). Existing exemptions under recurrent MCLE will not apply to new attorneys completing their ten hour first-year MCLE requirement.

Newly admitted attorneys who wish to begin taking their ten hours of first-year MCLE prior to admission may do so, but only courses taken four months prior to the date of their admission will be counted towards their first-year MCLE requirements. This four-month window provides the opportunity for applicants who have completed the Bar exam to begin fulfilling their post-admission skills requirements while awaiting their bar results. New attorneys have one year following admission to complete their requirements. Thus, newly licensed attorneys will have a total of sixteen months to complete their requirements.

The programmatic requirements set forth above, along with recommendations as to compliant coursework and details of the State Bar's administration of the first-year MCLE requirement and other program requirements will be highlighted in materials provided to new admittees and will also be made available on the State Bar website. To implement this first-year MCLE requirement, the Committee proposes the following additions and amendments to the California Rules of Court, the Business and Professions Code and the Rules of the State Bar:

- *[AMENDMENT] Rules of Court, rule 9.31 Mandatory Continuing Legal Education*
- *[AMENDMENT] Business and Professions Code, section 6070 Mandatory Continuing Legal Education*
- *[AMENDMENTS] Rules of the State Bar, rules 2.50, 2.53, 2.54, 2.55, 2.71 and 2.72 Mandatory Continuing Legal Education.*
- *[AMENDMENTS] Rules of the State Bar, rules 3.601 and 3.602 MCLE Providers*

Post-Admission Mentoring Program

In conjunction with the practical skills competency training requirement, the Task Force on Admissions Regulation Reform in Phase I proposed a post-admittance mentoring requirement as an alternative to first-year MCLE. The Committee recommends that post-admittance mentoring not be implemented in conjunction with the mandatory first-year MCLE requirements at this time. The Committee recognizes

the importance of mentoring for new lawyers and believes a future mentoring program will be valuable for public protection and enhance the practice of law in California. However, given the fundamental and logistical difference between implementing MCLE requirements and developing a participatory mentoring program, the Committee declined to implement the mentoring program at this time. (See Appendix A.)

Working Group C

Appendix A

[8/11/14]

The Committee recommends that post-admittance mentoring not be implemented in conjunction with the mandatory first-year MCLE requirements at this time. The Committee recognizes the importance of mentoring for new lawyers and believes a future mentoring program will be valuable for public protection and enhance the practice of law in California. However, given the fundamental and logistical difference between implementing MCLE requirements and developing a participatory mentoring program, the Committee declined to implement the mentoring program at this time.

1. Although the Committee declined to implement a mentoring program, the Committee recognizes that mentoring:
 - Promotes collegial relationships among in the legal community
 - Fosters development of practical skills
 - Builds awareness of ethical obligations
 - Encourages the use of best practices and professionalism
 - Provides an experienced practitioner who is also a role model
 - Enhances public protection
 - Promotes personal development
2. The Committee also recognizes existing mentor providers such as:
 - Bar associations and local barrister organizations offering “Bridging the Gap” programs
 - State bar sections and CYLA
 - Specialty bar associations
 - Private law firms/attorneys
 - Corporate law departments
 - Nonprofit/public legal service providers
 - Government agencies
 - Law school alumni and law schools
 - Pro Bono Practice Program
 - American Inns of Court
3. Mentors can also provide guidance on various subject matters, but not limited to:
 - Rules of professional conduct, standards of professionalism, and civility
 - Creating pride and integrity in the legal profession
 - Introduction to the legal community, and public service and bar programs
 - Personal and professional development including work-life balance
 - Ethics
 - Law office management
 - Client communications, advocacy and negotiations

- Specific practice areas (e.g., civil litigation, criminal law and procedure, family, personal injury, insurance, juvenile, employment, immigration, bankruptcy, estate planning, tax, real estate, consumer, collection, probate, business, corporate and commercial, etc.)

If implemented the Committee suggests consideration of the following criteria:

A. Mentees should be required to:

- Provide confirmation of State Bar membership.
- Choose a mentor from a list of pre-approved mentor providers
- Initiate contact with mentor from a list of approved mentors
- Enter into a “mentoring contract” with mentor
- Complete mentor evaluations periodically during the term of the mentoring program

B. Mentors should:

- Have minimum qualifications (must be a licensed California attorney in good standing)
- Agree to the volunteer assignment
- Complete a mentor training program
- Complete mentee evaluations on a regularly scheduled basis

C. Mentoring programs:

- Should begin within 30 days of admission to the bar, and conclude in no less than 12 months
- Should establish a monthly conference call or meeting between the mentee and mentor
- Should establish the preferred method of communication between the mentor and mentee.

D. The Committee also recommends that the State Bar research and review the efficacy of mentoring and determine whether the Bar should revisit the mentoring program in the future. Lastly, the Committee also recommends that the State Bar identify two bar associations and two state bar sections for 24-month pilot programs. State Bar staff will reevaluate and revise the program as necessary. Should the pilot program be successful, the State Bar can reconsider and engage in a phased-in roll out.

E. The Committee recommends review of existing mentoring programs, among which include:

- National Legal Mentoring Consortium, University of South Carolina
- National Mentoring Partnership, Boston
- Existing state mentoring programs (i.e., North Dakota, New Mexico, Georgia, Delaware, Colorado, Indiana, Nevada, Ohio, Oregon, British Columbia/Canada (Articling Program))
- Bar Associations: Beverly Hills, Alameda County Barristers, LA County BWL Law Students, LA County Consumer Attorneys', Lesbian & Gay Lawyers Association – LA, Philippine American Bar Association – LA, Women Lawyers of LA, Federal Bar Association - Orange County, Mentor on Demand – Orange County, Korean American Bar Association - San Diego County, Lawyers Club – San Diego, North County Bar Association – San Diego, Young/New Lawyers Division – San Diego, Asian American Bar Greater Bay Area - San Francisco County, Bay Area Lawyers for Individual Freedom – San Francisco, Korean American Bar Association – San Francisco, Queen's Bench – San Mateo, Women Defenders – Berkeley, Santa Barbara County Women Lawyers, South Asian Bar Association of Southern California, California Women Lawyers

Working Group C

CALIFORNIA RULES OF COURT

Title 9. Rules on Law Practice, Attorneys and Judges

Chapter 3. Legal Education

Rule 9.31. Minimum continuing legal education

(a) Statutory authorization

This rule is adopted under Business and Professions Code section 6070.

(b) State Bar minimum continuing legal education program

The State Bar must establish and administer a minimum continuing legal education program under rules adopted by the Board of ~~Governors~~ Trustees of the State Bar. These rules may provide for carry forward of excess credit hours, staggering of the education requirement for implementation purposes, and retroactive credit for legal education.

(c) ~~—Recurrent Minimum~~ minimum continuing legal education requirements

~~Each~~ An active member of the State Bar (1) not exempt under Business and Professions Code section 6070, (2) not a full-time employee of the United States Government, its departments, agencies, and public corporations, acting within the scope of his or her employment, and (3) not otherwise exempt under rules adopted by the Board of ~~Trustees~~ Governors of the State Bar, must, within 36-month periods designated by the State Bar, complete at least 25 hours of legal education approved by the State Bar or offered by a State Bar-approved provider. Four of those hours must address legal ethics. Members may be required to complete legal education in other specified areas within the 25-hour requirement under rules adopted by the State Bar. Each active member must report his or her compliance to the State Bar under rules adopted by the Board of Trustees ~~Governors~~ of the State Bar.

(d) First-year minimum continuing legal education requirements

A new member of the State Bar not otherwise exempt under rules adopted by the Board of Trustees of the State Bar is required to complete 10 hours of legal education by the end of the first year following admission. These 10 hours are in addition to the 25 hours of legal education required under subpart (c).

(~~de~~) Failure to comply with program

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 ~~Trustees~~~~Governors~~ of the State Bar.

(~~ef~~) Fees and penalties

The State Bar has the authority to set and collect appropriate fees and penalties.

BUSINESS & PROFESSIONS CODE

Division 3. Professions and Vocations Generally

Chapter 4. Attorneys

Article 4.5. Mandatory Continuing Legal Education

6070. (a) The State Bar shall request the California Supreme Court to adopt a rule of court authorizing the State Bar to establish and administer a mandatory continuing legal education program. The rule that the State Bar requests the Supreme Court to adopt shall require that, within designated 36-month periods, all active members of the State Bar shall complete at least 25 hours of legal education activities approved by the State Bar or offered by a State Bar approved provider, with four of those hours in legal ethics.

Additionally, the rule shall require all newly admitted members to complete at least 10 hours of first-year continuing legal education. A member of the State Bar who fails to satisfy the mandatory continuing legal education requirements of the program authorized by the Supreme Court rule shall be enrolled as an inactive member pursuant to rules adopted by the Board of Trustees of the State Bar.

(d) The State Bar shall provide and encourage the development of low-cost programs and materials by which members may satisfy their continuing education requirements. Special emphasis shall be placed upon the use of internet capabilities and computer technology in the development and provision of no-cost and low-cost programs and materials. Towards this purpose, the State Bar shall ensure that by July 1, 2000, any member possessing or having access to the Internet or specified generally available computer technology shall be capable of satisfying the full self-study portion of his or her recurrent MCLE requirement at a cost of fifteen dollars (\$15) per hour or less.

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members

Division 4. Minimum Continuing Legal Education

Rule 2.50 Purpose of MCLE

Rules for Minimum Continuing Legal Education (MCLE) require active members of the State Bar of California to remain current regarding the law, the obligations and standards of the legal profession, and the management of their practices. All new members must complete first-year MCLE regardless of status. A member's involuntary enrollment as inactive for failing to comply with these rules is public information available on the State Bar Web site.

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members

Division 4. Minimum Continuing Legal Education

Rule 2.53 New members

(A) A new member must complete first-year MCLE by the end of the first year following admission.¹

(AB) A new member is permanently assigned to a compliance group on the date of admission for recurrent MCLE requirements.²

(BC) The initial compliance period for recurrent MCLE for a new member begins on the first day of the month in which the member was admitted. It ends when the period ends for the compliance group. If the initial period is less than the period for the compliance group, the required credit hours may be reduced as provided in these rules.

(CD) A new member may not claim credit for education taken before the initial~~initial~~applicable compliance period.

¹ Bus. & Prof. Code § 6070(a); Rule of Court, rule 9.31(d).

² Bus. & Prof. Code § 6070(a); Rule of Court, rule 9.31(c).

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members

Division 4. Minimum Continuing Legal Education

Rule 2.54 Exemptions

(A) The following active members are exempt from recurrent MCLE requirements, provided they claim the exemption in their assigned compliance periods using My State Bar Profile online or an MCLE Compliance Form:

- (1) officers and elected officials of the State of California;
- (2) full-time professors at law schools accredited by the State Bar of California or the American Bar Association;
- (3) those employed full-time by the State of California as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law; and
- (4) those employed full-time by the United States government as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law.

(B) Members whom this rule exempts by reason of their employment with the State of California or the United States government may provide pro bono legal services through a California qualified legal services project or a qualified support center, or through a legal services project or support center that primarily provides legal services without charge to indigent persons in another jurisdiction and is funded by the Legal Services Corporation or the Older Americans Act or receives funding administered by the jurisdiction's interest on lawyers trust accounts program.

(C) New members who are admitted to the practice of law in good standing in another United States jurisdiction for at least four years are exempt from the six-hour first-year basic skills training requirements³ provided they claim the exemption when they report compliance with the four-hour first-year legal ethics requirement within their first year of admission using My State Bar Profile online or an MCLE compliance form.

³ State Bar Rule 2.72(e).

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members

Division 4. Minimum Continuing Legal Education

Rule 2.55 Modifications

| A member prevented from fulfilling ~~the~~any MCLE requirement for a substantial part of a compliance period because of a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply for modification of MCLE compliance requirements. The State Bar must approve any modification.

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members

Division 4. Minimum Continuing Legal Education

Rule 2.71 Compliance periods

(A) The first-year MCLE requirement may be satisfied no earlier than the four months preceding admission and must be completed no later than one year following the date of admission.

(B) A compliance period for recurrent MCLE consists of thirty-six months. It begins on the first day of February and ends three years later on the last day of January. The three compliance groups begin and end their compliance periods in different years. A member must report MCLE compliance no later than the day following the end of the compliance period. The report must be made online using My State Bar Profile or with an MCLE Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members

Division 4. Minimum Continuing Legal Education

Rule 2.72 Requirements

(A) Unless these rules indicate otherwise, a member who has been active throughout a thirty-six-month compliance period must complete twenty-five credit hours of MCLE activities. No more than twelve and a half credit hours may be self-study. Total hours must include no less than 6 hours as follows:

(1) at least four hours of legal ethics;

(2) at least one hour dealing with the recognition and elimination of bias in the legal profession and society by reason of, but not limited to, sex, color, race, religion, ancestry, national origin, physical disability, age, or sexual orientation; and

(3) at least one hour of education addressing substance abuse or other mental or physical issues that impair a member's ability to perform legal services with competence.

(B) Required education in legal ethics, elimination of bias, or competence issues may be a component of an ~~approved~~ MCLE activity that deals with another topic.

(C) A member may reduce the required twenty-five hours in proportion to the number of full months the member was inactive or exempt in the thirty-six-month compliance period. Up to half the reduced hours may be self-study. A tool for applying this formula is available at the State Bar Web site.

(D) Excess credit hours may not be applied to the next compliance period.

(E) Unless these rules indicate otherwise, a new member regardless of status must complete first-year MCLE requirements, which consist of ten credit hours of MCLE activities including four hours of first-year legal ethics and six hours of first-year basic skills training. None of these hours may be self-study.

RULES OF THE STATE BAR OF CALIFORNIA

Title 3. Programs and Services

Division 5. Providers of Programs and Service

Chapter 1. Providers of Continuing Legal Education

Article 1. Global provisions

Rule 3.601 MCLE Activities

To be approved for MCLE credit, an MCLE activity must meet State Bar standards.

- (A) The MCLE activity must relate to legal subjects directly relevant to members of the State Bar or have significant current professional and practical content.
- (B) The presenter of the MCLE activity must have significant professional or academic experience related to its content.
- (C) Promotional material must state that the MCLE activity is approved for MCLE credit or that a request for approval is pending; specify the amount of credit offered; and indicate whether any of the credit may be claimed for required MCLE in legal ethics, elimination of bias, ~~or~~ competence issues, first-year legal ethics, or first-year basic skills training.²
- (D) If the activity lasts one hour or more, the provider must make substantive written materials relevant to the MCLE activity available either before or during the activity. Any materials provided online must remain online for at least thirty calendar days following the MCLE activity.
- (E) Programs and classes must be scheduled so that participants are free of interruptions.

² Business & Professions Code § 6070(b) provides that programs offered by the California District Attorneys Association and the California Public Defenders Association are deemed to be approved MCLE. State Bar Rule 2.84 provides that “A member may claim MCLE credit for educational activities that the California Board of Legal Specialization approves for certification or recertification.” See State Bar Rule 2.72 for a description of competence issues and elimination of bias.

RULES OF THE STATE BAR OF CALIFORNIA

Title 3. Programs and Services

Division 5. Providers of Programs and Service

Chapter 1. Providers of Continuing Legal Education

Article 1. Global provisions

Rule 3.602 Responsibilities of every provider

Every provider must

- (A) comply with any State Bar rules and terms applicable to an approved MCLE activity;
- (B) retain the Record of Attendance for an MCLE activity for four years from the date of the activity and submit it to the State Bar upon request. The record must include the title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, ~~or~~ competence issues, first-year legal ethics, or first-year basic skills training as a component of the topic of the activity, and whether the activity is participatory or self-study;
- (C) furnish an MCLE Certificate of Attendance to each attendee who has met the requirements for the MCLE activity. The certificate must include the provider name, title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, ~~or~~ competence issues, first-year legal ethics, or first-year basic skills training as a component of the topic of the activity, and whether the activity is participatory or self-study;
- (D) give each attendee who completes an MCLE activity a State Bar MCLE Activity Evaluation Form or its equivalent; retain the completed form for at least one year; and submit it to the State Bar upon request; and
- (E) notify the State Bar in writing of any change in the name, address, or other contact information required by the State Bar.