

AGENDA ITEM

702 SEPT 2016

DATE: September 8, 2016
TO: Members, Admissions and Education Committee
FROM: Elizabeth R. Parker, Executive Director
SUBJECT: New Attorney MCLE Requirement

EXECUTIVE SUMMARY

This agenda item summarizes both the original Task Force on Admissions Regulation Reform (TFAAR) recommendation regarding new attorney Mandatory Continuing Legal Education (MCLE) and the proposed modified implementation approach developed by State Bar staff. At its July 2016 meeting, the Admissions and Education Committee authorized the release of the staff proposal for 45-day public comment period. After receiving just one comment, staff recommends adoption of this modified implementation approach, effective February 1, 2018.

BACKGROUND AND DISCUSSION

At its July 2016 meeting, the Admissions and Education Committee authorized the release of proposed revisions to State Bar Rules which would effectuate a new attorney MCLE requirement. The July 2016 agenda item is provided for background as Attachment A.

Pursuant to the revised rules, effective February 1, 2018, attorneys will be required to complete a New Attorney Training MCLE program during their first year post-admission. The curriculum will be developed by the State Bar, and will be no more than ten hours in length in total. These ten hours would not be in addition to the currently required MCLE hours for active members of the State Bar. Instead, up to ten of those currently required hours would comprise New Attorney Training, and this training would be prescribed for completion within the first 12 months of admission to the California State Bar. This change will be effectuated by amending the State Bar Rules.

New admittees who do not complete the online New Attorney Training program by the last day of the month of their 1-year anniversary month as a member would be assessed a non-compliance fee.

Those new admittees who still have not completed the New Attorney Training by their next regular MCLE reporting deadline would be subject to a sixty-day notice to bring themselves into full compliance, or risk being placed on Administrative Inactive status and not eligible to practice (consistent with the repercussions of not completing regular MCLE requirements).

PUBLIC COMMENT

Only one comment was received during the public comment period as follows:

“Not sure what courses you want them to take but I’m sure they already have too much to think about without having another 10 hour study requirement heaped on them! If you do anything maybe have them complete the mandatory legal ethics, competence and bias training in the first year. Another problem I see is in the first year you haven’t even figured out what it really means to be an attorney yet!” California attorney Jeffrey Reed.

Because the New Attorney Training is intended to be a tailored curriculum within the MCLE requirements that a new member would already have, staff believes that Mr. Reed’s and any similar concerns, are being addressed in the proposal.

If any other comments are received by the September 9, 2016 comment deadline, they will be circulated at the Board meeting.

FISCAL/PERSONNEL IMPACT

Estimated costs for this component of TFARR implementation range from \$100,000 to \$400,000 (one-time) for the development and deployment of the New Attorney Training curriculum. Audit responsibilities associated with this proposal will be assumed by staff and temporary help currently performing annual MCLE audits and are not expected to require increased personnel resources. Periodic investments in curriculum and/or technology upgrades are anticipated; these costs cannot be reasonably estimated at this time.

Importantly, curriculum development costs will be borne by the State Bar’s General Fund. At a time of limited resources, and a strong policy directive to divert all available General Fund revenue to the Bar’s public protections functions, the expenditure of funds to advance new mandatory training requirements may present a concern. However, this expenditure would be one-time, versus on-going, in nature, and is directly aligned with the type of proactive public protection efforts that the Board has made a commitment to enhance. In light of the current fiscal challenges facing the Bar however, staff recommends that no work begin on curriculum development until after resolution of the status of the Bar’s ability to collect 2017 mandatory fees.

RULE AMENDMENTS

Title 2, Division 4, Chapter 1.

BOARD BOOK IMPACT

Not applicable.

BOARD GOALS & OBJECTIVES

Goal 1.e.: *Expediently refine, adopt and implement phased-in and/or modified Task Force on Admissions Regulation Reform recommendations.*

PROPOSED BOARD RESOLUTION

Staff recommends that the Board of Trustees approve the following resolution:

RESOLVED, following publication for comment and consideration of the comments received, that the Board of Trustees approve the proposed amendments to Rules of the State Bar, Title 2, Division 4, Chapter 1 related to New Attorney Training as attached hereto, effective February 1, 2018; and it is

FURTHER RESOLVED, that no work shall begin on New Attorney Training curriculum development, or any other related expenditure of funds, until after resolution of the status of the Bar's ability to collect 2017 mandatory fees.

ATTACHMENT(S) LIST

- A. July 2016 Agenda Item
- B. July 2016 Version of Proposed Amendments to State Bar Rules re New Attorney MCLE Requirement