



The State Bar of California

OPEN SESSION

AGENDA ITEM

MARCH 2020

COMMITTEE OF BAR EXAMINERS ITEM O-500

DATE: March 30, 2020

TO: Members, Committee of Bar Examiners

FROM: Tara Clark, Program Manager, Moral Character Determinations

SUBJECT: Action regarding Moral Character Filing Deadlines Under Admissions Rules 4.41 and 4.43

EXECUTIVE SUMMARY

In response to the COVID-19 pandemic, staff is requesting temporary exemptions to the Rules of the State Bar of California (*Admissions Rules*) that are applicable to the Moral Character Determinations process to account for the delays and difficulties applicants may experience in obtaining fingerprints and documentation.

BACKGROUND

Applicants are required to submit fingerprints and supporting documentation in connection with an Application for Determination of Moral Character (moral character application) or an Application for Extension of Determination of Moral Character (extension application). (*Admissions Rule*, Rule 4.41.) If an application is deemed incomplete after the initial review, the applicant is notified of the deficiencies via email. The applicant has sixty (60) days to provide the missing information and documentation, which may include new completed fingerprints. If the deficiencies are not rectified within sixty (60) days, the application is abandoned (*Admissions Rule*, Rule 4.43.)

Once an application has been deemed complete and filed, if additional information is necessary to render a moral character determination, an investigator will request additional information and documentation from the applicant. The applicant has ninety (90) days to provide the additional information and documentation. If the applicant does not provide information and documentation responsive to the request within ninety (90) days, the application is abandoned. (*Admissions Rule*, Rule 4.43.)

To be certified to practice law, an applicant must be of good moral character. (Bus. & Prof. Code section 6060.) The Business and Professions Code is silent as to the deadline for completion of an applicant's moral character application, but the State Bar Rules provide that a moral character application is "deemed abandoned" if it is not complete within 60 days after being initiated. (*Admissions Rules*, Rule 4.43.)

Staff proposes to extend the deadline for completion of a moral character application from sixty (60) days to ninety (90) days following its initiation, and to allow for late submission of additional documentation requested by the State Bar beyond ninety (90) days for good cause.

State Bar Rule 4.8 provides, "The time limits for State Bar or Committee actions specified in these rules are norms for processing. The time limits are not jurisdictional and the State Bar or Committee may extend them for good cause." Pursuant to the foregoing Rule, the Committee has the authority to unilaterally extend the deadline for completion of moral character applications and to allow for late submission of additional documentation for good cause.

DISCUSSION

During this unprecedented period of office and business closures and stay at home orders across the country, the State Bar recognizes that applicants may experience difficulties obtaining fingerprints and documentation necessary for a moral character determination.

Applicants have reported difficulties completing fingerprints within sixty (60) days of submission of the moral character application. In California, some Live Scan providers have suspended fingerprinting, while others have limited availability due to reduced staffing. Out-of-state applicants have also reported difficulties finding an available entity to complete their fingerprints.

As the COVID-19 situation has quickly progressed and many normal business operations have suspended or been modified, staff is recommending a temporary exemption to Rule 4.41 and Rule 4.43 of the *Admissions Rules* to allow applicants at least ninety (90) days to provide completed fingerprints, and missing information and documentation for a moral character application or an extension application. It is also recommended that the Program Manager for Moral Character Determinations be granted the ability to allow submission of missing or additional information and documentation past ninety (90) days if the applicant demonstrates good cause.

Additionally, the following information is provided to keep the Committee of Bar Examiners ("Committee") apprised of the other adjustment the Moral Character Determinations unit has enacted in response to the COVID-19 crisis, which is permissible under the *Admissions Rules* and the *Procedures Governing Informal Conferences*.

Informal Conferences: In response to the shelter-in-place and stay at home orders, staff has begun conducting informal conferences via video conference. The video conferences have allowed face-to-face interactions with the applicants over video, while the audio is recorded to

preserve the conference. Applicants have also been afforded the opportunity to postpone the informal conference until an in-person meeting is available.

RECOMMENDATION

In an effort to continue rendering moral character determinations while remaining sensitive to the current situation, the following recommendations are proposed for the Committee's consideration:

Fingerprinting: Due to the current, limited availability of fingerprinting services, allow applicants ninety (90) days from the date of submission of a moral character application or an extension application to provide completed fingerprints.

Incomplete Notice: Due to the current, possible difficulties obtaining additional documentation, if a moral character application or extension application is deemed incomplete, allow the applicant ninety (90) days from the date of the incomplete notice to provide the necessary information and documentation.

Submission After Ninety Days: If, for good cause, an applicant cannot provide completed fingerprints, missing documentation, or supplemental documentation within the requisite ninety (90) days, grant the Program Manager for Moral Character Determinations permission to allow late submission.

MOTION

If the Committee agrees with the recommendation, the following motion is suggested:

Move that the Committee Bar Examiners allow applicants: 1) ninety (90) days from the date of submission of a moral character application or an extension application to provide completed fingerprints; 2) ninety (90) days from the date of the incomplete notice to provide the necessary information and documentation; and 3) grant the Program Manager for Moral Character Determinations permission to allow submission of the aforementioned documents past the ninety (90) day mark if good cause is demonstrated.