

Board Executive Committee Referral List

MAY 11, 2017

Category 1 – Change in Date Only

None.

Category 2 – Possible Committee Reassignments

None.

Category 3 – New Matters Requiring Assignment to Appropriate Board Committee

MARCH #1

Evaluation of the State Bar and the DOJ's retention of applicant fingerprint records and the impact on criminal complaint monitoring

Staff to the Committee on Regulation and Discipline (RAD) have twice recommended to the Board of Trustees that the State Bar enter into a Subsequent Arrest Notification Contract with the California Department of Justice ("DOJ"). Board members have raised privacy and other concerns in connection with this recommendation. Consequently, RAD asked the Office of General Counsel ("OGC") to re-evaluate the State Bar's fingerprint retention policy and its statutory obligations. Upon analyzing the legislative history of Business and Professions Code section 6054, OGC concludes that the State Bar is obligated to receive criminal arrest notification services from the DOJ, regardless of countervailing privacy concerns.

Responsible Staff: Grandt

Recommendation: RAD - MAY

BOT – MAY

MARCH #2

Proposed amendments to the Legal Specialization Rules re the appointment process of Board of Legal Specialization's Advisory Commissions

Proposed amendments to the State Bar Rules Title 3, Division 2, Chapter 2, Article 1, Rules 3.92 and 3.93 are being recommended to reflect the Board of Trustees' March 2017 action delegating the appointment of members and officers to California Board of Legal Specialization (CBLS) Advisory Commissions to the CBLS. Since these are technical amendments to conform the rules to the recent action of the Board of Trustees, no public comment is necessary

Responsible Staff: Leonard

Recommendation: A&E – MAY

BOT – MAY

MARCH #3

Consistency Project – Proposed adoption of amendments to the State Bar rules regarding law corporations

The Office of General Counsel has reviewed all State Bar Rules to determine whether there are any material inconsistencies with the related statutes and Rules of Court. As part of that effort, on March 9, 2017, the Admissions and Education Committee authorized staff to release for a 45-day public comment period proposed amendments to the State Bar rules regarding law corporations. The State Bar received no comments. This Agenda Item recommends adoption of the proposed amendments, as released for public comment.

Responsible Staff: Bercovitch

Recommendation: A&E – MAY

BOT –MAY

MARCH #4

Letter of Support for Legal Services Corporations Funding

The proposed FY 2018 Federal budget eliminates funding for the Legal Services Corporation (LSC). A coordinated national effort is underway to voice opposition to the proposal and to support continued funding for LSC. The effects of defunding would be potentially devastating in California. Over the years, the State Bar of California supported the LSC when its funding was inadequate or threatened.

Responsible Staff: Ngim

Recommendation: SAA – MAY

BOT – MAY

MARCH#5

Amendment of Disclaimer Language for Legislative Letters

Current Board policy requires that legislative comments of sections and committees bear a disclaimer providing that the stated position has not been adopted by the State Bar's Board of Trustees "or overall membership." This Agenda Item proposes amending the required disclaimer language to strike "or overall membership." This amendment would make the point that the State Bar is a regulatory agency created by statute under the California Constitution to regulate the practice of law, and not a membership association.

Responsible Staff: Colantuono

Recommendation: SAA- MAY

BOT – MAY

MARCH#6

Proposed Amended Rule 5-110 of the Rules of Professional Conduct – Consideration following Action by the Supreme Court

On May 1, 2017, the Supreme Court of California ("Court") issued an order on the State Bar's request to approve proposed amendments to rules 5-110 and 5-220 of the Rules of Professional Conduct of the State Bar of California. The order is attached. The State Bar's request was granted in part and denied in part. The order provides instructions for the State Bar's further consideration of the parts of the proposal that were not approved.

This agenda item presents a staff recommendation that the Court's request for further consideration be assigned to the Commission for the Revision of the Rules of Professional Conduct ("Commission").

Responsible Staff: Difuntorum

Recommendation: NO COMMITTEE BOT – MAY

MARCH#7

Board Book Review Assignments

Assignments to Board Committee are identified under each Article, Section, or related group of Sections of the Board Book.

Responsible Staff: Bercovitch

Recommendation: EXCom - MAY NO BOT