



The State Bar of California

OPEN SESSION AGENDA ITEM 707 NOVEMBER 2022

DATE: November 17, 2022

TO: Members, Board of Trustees

FROM: Donna S. Hershkowitz, Chief of Programs/Legislative Director

SUBJECT: Elimination of Five-Year Period of Validity for Passing Bar Exam Score: Return from Public Comment and Request for Submission to the Supreme Court for Approval

EXECUTIVE SUMMARY

Rule 4.17 of the Rules of the State Bar of California¹ requires an applicant for admission to meet all requirements for certification to the Supreme Court within five years of achieving a passing score on the bar exam and requires that the applicant take the attorney's oath within that same five-year period. Upon recommendation of the Committee of Bar Examiners (CBE), the Board authorized circulating for a 45-day public comment period a rule proposal to eliminate that five-year requirement as an unnecessary hurdle to admission to the State Bar, which does not serve to further public protection. Following review of the 17 comments received during the public comment period (see Attachment A), the committee recommends that the Board approve the proposed rules as set forth in Attachments B (redline) and C (clean version) and submit them to the Supreme Court for adoption.

BACKGROUND

Rule 4.15 of the Rules of the State Bar generally sets out the requirements an applicant must satisfy to be certified to the California Supreme Court for admission to the practice of law, including having a positive moral character determination and passing the bar examination.

Rule 4.17 sets a five-year expiration date on a passing bar exam score by requiring that, within "five years from the last day of administration of the California Bar Examination the applicant

¹ All further rule references are to the State Bar Rules unless otherwise noted.

passes,” the applicant must be meet all requirements for certification to the Supreme Court for admission and must take the attorney’s oath.

California is not alone in setting a time limit for getting sworn in, or meeting remaining admissions requirements, after passage of the bar exam. A quick review of the rules and procedures in other U.S. jurisdictions² reveals that: (1) in addition to California, 25 states set an overall timeframe for how long after passing the bar exam an applicant must get sworn into the bar; (2) nine states set a time limit on how long after passing the bar exam an applicant must satisfy all other requirements for admission; and (3) 23 states set a clock on how long an applicant has after being certified to the court or governing authority as having met the requirements for admission to get sworn in. Some states impose more than one of these requirements.

On July 21, 2022, the Board unanimously approved circulating the proposed rule change for a 45-day public comment period. A total of 19 comments were received, although two were from the same individual who had already submitted a comment, reducing the number to 17. Of those, 10 agree with the proposal as circulated, five agree if modified, one disagrees, and one states no opinion.³

Rule 9.5 of the California Rules of Court provides that, upon approval by the Board, all State Bar rules recommended by the CBE pertaining to the admission to practice law must be submitted to the Supreme Court for review and approval.

After reviewing the public comment, the CBE recommends that the Board adopt the rule revisions set forth in Attachments B (red line) and C (clean version) and request approval of the rule changes by the Supreme Court.

DISCUSSION

In March 2022, staff received an inquiry related to an applicant whose request for extension of the five-year period to get certified for admission was denied. Initially, staff reviewed the actions taken to process the applicant’s moral character determination to determine if extension was needed as a result of delays on the part of the State Bar (as opposed to the applicant), or if the denial seemed unreasonable in light of the circumstances. Ultimately, the analysis turned not to a question of whether, in this particular instance, staff and the committee followed the rules and procedures appropriately (which it appeared they did), but rather whether there was a rational basis for the underlying rule, and whether it furthered the State Bar’s mission of public protection.

² Staff was unable to obtain information from all states. The data reported is based on a review of a state’s website or rules, or in some circumstances, direct communication with the state. The rules were not always clear, and staff made their best effort to evaluate and categorize the information readily available.

³ One individual submitted two comments under his own name, one expressing agreement, one agree only if modified. For purposes of the above count, this individual is treated as agreeing with the proposal only if modified.

The [agenda item](#) for the July 21, 2022, Board meeting provides lengthy background describing why the rule change was recommended, including a comparison with how this rule operates vis-à-vis rules regarding licensed attorneys who do not actively practice law following admission to the State Bar, or who have no experience in an area of law in which they decide to practice. The CBE concluded that the same rationale that justifies allowing attorneys to switch areas of the law, or which allows inactive attorneys to become active from a lengthy period of being inactive, both without reestablishing they are minimally competent by taking another bar exam, argues for removal of the five-year window in which a person must get sworn in after having successfully passed a bar exam.

REQUIREMENT TO SEEK A MORAL CHARACTER EXTENSION

As described above, the amendments set forth in Attachment A affect two separate populations:

- Those who passed the bar but have not been certified to the Supreme Court because they have one or more requirements for admission yet to be satisfied (most likely filing an application for a positive moral character determination or receiving a positive determination thereon).
- Those who passed the bar and were certified to the Supreme Court as having met all the requirements for admission, but who have failed to take the final steps to get sworn in.

For those applicants who were certified to the Supreme Court as having met all the requirements for admission, the proposed rules create a different five-year requirement than currently exists in rule 4.17. Specifically, the proposed rules provide that if they have not been sworn in after five years, the applicant will be decertified by operation of law (so they could not be admitted) and must file an Application for Extension of Determination of Moral Character. Once they receive the extension of the positive determination, and if all other requirements for admission are met, they will be recertified to the Supreme Court. This amendment is intended to ensure that the CBE is aware of all activity affecting their character and fitness to practice law since the date their prior positive determination expired. The committee believed this five-year requirement is necessary and appropriate to further the State Bar's public protection mission. The committee believes this is the appropriate five-year requirement to further the State Bar's public protection mission.

Those applicants not yet certified for admission are subject to the existing requirement to have an active positive moral character determination in order to be certified to the Supreme Court, so no change is required for this population.

OTHER RULE AMENDMENTS

In addition to the changes to rule 4.17, the proposed rules include conforming changes to rules 4.51 and 4.52 related to moral character. The proposal also includes language to clarify that even though the passing score does not expire for purposes of admission to the State Bar, the rule is not intended to affect the obligation of an attorney who has been disbarred to take the bar exam as a condition of reinstatement, or as otherwise ordered by the Supreme Court or the State Bar Court. Finally, the proposal is retroactive, providing that applicants who passed a

bar exam administered on or after July 2015 will not be subject to the current five-year requirement. The selection of this date will allow those whose five-year validity period expired during the pandemic to become attorneys without having to pass another bar exam, as long as all other requirements for admission have been satisfied.

PUBLIC COMMENTS

The committee received 17 public comments on the proposal (subtracting the apparent duplicates from the same individual). Of those comments, 10 agree with the proposal as circulated, five agree if modified, one disagrees, and one states no opinion and is unrelated to the change proposed. The comment chart set forth as Attachment A identifies each commenter, a verbatim recitation of their comment, their position on the proposal (as identified by the commenter) and staff's recommendation as to whether the comment identifies the need for a further change to the proposal. As the committee can see from Attachment A, staff does not believe any changes to the rule proposal should be made in response to the comments. The CBE concurred with that finding.

The commenter who expressed disagreement with the proposal believes that the five-year time line is necessary to protect the public. The commenter asserts that those who fail to get sworn in within the five-year period after passing the bar are "unwilling to commit to a career," and "lazy and inept," and thus the five-year rule appropriately protects the public from such individuals. The committee expressed disagreement with that perspective in its discussion of the need for the rule change at the June 17, 2022, meeting.

The five commenters recommending modifications to the proposal submitted nearly identical comments. In short, these commenters support the elimination of the five-year timeline if individuals who pass the bar are admitted to practice "without any further delay," "without any further obstruction," "forthwith," "as-soon-as-possible," and "without any conditions" (including completion of a supervised practice requirement), and that they be admitted retroactively to the date they passed the bar exam. Neither staff nor the committee recommend amending the proposed rules in response. As noted in the comment chart, the proposed modifications to require admission "without any further delay," "without any further obstruction," and "forthwith, as soon as possible" are inconsistent with the requirement that applicants meet all other requirements for admission, including having a positive moral character determination, passing the Multistate Professional Responsibility Examination, and not being in arrears on a child or family support order. The proposed modifications relating to supervised practice are beyond the scope of this proposed rule. As to the final recommendation, staff disagrees that admission to the bar should be backdated. The date of admission is contingent on the time when the applicant satisfies all requirements for admission to the bar and proceeds to get sworn in. There is no reason to backdate the date of admission.

FISCAL/PERSONNEL IMPACT

This proposal impacts the Offices of Admissions, Attorney Regulation & Consumer Resources (ARCR) and Information Technology (IT), and is anticipated to result in minimal resource savings for the State Bar. ARCR is responsible for receiving oath cards from those who have satisfied all

admissions requirements and have been authorized by the Supreme Court for admission to the State Bar. Currently, ARCR manually checks each oath card received to ensure that the current five-year deadline has not passed and that the applicant is authorized to be entered into the rolls of the State Bar. At worst, the proposed rule changes would have no impact on this process. However, resource savings are anticipated as staff plan to automate and improve this process so that oath cards, which are now generated and transmitted electronically in the vast majority of cases, will be populated with the date of the order of the Supreme Court approving the applicant for admission. This would relieve ARCR from conducting manual checks. According to the Office of IT, this automation is a minor and absorbable cost. In addition, there will be a reduction of staff and CBE resources in considering requests for extension of the five-year deadline.

AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA

Title 4, Division 1, Chapter 2, Rule 4.17

Title 4, Division 1, Chapter 4, Rules 4.51 and 4.52

Title 4, Division 1, Chapter 5, Rule 4.60

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None

RECOMMENDATIONS

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

RESOLVED, that following the 45-day public comment period, the Board of Trustees adopts the rule revisions set forth in Attachments B and C; and it is

FURTHER RESOLVED, that the Board of Trustees directs staff, consistent with the requirements of rule 9.5 of the California Rules of Court, to submit the proposed rule changes to the Supreme Court for review and approval with the intent that the rules have an effective date of January 1, 2023.

ATTACHMENTS LIST

- A.** Public Comment Chart
- B.** Proposed Amendments to Title 4 of the Rules of the State Bar, Rules 4.17, 4.51, 4.52, and 4.60 (Redline)

C. Proposed Amendments to Title 4 of the Rules of the State Bar, Rules 4.17, 4.51, 4.52, and 4.60 (Clean Version)

Name / Affiliation	Position on Proposed Rule	Comment (Verbatim)	Response to Comment
Anonymous	A	Eliminate all the barriers that prevent ABA accredited law graduates from gaining admission to the California Bar. First, your bar exam is stupid, as you cannot expect people to be regurgitating memorized rules of law like a walking encyclopedia, especially when they passed all law school courses thus obtaining a diploma. Second, the majority of persons admitted to the bar will go INACTIVE anyway, so if you create a 5 year rule to gain admission, you are shooting yourself in the foot, because eventually there will be fewer ACTIVE lawyers to serve the public.	No change. The comment is largely beyond the scope of the proposed rule.
Maria D. Dominguez	A	I agree with the Committee of Bar Examiners recommendation. I believe that the current five-year requirement is an unnecessary hurdle to admission to the State Bar.	No change.
Raymond Scott Hayden	A	The California Bar Exam itself is a traumatizing event, setting a time limit is above and beyond the agony one should have to endure. Passing is passing - the exam is incredibly unfair as it is, eliminating the trauma of having to submit to admission within any time limit at all should be eliminated.	No change.
Chad Ivey	A	I agree with abolishing rule 4.17 5-year statute of limitations to become an attorney.	No change.
Martin Johnson	A		No change.
Imara McMillan	A	I think this makes a lot of sense, particularly because moral character determination can take forever through no fault of the applicant's. Also the bar exam as a concept makes no sense and does not determine one's ability or competency to practice law, so having to take it again just because a set period of time has passed also makes limited sense.	No change.
Randy Reyes	A	The five year period of Rule 4.17 has served as an arbitrary hurdle to the practice of law disproportionately affecting first generation lawyers and lawyers of minority backgrounds. This obscure rule has no impact on a person's ability to practice law. However, it has served as a penalty to those that decide not to immediately practice law after meeting the requirements. The decision could be financial (paying the annual dues), time to dedicate to MCLEs, or other life events that may impact that decision; however, none having to do with the ability to practice law. Additionally, practically speaking, the 5 year period is actually about 4 years to decide to practice law due to the unknown length of the moral character application process. To remove this Rule completely would align with the State Bar's mission of equity in and access to the profession.	No change.
Julian Sarkar	A	My office represents attorney applicants in matters regarding California's attorney admissions system. I am grateful to see the Board of Trustees moving towards eliminating Rules of the State Bar	No change. The comment is largely beyond the scope of the proposed rule

Name / Affiliation	Position on Proposed Rule	Comment (Verbatim)	Response to Comment
		<p>of California rule 4.17, which limits the validity of a passing bar exam score to five years. And I know that many of the applicants that I serve are also grateful and inspired to see this change—along with many of the other courageous and difficult decisions the Board of Trustees have made as of late. These successes include the Board’s recent and unprecedented decision to refund applicants who experienced bar exam software technical failures and the State Bar’s massive push to connect with applicants and other members of the public through social media. While a great deal of work remains to be done regarding the State Bar’s attorney admissions program, we hope you know we recognize and appreciate all of the right decisions you are making in the face of competing challenges. I write to strongly support the elimination of rule 4.17, which has required applicants to undergo the entire attorney application process even when one administrative requirement has technically not been met.</p> <p>It is imperative that the Board of Trustees exercises greater caution in approving the recommendations of the Office of Admissions and Committee of Bar Examiners, whose activities have caused great harm to attorney applicants, the public, and the legal profession. This is true of rule 4.17 as well as many of the other implementations by the Office of Admissions and Committee of Bar Examiners to limit the applicants’ rights and inflict substantial harm upon them. There does not appear to be a rational basis for rule 4.17, expressly stated or otherwise. However, in working with attorney applicants, I have seen rule 4.17 been used by the Office of Admissions in the most harmful and capricious of ways. Accordingly, the Board of Trustees should eliminate rule 4.17 and similarly harmful rules proposed by the Office of Admissions and Committee of Bar Examiners.</p> <p>For example, the Office of Admissions has used rule 4.17 to delay applicants’ moral character investigation beyond the five-year deadline without justification, and then requiring the applicant to repay the entire applicant fee scheme and undergo the process again. In other cases, the Office of Admissions has misrepresented their method of calculating the rule 4.17 deadline to applicants, and subsequently refused to honor their previous representations to applicants in order to require them to undergo the application process again. While the State Bar’s enforcement of rule 4.17 has created short-term financial gain of thousands of dollars per applicant, the true cost to the applicants is almost always disproportionately higher through the extensive toll on their lives, the disproportionately higher financial cost to the applicant, and the emotional distress caused by applicant purgatory.</p> <p>The Office of Admissions and Committee of Bar Examiners’ lack of thoughtful intention behind rule 4.17 is further corroborated by many of their harmful decisions and activities in recent years. After a</p>	

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		<p>recent law school graduate took his own life in 2016 upon failing the bar exam, his law school dean and the deans of 20 of California’s ABA-accredited law schools requested that our Supreme Court of California require the State Bar of California bring its scoring methods in line with the nation’s at large. In response to this, the Office of Admissions and Committee of Bar Examiners falsified the minutes of their next meeting to add a rule changing the “calculation” method of artificially increasing published bar exam pass rates.</p> <p>That 2017 decision by the Office of Admissions and Committee of Bar Examiners was not an isolated case of malfeasance—it is a part of a pattern and practice of harmful decisions that corroborate rule 4.17’s irrational basis. Since that time, the Office of Admissions has unilaterally drafted an “Acknowledgment and Acceptance of Testing Conditions” requiring applicants to waive all their rights pertaining to exam software failure, without notice to the Committee of Bar Examiners. The Office of Admissions then prevented applicants from electronically accessing or signing that waiver, and then waited until the eve of a Committee of Bar Examiners meeting to cancel those applicants’ exam registrations and withhold their exam fees. Despite being asked by a Committee of Bar Examiners member to add this decision to the next meeting’s agenda, Amy Nunez refused to do so. Since then, the Office of Admissions and Committee of Bar Examiners have made it a point to humiliate disabled attorney applicants at public meetings to deter them from entering the legal profession. Then-Director of Examinations [Name omitted] further attempted to discriminate against disabled applicants by proposing the elimination of many disability accommodations appeals. Program manager [Name omitted] has initiated countless unfounded and frivolous sanctions proceedings against up to 3,190 applicants. She then doubled down on this outrageous conduct by proposing that the Committee of Bar Examiners further eliminate due process for applicants facing baseless Chapter 6 sanctions proceedings.</p> <p>To be sure, members of the Committee of Bar Examiners have made visible efforts to investigate and challenge some of the harmful activities by the Office of Admissions employees, but often without actual effect. At one Committee of Bar Examiners’ meeting, member [Name omitted] insightfully noted that it didn’t make sense for the State Bar to charge out-of-state attorney applicants hundreds of dollars more for taking only 50% of the California Bar Exam that other applicants sit for. While this fee scheme indeed could not make sense to any reasonable applicant or member of the public, it benefitted the Office of Admissions employees who pay themselves with the profits of the California Bar Exam. As a result, the Office of Admissions has ensured that exam fee scheme remain in place to this day.</p>	

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		<p>This pattern holds true with respect to the Office of Admissions’ arbitrary limitations based on an attorney’s numeric years of licensure, as we can see in the arbitrary five-year limitation in rule 4.17. At one Provisional Licensure Working Group meeting, potential restrictions on supervising attorneys for provisionally licensed attorneys were discussed. A member noted that malpractice was primarily a risk with senior attorneys towards the ends of their careers. That member explained that new attorneys tended to be paranoid and overly cautious—suggesting that it would not be rational to impose an arbitrary year limitation on supervising attorneys. Later at that meeting, then-Acting Director Donna Hershkowitz arbitrarily proposed a four-year licensure requirement for supervising attorneys of provisionally licensed lawyers without offering credible justification. That four-year licensure rule was then adopted by the State Bar’s provisional licensure program.</p> <p>In other words, the Office of Admissions and Committee of Bar Examiners did not consider public protection or rational basis in enacting the five-year restriction in rule 4.17. The Office of Admissions and Committee of Bar Examiners do not enforce rule 4.17 in a manner that is beneficial to any applicant or member of the public. The only beneficiary of this rule is the Office of Admissions itself, and it has come at an incredible cost to many members of our legal profession.</p> <p>I and many others—including California attorneys who were capriciously harmed by rule 4.17 and no longer stand to benefit from this change—are very appreciative of the Board of Trustees’ decision to reconsider the five-year limitation. We urge the Board of Trustees to proceed with eliminating this five-year limitation to protect future generations of California attorneys from the Office of Admissions’ harmful practices. The Board of Trustees continues to inspire trust and confidence by making difficult decisions for the purpose of benefitting attorney applicants, including reconsidering rule 4.17. And we gratefully anticipate the Board of Trustees’ continued trend of sound decisionmaking.</p>	
Theresa Smith	A	I fully support eliminating the 5-year rule thereby bringing the admission requirements in line with the returning to active status rules.	No change.
Donald Tran*	A	<p>Where I understand the current rule 4.17 and the proposed new rule as worded; August 18, 2022 Rule 4.17</p> <p>” Rule 4.17 of the Rules of the State Bar of California provides that an applicant for admission to the practice of law must satisfy all admission requirements for certification to the Supreme Court within five-years of achieving a passing score on the bar exam. The applicant must take the attorney’s oath within that same five-year period. The proposal would amend that rule and related rules to eliminate that five-year requirement as an unnecessary hurdle to admission to the State Bar which no longer furthers public protection.”</p>	No change.

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		<p>1. Currently there is a 5-year (similar to statute of limitations) that attorneys can be admitted "Retroactively" to practice law? As in "back-dated" and the "limit-is-5-years"? and the CA BAR is suggesting to "remove" THIS RULE; "Remove this statute of limitations" altogether and allow attorney applications to be admitted to practice law retroactively no matter how long ago it was they passed the CA BAR EXAM?</p> <p>I am in 100% agreement with this rule to remove any "retroactive" limitation that is arbitrary and a term of 5-years.</p> <p>The current wording only serves if a person is found to have passed the CA BAR 6 years ago and missed the statute of limitations; or rule-of-limitations; their only recourse is to SUE the CA BAR IN COURT. this could be damaging to the CA BAR's reputation and tarnish the CA BAR's public image.</p> <p>I am in 100% agreement with this rule to remove any "retroactive" limitation that is arbitrary and a term of 5-years.</p> <p>And allow admissions to the CA BAR retroactively no matter when they passed the CA BAR.</p> <p>The current rule is "exclusive" and works to disenfranchise CA civilians and attorney applicants that tend to be "indigents" (poor or underrepresented) or POC (persons-of-color) civilians; and disenfranchise Minorities as either a person that requires representation or to practice law.</p> <p>The current rule tends to be discriminatory and "Exclusive" rather than "Inclusive" to allow a person to represent their minority community who would tend to fall into this Exclusion group.</p> <p>The Proposal</p> <p>Where as the proposed rule would be "INCLUSIVE" and allow those who may find that they passed the CA BAR; have been BARRED from practicing LAW to represent their respective communities via this current "5-year statute of or rule of limitations".</p> <p>I agree whole heartedly that the rule 4.17 5-year limit should be abolished to perhaps retroactively provide some justice and some relief and remedy those who have or may have been wronged and not allowed to practice law because of this 5-year limit rule.</p>	

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		<p>The Proposal Addition</p> <p>The admission date should be “retroactive” and back dated to when the facts support the time or date or year they passed the CA BAR.</p>	
Megan Zavieh / Zavieh Law	A	<p>Eliminating the five-year bar exam score expiration is appropriate. As detailed in the State Bar's comments, we assume in many other aspects of attorney regulation that the demonstration of competence embodied in a passing bar exam score does not evaporate with the passage of time. The five-year score expiration is arbitrary and serves no public protect purpose.</p> <p>The five-year expiration does serve to keep people out of the profession who would otherwise be fully capable of serving the public. In my practice, I assist law students and graduates seeking admission to the State Bar. I have had multiple clients whose score was expiring or had expired due to various personal circumstances. None of the circumstances somehow demonstrated a lack of competence or a loss of it. There are a great many reasons why applicants delay their admission. If they miss the five-year deadline, they are not at all incentivized to come back and finish the process given the requirement that they re-take the bar exam. The bar exam is a tremendous undertaking that many rational people with expired passing scores will choose not to do again.</p> <p>We have safeguards in place in the admissions process to ensure that an expired score is not accompanied by a lapse in character -- an arrest or conviction, for example, which would render one unfit to practice after the lengthy delay since passing the exam. The requirement of a current moral character clearance is sufficient to guard against such potential issues.</p> <p>I fully support eliminating the expiration of a passing bar exam score.</p>	No change.
Leon Burdeos Jr.	AM	<p>Abolishing or amending to not require a 5-year statute or rule of limitations opens the admittance process to a broader and wider applicant audience.</p> <p>condition on the fact that THE APPLICANT obtained a passing score of 1390 or better and have passed your Moral Character background check on your MCBE</p> <p>I agree on the proposed change to rule 4.17 on the condition that if the BAR APPLICANT scores 1390+ or better; they be admitted to practice law "unconditionally"; that means,</p> <p>1) without any further obstruction or stipulations</p>	No change. The proposed modifications to require admission “without any further delay,” “without any further obstruction or stipulations,” “forthwith, as soon as possible” are inconsistent with the requirement that applicants meet all other requirements for admission, including having a positive moral character determination, passing the MPRE, and not being in arrears on a child or family support order. The proposed modifications relating to supervised practice are beyond the scope of this proposed rule. As to the final

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		2) without any further delay 3) without any conditions such as E.g. 300 hours under a supervising attorney 4) no attorney, lawyer, law firm should be condition, apprenticeship, or intern conditions or any conditions of any kind to assist in this admission 5) admitted to practice law forthwith, as-soon-as-possible 6) and lastly "retroactively" dated to the date or time period or year that they passed the CA BAR; or the year they scored a passing grade. And with a CA BAR NUMBER that matches that time period.	recommendation, staff disagrees that admission to the bar should be back dated. The date of admission is contingent on the time when the applicant satisfies all requirements for admission to the bar and proceeds to get sworn in. There is no reason to back date the date of admission.
Stanley Hutchinson*	AM	<p>I agree on the proposed change to rule 4.17 on the condition that if the BAR APPLICANT scores 1390+ or better; they be admitted to practice law "unconditionally"; that means,</p> <p>1) without any further obstruction 2) without any further delay 3) without any conditions such as E.g. 300 hours under a supervising attorney 4) no attorney, lawyer, law firm should be condition, apprenticeship, or intern conditions or any conditions of any kind to assist in this admission 5) admitted to practice law forthwith, as-soon-as-possible 6) and lastly "retroactively" dated to the date or time period or year that they passed the CA BAR; or the year they scored a passing grade.</p> <p>Rule 4.17 " Rule 4.17 of the Rules of the State Bar of California provides that an applicant for admission to the practice of law must satisfy all admission requirements for certification to the Supreme Court within five-years of achieving a passing score on the bar exam. The applicant must take the attorney's oath within that same five-year period. The proposal would amend that rule and related rules to eliminate that five-year requirement as an unnecessary hurdle to admission to the State Bar which no longer furthers public protection."</p> <p>Elimination of this "current" rule 4.17 will allow past wrongs to be corrected and allow persons potentially wronged in the past to be admitted to the bar where they achieved a passing score to be "retroactively admitted".</p> <p>currently this 5-year rule acts as a limitation on admittance to the BAR.</p> <p>Abolishing or amending to not require a 5-year statute or rule of limitations opens the</p>	No change. The proposed modifications to require admission "without any further delay," "without any further obstruction," and "forthwith, as soon as possible" are inconsistent with the requirement that applicants meet all other requirements for admission, including having a positive moral character determination, passing the MPRE, and not being in arrears on a child or family support order. The proposed modifications relating to supervised practice are beyond the scope of this proposed rule. As to the final recommendation, staff disagrees that admission to the bar should be back dated. The date of admission is contingent on the time when the applicant satisfies all requirements for admission to the bar and proceeds to get sworn in. There is no reason to back date the date of admission.

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		admittance process to a broader and wider applicant audience. condition on the fact that you obtained a passing score of 1390.	
Larion Krayzman	AM	<p>Abolishing or amending to not require a 5-year statute or rule of limitations opens the admittance process to a broader and wider applicant audience. condition on the fact that the APPLICANT obtained a passing score of 1390 and have passed your Moral Character background check on your MCBE</p> <p>I agree on the proposed change to rule 4.17 on the condition that if the BAR APPLICANT scores 1390+ or better; they be admitted to practice law "unconditionally"; that means,</p> <ol style="list-style-type: none"> 1) without any further obstruction 2) without any further delay 3) without any conditions such as E.g. 300 hours under a supervising attorney 4) no attorney, lawyer, law firm should be condition, apprenticeship, or intern conditions or any conditions of any kind to assist in this admission 5) admitted to practice law forthwith, as-soon-as-possible 6) and lastly "retroactively" dated to the date or time period or year that they passed the CA BAR; or the year they scored a passing grade. And with a CA BAR NUMBER that matches that time period. 	No change. The proposed modifications to require admission “without any further delay,” “without any further obstruction,” and “forthwith, as soon as possible” are inconsistent with the requirement that applicants meet all other requirements for admission, including having a positive moral character determination, passing the MPRE, and not being in arrears on a child or family support order. The proposed modifications relating to supervised practice are beyond the scope of this proposed rule. As to the final recommendation, staff disagrees that admission to the bar should be back dated. The date of admission is contingent on the time when the applicant satisfies all requirements for admission to the bar and proceeds to get sworn in. There is no reason to back date the date of admission.
Cindy Tran	AM	<p>Abolishing or amending to not require a 5-year statute or rule of limitations opens the admittance process to a broader and wider applicant audience that may have been wronged or by means beyond their control from being admitted to the CA BAR and practice law in the past; condition on the fact that THE APPLICANT obtained a passing score of 1390 and have passed your Moral Character background check on your MCBE</p> <p>I agree on the proposed change to rule 4.17 on the condition that if the BAR APPLICANT scores 1390+ or better; they be admitted to practice law "unconditionally"; that means,</p> <ol style="list-style-type: none"> 1) without any further obstruction or stipulations 2) without any further delay 3) without any conditions such as E.g. 300 hours under a supervising attorney 4) no attorney, lawyer, law firm should be condition, apprenticeship, or intern conditions or any conditions of any kind to assist in this admission 	No change. The proposed modifications to require admission “without any further delay,” “without any further obstruction,” and “forthwith, as soon as possible” are inconsistent with the requirement that applicants meet all other requirements for admission, including having a positive moral character determination, passing the MPRE, and not being in arrears on a child or family support order. The proposed modifications relating to supervised practice are beyond the scope of this proposed rule. As to the final recommendation, staff disagrees that admission to the bar should be back dated. The date of admission is contingent on the time when the applicant satisfies all requirements for admission to the bar and proceeds to get sworn in. There is no reason to back date the date of admission.

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		<p>5) admitted to practice law forthwith, as-soon-as-possible</p> <p>6) and lastly "retroactively" dated to the date or time period or year that they passed the CA BAR; or the year they scored a passing grade. And with a CA BAR NUMBER that matches that time period.</p> <p>7) and without further review except their 1390 passing score minimum</p>	
Don Tran*	AM	<p>Abolishing or amending to not require a 5-year statute or rule of limitations opens the admittance process to a broader and wider applicant audience.</p> <p>condition on the fact that THE APPLICANT obtained a passing score of 1390 and have passed your Moral Character background check on your MCBE</p> <p>I agree on the proposed change to rule 4.17 on the condition that if the BAR APPLICANT scores 1390+ or better; they be admitted to practice law "unconditionally"; that means,</p> <p>1) without any further obstruction or stipulations</p> <p>2) without any further delay</p> <p>3) without any conditions such as E.g. 300 hours under a supervising attorney</p> <p>4) no attorney, lawyer, law firm should be condition, apprenticeship, or intern conditions or any conditions of any kind to assist in this admission</p> <p>5) admitted to practice law forthwith, as-soon-as-possible</p> <p>6) and lastly "retroactively" dated to the date or time period or year that they passed the CA BAR; or the year they scored a passing grade. And with a CA BAR NUMBER that matches that time period.</p>	<p>No change. The proposed modifications to require admission “without any further delay,” “without any further obstruction,” and “forthwith, as soon as possible” are inconsistent with the requirement that applicants meet all other requirements for admission, including having a positive moral character determination, passing the MPRE, and not being in arrears on a child or family support order. The proposed modifications relating to supervised practice are beyond the scope of this proposed rule. As to the final recommendation, staff disagrees that admission to the bar should be back dated. The date of admission is contingent on the time when the applicant satisfies all requirements for admission to the bar and proceeds to get sworn in. There is no reason to back date the date of admission.</p>
Kevin Tran	AM	<p>Abolishing or amending to not require a 5-year statute or rule of limitations opens the admittance process to a broader and wider applicant audience that may have been wronged or by means</p> <p>beyond their control from being admitted to the CA BAR and practice law in the past;</p> <p>condition on the fact that THE APPLICANT obtained a passing score of 1390 and have passed your Moral Character background check on your MCBE</p> <p>I agree on the proposed change to rule 4.17 on the condition that if the BAR APPLICANT scores 1390+ or better; they be admitted to practice law "unconditionally"; that means,</p> <p>1) without any further obstruction or stipulations</p> <p>2) without any further delay</p> <p>3) without any conditions such as E.g. 300 hours under a supervising attorney</p>	<p>No change. The proposed modifications to require admission “without any further delay,” “without any further obstruction,” and “forthwith, as soon as possible” are inconsistent with the requirement that applicants meet all other requirements for admission, including having a positive moral character determination, passing the MPRE, and not being in arrears on a child or family support order. The proposed modifications relating to supervised practice are beyond the scope of this proposed rule. As to the final recommendation, staff disagrees that admission to the bar should be back dated. The date of admission is contingent on the time when the applicant satisfies all requirements for admission to the bar and proceeds to get sworn in. There is no reason to back date the date of admission.</p>

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		4) no attorney, lawyer, law firm should be condition, apprenticeship, or intern conditions or any conditions of any kind to assist in this admission 5) admitted to practice law forthwith, as-soon-as-possible 6) and lastly "retroactively" dated to the date or time period or year that they passed the CA BAR; or the year they scored a passing grade. And with a CA BAR NUMBER that matches that time period. 7) and without further review except their 1390 passing score minimum	
Leslie Shaw	D	The distinction between the State Bar's scenarios and reality are that a person who doesn't get sworn in shortly after passing the bar likely is not employed with a law firm where that person can continue to utilize the skills learned in law school. This is not a bar to the profession rather, it helps protect the public from those who likely are unwilling to commit to a career. Let's not make excuses for lazy and inept rather, do what the State Bar is supposed to do which is protect the consumer.	No change. The Committee carefully considered the issue of whether failing to get sworn in timely equates to the test taker no longer possessing minimum competence, and determined that the rule was not necessary to protect the public.
Anonymous	No Opinion Stated	The California Blue Ribbon Commission is a TOTAL JOKE.	No change. The comment is beyond the scope of the proposed rule.

*Entries with an asterisk all appear to come from the same individual (identified by the same name and/or same email address).

Legend

- A = Agree with proposed rule
- AM = Agree if modified
- D = Disagree with proposed rule

Proposed Amendments to Title 4 of the Rules of the State Bar, Rules 4.17, 4.51, 4.52, and 4.60 (Redline)

Rule 4.15 Certification to California Supreme Court (No Change Proposed; Provided for Information Only)

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 State Bar;
- (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) until admitted to the practice of law, notify the State Bar within thirty days of any change in information provided on an application; and
- (G) otherwise meet statutory criteria for certification to the Supreme Court.

Rule 4.15 adopted effective September 1, 2008; previously amended effective January 17, 2014; amended effective September 1, 2019.

Rule 4.16 Application for Admission (No Change Proposed; Provided for Information Only)

- (A) An Application for Admission consists of an Application for Registration, an Application for Determination of Moral Character, and an application for any required examination. Each application must be submitted with the required documentation and the fees set forth in the Schedule of Charges and Deadlines. The State Bar determines when an application is complete.

- (B) The Application for Registration must be approved, before any other application is submitted. The applicant is required by law either to provide a Social Security Number on the application or to request an exemption because of ineligibility for a Social Security Registration is deemed abandoned if all required documentation and fees have not been received within sixty days of submittal. No refund is issued for an abandoned registration.
- (C) After approval of the Application for Registration, an applicant for admission may submit an Application for Determination of Moral Character, an application for any examination as required by these rules and any other document or petition permitted by these rules.

Rule 4.17 Admission certification and time limit

- ~~(A) An applicant who is certified by the Committee to the Supreme Court as having met all requirements for admission has a continuing duty, until admitted to the practice of law, to be of good moral character, inform the State Bar within 30 days of any changes to information provided on an Application for Determination of Moral Character and an Application for Extension of Moral Character Determination, and otherwise meet the criteria set forth in Rule 4.15.~~
- ~~(B) Applicants for admission who are certified by the Committee to the Supreme Court as having met all requirements for admission shall, within five years from the date of the order certifying the applicant for admission, No later than five years from the last day of administration of the California Bar Examination the applicant passes,~~
 - ~~(1) an applicant must meet all requirements for admission for certification by the Committee to the California Supreme Court; and~~
 - ~~(2) upon receipt of an order from the Court,~~ take the attorney's oath and meet State Bar registration requirements to be eligible to practice law in California.
 - ~~(2) Upon the expiration of the five-year period specified in (B)(1), an applicant who has not taken the attorney's oath and met the State Bar registration requirement shall be automatically de-certified and become ineligible to be sworn into the State Bar until subsequently re-certified by the Committee to the Supreme Court.~~
- ~~(C) The Committee shall re-certify an applicant for admission to the Supreme Court only after it is re-established that the applicant continues to meet the requirements of subsections (D), (E), and (G) of Rule 4.15 and meets the requirements of Rule 4.52.~~
- ~~(B) The State Bar may extend this five-year limit for good cause shown by clear and convincing evidence in a particular case but not for an applicant's negligence or the result of an applicant having received a negative moral character determination.~~

~~(C) An applicant may request a review by the Committee of the State Bar's decision within 30 days of service of the notice of decision~~

(D) The amendments to this rule eliminating the requirement to take the attorney's oath within five-years or be required to retake the bar exam apply to any applicant who achieved a passing score on a California Bar Examination administered on or after July 2015.

Rule 4.42 Duty to update Application for Determination of Moral Character (No Change Proposed; Provided for Information Only)

Until admitted to practice law, an applicant who has submitted an Application for Determination of Moral Character has a continuing duty to promptly notify the Office of Admissions whenever information provided in the application has changed or there is new information relevant to the application. Failure to provide updated information within thirty days after the change or addition to the information originally submitted may be cause for suspension of a positive moral character determination.

Rule 4.51 Validity period of positive moral character determination

A positive determination of moral character is valid for thirty-six months. ~~An applicant with a positive determination who has not been certified to practice law within this validity period must submit an Application for Extension of Determination of Moral Character.~~

Rule 4.52 Extension of positive moral character determination

- (A) An applicant who has received a positive moral character determination may submit an Application for Extension of Determination of Moral Character. The application must be filed in the last six months of the initial thirty-six month validity period with the required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. If the State Bar makes a positive determination before the initial thirty-six months expires, the initial thirty-six months is extended an additional thirty-six months. If the State Bar makes a positive determination after the expiration of the initial thirty-six months, an extension of thirty-six months begins at the time of determination.
- (B) An applicant may request a review by the Committee of the State Bar's decision to deny an extension request within 30 days of service of the notice of decision.
- (C) An applicant who has been de-certified pursuant to Rule 4.17 must submit an Application for Extension of Determination of Moral Character covering the period since the expiration of the prior positive determination.

Rule 4.60 California Bar Examination

- (A) The California Bar Examination is given each year in February and July at test centers in California designated by the State Bar. Pursuant to the authority delegated to it by the

Board of Trustees, the Committee determines the examination's format, scope, topics, content, questions, and grading process.

- (B) The State Bar provides the California Supreme Court a report on each administration of the examination as soon as practical.
- (C) A passing score achieved on a California Bar Examination administered on or after July 2015 shall not expire. This subsection shall not be construed as relieving an attorney of any obligation that may exist to take and pass the Attorneys' Examination when seeking readmission or reinstatement pursuant to California Rule of Court 9.10(f) or State Bar Rules 5.440-5.446, or if otherwise ordered by the Supreme Court to take and pass the Attorneys' Examination.

Proposed Amendments to Title 4 of the Rules of the State Bar, Rules 4.17, 4.51, 4.52, and 4.60 (Clean Version)

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

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- (B) The Application for Registration must be approved, before any other application is submitted. The applicant is required by law either to provide a Social Security Number on the application or to request an exemption because of ineligibility for a

Social Security Number. Registration is deemed abandoned if all required documentation and fees have not been received within sixty days of submittal. No refund is issued for an abandoned registration.

- (C) After approval of the Application for Registration, an applicant for admission may submit an Application for Determination of Moral Character, an application for any examination as required by these rules and any other document or petition permitted by these rules.

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(B)(1) Applicants for admission who are certified by the Committee to the Supreme Court as having met all requirements for admission shall, within five years from the date of the order certifying the applicant for admission, take the attorney's oath and meet State Bar registration requirements to be eligible to practice law in California.

(2) Upon the expiration of the five-year period specified in (B)(1), an applicant who has not taken the attorney's oath and met the State Bar registration requirement shall be automatically de-certified and become ineligible to be sworn into the State Bar until subsequently re-certified by the Committee to the Supreme Court.

(C) The Committee shall re-certify an applicant for admission to the Supreme Court only after it is re-established that the applicant continues to meet the requirements of subsections (D), (E), and (G) of Rule 4.15 and meets the requirements of Rule 4.52.

(D) The amendments to this rule eliminating the requirement to take the attorney's oath within five-years or be required to retake the bar exam apply to any applicant who achieved a passing score on a California Bar Examination administered on or after July 2015.

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(B) An applicant may request a review by the Committee of the State Bar's decision to deny an extension request within 30 days of service of the notice of decision.

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