



The State Bar of California

OPEN SESSION

AGENDA ITEM

701 JANUARY 2022

DATE: January 20, 2022

TO: Members, Board of Trustees

FROM: Steve Mazer, Chief Administrative Officer
Nicole Pereira, Assistant General Counsel, Office of General Counsel

SUBJECT: Approval of COVID-19 Protocols for Meetings of the State Bar Board of Trustees and Subentities

EXECUTIVE SUMMARY

This item requests Board approval of a requirement that members of the State Bar Board of Trustees, members of State Bar subentities, and guests invited to Board and subentity meetings, provide proof of either full COVID-19 vaccination, or in the alternative, proof of a COVID-19 negative test within 48 hours of the start of any in-person meeting.

BACKGROUND

The State Bar is committed to protecting its employees, volunteers, and the public by providing a safe and healthy environment consistent with COVID-19 public health guidance. For almost two years, the COVID-19 pandemic has created a public health crisis of great proportion. Although vaccination and other anti-COVID-19 protocols have made progress in suppressing the spread of COVID-19, the highly contagious Delta and Omicron variants have caused increases in infection transmission and hospitalization rates, particularly among the unvaccinated.

On September 6, 2021, the State Bar instituted a mandatory vaccination policy, requiring all State Bar employees, by November 15, 2021, to provide evidence of a single dose of the Johnson & Johnson vaccine or a second dose of the Moderna or Pfizer vaccine. Employees with a medical condition that prevents them from receiving a COVID-19 vaccine, as verified by their medical provider, or those with a confirmed sincerely held religious belief that prohibits them

from receiving a vaccine, received exemptions from the mandatory vaccination requirement as a reasonable accommodation. Employees who were granted exemptions are required to provide evidence of a COVID-19 negative test on a weekly basis or before working in a State Bar building. As a result of this policy, the State Bar achieved a 97 percent vaccination rate among its employees. On December 1, 2021, this policy was extended to all State Bar on-site contractors and vendors.

Throughout the pandemic, Board and subentity meetings have been held remotely by Zoom. A limited number of meetings have had in-person attendance by Board or subentity members, in addition to Zoom participation. Current protocols for in-person attendance at Board and subentity meetings include a requirement that members wear masks, with exemptions only for medical accommodations. Individuals who are sick or exhibiting COVID-19 symptoms are not to enter State Bar buildings. In light of the Omicron variant, the State Bar has directed that subentity meetings continue to be held only by Zoom, at least through February.

On January 6, 2022, Governor Gavin Newsom signed an executive order extending the sunset of Assembly Bill 361, which allows state bodies, including the State Bar, to continue using Zoom or other telephonic or electronic platforms for meetings through March 31, 2022. Under the executive order, these meetings do not have to be open to members of the public. The status of further executive orders or legislation regarding meetings of state bodies after March 31, 2022, is not yet known.

DISCUSSION

COVID-19 vaccinations approved by the Centers for Disease Control and Prevention (i.e., Johnson & Johnson, Moderna, or Pfizer) afford the best protection for State Bar employees, volunteers, and members of the public. Staff recommends that the Board of Trustees approve the implementation of a COVID-19 vaccination and testing policy for all members of the Board of Trustees and all members of State Bar subentities. Under this policy, all members would be required to either be fully vaccinated or produce a COVID-19 negative test taken within 48 hours of the start of an in-person meeting. Any nonvaccinated members or those who cannot produce a COVID-19 negative test taken within 48 hours would be able to participate by phone or Zoom, at least through March 31, 2022.

Likewise, staff recommends that invited guests and presenters at Board and subentity meetings also be subject to the COVID-19 vaccination and testing policy. These individuals remain in close proximity to members and State Bar staff for an extended period, and speak at the presenters' table for much longer periods than individuals presenting during a typical public comment.

All other COVID-19 protocols related to business offices and indoor gatherings would remain in place as usual.

Alternatively, the Board could consider two other options. A more restrictive option would be to align the Board and subentity policy with the State Bar's mandatory vaccination policy for employees, whereby Board and subentity members and guests would be required to be

vaccinated to attend in-person meetings, unless they request and are granted a medical or religious exemption, in which case they would undergo testing. A less restrictive option would be to require only that members and guests wear masks during in-person meetings.

Currently, under Governor Gavin Newsom's executive order of January 6, 2022, the State Bar is permitted, through March 31, 2022, to continue using telephonic or electronic platforms for meetings, and to exclude public attendees, which obviates a need for a policy relating to members of the public at this time. Staff anticipates that a future policy recommendation will be to require members of the public to wear masks and adhere to other standard protocols but not be subject to a vaccination or testing requirement, unless future executive orders or legislation allow for vaccination-related restrictions on public access to meetings of state bodies.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None – core business operations

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees adopts a policy requiring all members of the State Bar Board of Trustees, all members of State Bar subentities, and all invited guests to Board and subentity meetings, to provide proof of full COVID-19 vaccination, or in the alternative, a COVID-19 negative test within 48 hours of attending an in-person meeting. The specific procedures of the policy will be developed and administered by State Bar staff. Staff, in consultation with the Board chair, will have the authority to make changes as necessary to reflect updated public health directives.

ATTACHMENT LIST

None