



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 60-3 SEPTEMBER 2023**

**DATE:** September 21, 2023

**TO:** Members, Board of Trustees  
Sitting as the Regulation and Discipline Committee

**FROM:** Steven Moawad, Special Counsel, Division of Regulation

**SUBJECT:** Proposed Amendments to California Rules of Court (Rules 9.8.5, 9.9, 9.32, 9.49) and Rules of the State Bar (Rules 2.2, 2.5, 2.15, 2.30, 2.51, 2.53, 2.71, 2.111 and New State Bar Rules 2.140–2.153) Relating to Regulatory Function of the State Bar: Return from Public Comment and Request for Adoption

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### **EXECUTIVE SUMMARY**

This proposal requests Board approval of various Rules of Court and Rules of the State Bar following a 60-day public comment period. Rules include:

1. Proposed changes to rule 2.2 of the Rules of the State Bar dealing with the information that must be provided to the State Bar as part of the licensee record and changes to rule 9.9 of the Rules of Court to permit enforcement of the requirement that attorneys provide the information;
2. Proposed changes to rule 2.5 of the Rules of the State Bar addressing the reporting and registration requirements of Client Trust Account Protection Program (CTAPP) and amendments to rule 9.8.5 of the Rules of Court requiring certain licensees who are exempt from CTAPP to comply with CTAPP prior to returning to active status;
3. Proposed changes to rules 2.15 of the Rules of the State Bar to make licensee fee scaling apply to late fee payment penalties;
4. Proposed changes to rule 2.30 of the Rules of the State Bar to streamline the administration of retroactive enrollment of licensees as inactive;
5. Proposed new rule 9.32 and amendments to Rule 9.49 of the Rules of Court and proposed amendments to rules 2.51, 2.53, 2.71, and Proposed New Rules 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, 2.153 of the Rules of the State Bar pertaining to the New Attorney Training (NAT) Program;

6. Proposed changes to rule 2.111 of the Rules of the State Bar to update an outdated reference to a prior Rule of Professional Responsibility.

Amendments to rule 2.16 of the Rules of the State Bar were proposed to make licensee fee waivers more accessible by increasing the level of total gross annual household income eligible for a 50 percent licensing fee waiver and establishing a 100 percent waiver for licensees with \$30,000 or less in total gross annual household income. Proposed rule 2.16, which the Board approved for a 60-day public comment period at the May 2023 meeting, was included in the public comment period with the other proposed changes to the Rules of Court and Title 2 of the Rules of the State Bar. While the public comment was generally positive, based on the status of the general fund, staff does not recommend moving the proposed changes to rule 2.16 forward at this time. Instead, staff proposes to further investigate the impact additional waivers will have on the State Bar budget with an eye toward revisiting the issue in the future.

Proposed new Rule of Court 9.8.1, which the Board also approved for a 60-day public comment period at the May 2023 meeting. While proposed Rule of Court 9.8.1 was included in the request for public comment, proposed new Rule of Court 9.8.1 was not explicitly called out, which may have created confusion. Out of an abundance of caution, proposed new Rule of Court has been removed from this agenda item and sent out for public comment for an additional 60-day period.

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## **BACKGROUND**

This agenda item proposes several rule changes to resolve different issues, including reducing the administrative effort required to ensure licensees returning from inactive status comply with various rules of the State Bar, cleanup of rule 2.2 pertaining to the licensee record, amending the Rules of Court to permit the State Bar to enforce rule 2.2, amendments to CTAPP, amendments to the licensee fee scaling rule, amendments to the NAT program, and other minor amendments to Title 2 of the Rules of the State Bar.

## **DISCUSSION**

### **PROPOSED AMENDMENTS TO RULE 2.2 OF THE RULES OF THE STATE BAR PERTAINING TO THE LICENSEE RECORD**

Rule 2.2 governs the licensee record and specifies information licensees are required to report to the State Bar. Changes to this section include:

- Eliminating a duplicative preamble saying the record contains public information.
- A change to 2.2(A) to clarify that trust account information is not public information subject to disclosure.
- Removing language requiring the licensee to verify information annually from 2.2(B) because the annual verification requirement is in 2.2(C).
- Modifying 2.2(B)(8) to include both IOLTA and non-IOLTA trust account information consistent with the requirements of CTAPP. By virtue of 2.2(C), this change also imposes a new requirement to report changes to non-IOLTA trust account information within 30 days of a change. The current rule imposes a requirement to report changes

- to IOLTA account information within 30 days.
- Proposed new 2.2(F) requires a licensee to verify the information in 2.2(B) prior to a return to active status. The Transfer to Active form will include check boxes to report compliance with various requirements.
- Proposed new 2.2(G) defines noncompliance.
- Proposed new 2.2(H) imposes a penalty for failing to comply with rule 2.2.

## **PROPOSED AMENDMENTS TO RULE 9.9 OF THE RULES OF COURT PERTAINING TO THE LICENSEE RECORD**

Rule 2.2 of the Rules of the State Bar requires attorneys to report and verify specified information to the State Bar annually and report changes to much of that information to the State Bar within 30 days of a change. However, currently, there is no enforcement mechanism because there is no Rule of Court authorizing the State Bar to take action against an attorney for failure to comply. Proposed amended rule 9.9 of the Rules of Court authorizes the State Bar to adopt rules to enroll as inactive and impose a fee upon a licensee who fails to comply with rule 2.2 of the Rules of the State Bar.

The proposed amendments to rule 2.2 of the Rules of the State Bar is subject to the California Supreme Court's approval of proposed amendments to Rule of Court 9.9 without any material changes and, if approved, the effective date of the amendments to rule 2.2 of the Rules of the State Bar should coincide with the effective date of the amendments to Rule of Court 9.9 if the California Supreme Court approves the proposed changes to Rule of Court 9.9 without any material changes.

### *Public Comment on Proposed Amendments to Rule 2.2 of the Rules of the State Bar and to Rule of Court 9.9*

During the 60-day public comment period, we received four public comments on the proposed amendments to rule 2.2 of the Rules of the State Bar and the proposed amendments to Rule of Court 9.9. Two of the commentators expressed agreement with the proposals without further comment. One commenter expressed agreement only if modified and commented, "All information relating to prior disciplinary actions taken should be made public. This works to safeguard the public." However, the proposed changes to rule 2.2 and to Rule of Court 9.9 do not address the posting of discipline history. The final commenter expressed disagreement with the proposed recommendations and provided the following comment: "No Rule 2.2 currently exists under ABA or CA rules. Vague description of changes to nonexistent rules is not helpful. Oppose all unclear rule making." The commenter appears to not have been aware that the proposed amendments were to the Rules of the State Bar and not to the Rules of Professional Conduct.

## **PROPOSED AMENDMENTS TO RULE 2.5 OF THE RULES OF THE STATE BAR PERTAINING TO CTAPP**

The following rule changes pertain to CTAPP:

- Rule 2.5(A)(1) has been modified to clarify the definition of a licensee responsible for client funds. This was done, in part, because the prior definition was confusing in that it

appeared to create a two-part analysis of whether the licensee (i) represents a client in a matter in which funds have been received by the licensee or licensee's firm on behalf of the client during the reportable time period; and (ii) has responsibility for complying with any of the requirements or prohibitions in rule 1.15 of the Rules of Professional Conduct. The two parts of the analysis were redundant because someone that represents a client in a matter in which funds have been received is responsible for complying with the requirements or prohibitions in rule 1.15 of the Rules of Professional Conduct.

- Rule 2.5(A)(2) has been redrafted to clarify the types of trust accounts which must be reported under CTAPP and that the trust accounts should be reported regardless of whether there are client funds or funds belonging to third parties in the account.
- Proposed changes to rule 2.5(A)(5) clarify the reporting period for various licensees that must comply with CTAPP.
- Proposed changes to rule 2.5(B)(2) make clear that licensees are required to provide specific information about their trust account, including the bank routing number; the bank name; the bank account number; the account name; the account opened date; the account closed date, if applicable; the account balance, and other information required by the State Bar. This change is consistent with the Supreme Court's direction to establish and administer the Client Trust Account Protection Program defined in Rule of Court 9.8.5. The change is not intended to change the existing reporting obligation; it is instead intended to make the existing requirements explicit in rule 2.5.
- The proposed amendment to 2.5(C) is to clarify the deadline for new attorneys—those whose fees are not due on February 1, but instead are due within 45 days of their licensing fee invoice.
- Proposed new 2.5(L) requires a licensee to comply with CTAPP reporting requirements prior to returning to active status. Currently, if, at the time of the reporting deadline, a licensee is not entitled to practice law for any reason other than voluntary inactive enrollment (e.g., they are on disciplinary suspension) they are exempt from reporting. Currently, there is no mechanism to require them to comply with CTAPP before—or even after—they return to active status. This change, in conjunction with the adoption of the proposed new Rule of Court 9.8.5, would require the licensee to comply with CTAPP prior to returning to active status.

#### **PROPOSED AMENDMENTS TO RULE 9.8.5 OF THE RULES OF COURT PERTAINING TO CTAPP**

Currently, licensees who are not entitled to practice law for any reason other than voluntary inactive enrollment at the time of the CTAPP reporting deadline are exempt from reporting. (See rule 2.5(K)(2) of the Rules of the State Bar.) There is no mechanism to require reporting by a licensee whose other than voluntary inactive enrollment terminates after the reporting deadline. Adoption by the Supreme Court of proposed amended Rule of Court 9.8.5(d) would serve as the authorizing rule for proposed rule 2.5(L) of the Rules of the State Bar, discussed above. Proposed amendments to Rule of Court 9.8.5 requires a licensee who was exempt from CTAPP because they were inactive for any reason other than voluntary inactive status to comply with CTAPP prior to a return to active status.

The proposed amendment to subdivision (L) of rule 2.5 of the Rules of the State Bar is subject to the California Supreme Court's approval of proposed amendments to Rule of Court 9.8.5 without any material changes and, if approved, the effective date of the amendment to subdivision (L) to rule 2.5 of the Rules of the State Bar should coincide with the effective date of the amendments to Rule of Court 9.8.5 if the California Supreme Court approves the proposed changes to Rule of Court 9.8.5 without any material changes. The remaining amendments to rule 2.5 of the Rules of the State Bar, if approved, are independent of the changes to Rule of Court 9.8.5 and should be effective on December 1, 2023.

#### *Public Comment*

During the 60-day public comment period, we received three public comments on the proposed amendments to rule 2.5 of the Rules of the State Bar and the proposed amendments to Rule of Court 9.8.5. Two of the commentors expressed agreement with the proposals without further comment. One commenter expressed disagreement with the proposed recommendations and provided the following comment: "No Rule 2.5 currently exists under ABA or CA rules. Vague description of changes to nonexistent rules is not helpful. Oppose all unclear rule making." The commenter appears to not have been aware that the proposed amendments were to the Rules of the State Bar and not to the Rules of Professional Conduct.

### **PROPOSED AMENDMENTS TO RULE 2.15 OF THE RULES OF THE STATE BAR PERTAINING TO FEE SCALING**

Pursuant to [Business and Professions Code section 6141.1\(b\)](#) and rule 2.15 of the Rules of the State Bar, active licensees who have a total gross annual individual income from all sources of less than sixty thousand four hundred and seventy-eight dollars and thirty-five cents (\$60,478.35) presumptively qualify for a waiver of 25 percent of the annual license fee. This 25 percent waiver is referred to as "scaling."

Proposed changes to rule 2.15 include:

- A definition of penalty was added to rule 2.15.
- Language was also added to make it clear that penalties for failure to timely pay licensing fees are eligible for scaling. This change was made to eliminate the need for those who are eligible for scaling to petition the Board to waive a portion of any late payment fee.
- Language was added to indicate requests for fee scaling must be made in the calendar year for which scaling is requested.

#### *Public Comment*

During the 60-day public comment period, we received five public comments on the proposed amendments to rules 2.15 and 2.16 of the Rules of the State Bar. While the proposed amendments to rule 2.16 have been removed from this item, because the comments were made on the proposed changes to rule 2.15 and 2.16 collectively, all comments received in that category are provided here. Three of the commentors expressed agreement with the proposals without further comment. One commenter expressed agreement and provided the following comment: "I was admitted to practice in 1974. I do very little work for fees but

provide free advice and help from time to time. I support the reduction or elimination of fees based upon gross income. I have maintained my license so that I may continue to help a few existing clients and provide legal advice to friends and family. Eliminating the fee would allow me to provide legal advice and help.” The final commenter expressed disagreement with the proposed recommendations and provided the following comment: “No Rule 2.15 and 2.16 currently exists under ABA or CA rules. Vague description of changes to non-existent rules is not helpful. Oppose all unclear rule making.” The commenter appears to not have been aware that the proposed amendments were to the Rules of the State Bar and not to the Rules of Professional Conduct.

### **PROPOSED AMENDMENTS TO RULE 2.30 OF THE RULES OF THE STATE BAR PERTAINING TO RETROACTIVE ENROLLMENT OF LICENSEES AS INACTIVE**

Proposed changes to rule 2.30 include replacing “Secretary” with “State Bar” and deleting “subject to any direction of the board.”

### **PROPOSED NEW RULE 9.32 AND AMENDMENTS TO RULE 9.49 OF THE RULES OF COURT AND PROPOSED AMENDMENTS TO RULES 2.51, 2.53, 2.71, AND PROPOSED NEW RULES 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, 2.153 OF THE RULES OF THE STATE BAR PERTAINING TO THE NEW ATTORNEY TRAINING PROGRAM**

The NAT program is an online course which consists of 10 hours of free online instruction and is provided exclusively by the State Bar. The NAT is focused on law practice competency for newly admitted licensees. Proposed amendments to NAT rules are as follows:

- Eliminate NAT exemptions. Because NAT was originally constructed to align with the State Bar’s existing MCLE requirements (and/or was originally conceived as MCLE), the exemptions that apply in the MCLE context were afforded to the NAT-eligible population. Given that the State Bar deems the topics covered in the NAT to be fundamental to a new attorney’s competence—topics include legal ethics, basic skills, substance abuse and mental health issues, and recognition and elimination of bias in the legal profession—and given the clear need to ensure that all attorneys have a basic understanding of their ethical obligations, staff has revisited the logic behind the application of the MCLE exemptions to the NAT.<sup>1</sup> The elimination of NAT exemptions is important because, in 2024, the State Bar will be updating the NAT topics to include client trust accounting and other issues brought to light by Girardi.
- Modify approach to determining NAT compliance. While the Board adopted rules authorizing a 12-month deadline for new attorneys to complete the NAT, the [July 2016 Board item](#) describing the program, which was eventually approved via a [Sept. 2016](#)

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<sup>1</sup> MCLE exemptions are set forth in [Business and Professions Code section 6070](#), [rule 9.31 of the California Rules of Court](#), and [rule 2.54 of the Rules of the State Bar](#). Exemptions include officers and elected officials of the State of California; full-time professors at law schools accredited by the State Bar of California, the American Bar Association, or both; full-time employees of the State of California, acting within the scope of their employment; and full-time employees of the United States Government, its departments, agencies, and public corporations, acting within the scope of his or her employment.

[Board item](#), stated that new admittees who have not completed the NAT by the deadline would be subject to a financial penalty, but would have until their next regular MCLE reporting deadline to bring themselves into compliance with the NAT. This means a licensee who has failed to comply with the NAT requirement within the first 12 months would not be enrolled as involuntary inactive until up to three years after their admission date. Permitting a new attorney who has failed to comply with the requirements of the new attorney training program, which is specifically focused on law practice competency, to continue to practice is untenable.

Therefore, the proposed changes include:

- Recommending adoption of new Rule of Court 9.32 which authorizes the NAT separate and apart from MCLE.
- Recommending amendments to Rule of Court 9.49 to eliminate references to NAT exemptions.
- Inserting “MCLE” in rule 2.53(A) and (B) to clarify their application;
- Moving references to the NAT out of Division 4, which pertains to MCLE rules, and into a new Division 6.
- Clarifying that the NAT is not MCLE (see proposed new rule 2.142(A)).
- Explicitly stating there are no exemptions to the NAT program (see proposed new rule 2.143).

Also, separate and apart from the proposed rule changes, at the May 2023 Board meeting, the Board approved a change in policy to impose the NAT noncompliance penalty fee at 12 months and simultaneously issue a 60-day notice and, for those licensees that do not comply within 60-days, move them to inactive at 14 months.

The proposed amendments to rules 2.51, 2.53, 2.71, and proposed new rules 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, 2.153 of the Rules of the State Bar is subject to the California Supreme Court’s approval of proposed amendments to Rules of Court 9.32 and 9.49 without any material changes. If approved, the effective date of the amendments to rules 2.51, 2.53, 2.71, and proposed new rules 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, 2.153 of the Rules of the State Bar should coincide with the effective date of the amendments to Rules of Court 9.32 and 9.49 if the California Supreme Court approves the proposed changes to Rules of Court 9.32 and 9.49 without any material changes.

#### *Public Comment*

During the 60-day public comment period, we received two public comments on the proposed amendments to the rules governing the NAT program. One commentor expressed agreement with the proposals without further comment. The other commenter expressed disagreement with the proposed recommendations and provided the following comment: “No “NAT” rule which is not clearly identified under ABA or CA rules. Vague description of changes to unspecified rules is not helpful. Oppose all unclear rule making.” The commenter appears to not have been aware that the proposed amendments were to the Rules of the State Bar and the Rules of Court and not to the Rules of Professional Conduct.

## **PROPOSED AMENDMENT TO RULE 2.111 OF THE RULES OF THE STATE BAR PERTAINING TO A NONSUBSTANTIVE UPDATE OF AN OUTDATED REFERENCE**

An outdated reference to rule 4-100 of the Rules of Professional Conduct has been updated to refer to rule 1.15 of the Rules of Professional Conduct.

### *Public Comment*

During the 60-day public comment period, we received two public comments on the proposed amendments to other Title 2 rules, including 2.30 and 2.111. One commentor expressed agreement with the proposals without further comment. The other commenter expressed disagreement with the proposed recommendations and provided the following comment: “Vague description of changes to rules is not helpful. Oppose all unclear rule making.” The commenter appears to not have reviewed the agenda item from the May 2023 Board meeting detailing the changes. This agenda item was linked to the request for public comment.

## **FISCAL/PERSONNEL IMPACT**

Proposed changes to Rule 2.2 of the Rules of the State Bar, in conjunction with proposed changes to rule 9.9 of the Rules of Court may result in additional noncompliance penalties. The amount of these penalties is undetermined. All related revenue would accrue to the General Fund.

## **AMENDMENTS TO RULES OF COURT**

Title 9, Division 2, Chapter 2, Rule 9.8.5

Title 9, Division 2, Chapter 2, Rule 9.9

Title 9, Division 2, Chapter 4, Rule 9.32

Title 9, Division 4, Rule 9.49

## **AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA**

Title 2, Division 1, Rule 2.2

Title 2, Division 1, Rule 2.5

Title 2, Division 2, Rule 2.15

Title 2, Division 3, Rule 2.30

Title 2, Division 4, Chapter 1, Rule 2.51

Title 2, Division 4, Chapter 1, Rule 2.53

Title 2, Division 4, Chapter 2, Rule 2.71

Title 2, Division 5, Chapter 2, Rule 2.111

Title 2, Division 6, Chapter 1, Rule 2.140

Title 2, Division 6, Chapter 1, Rule 2.141

Title 2, Division 6, Chapter 1, Rule 2.142

Title 2, Division 6, Chapter 1, Rule 2.143

Title 2, Division 6, Chapter 1, Rule 2.144



Title 2, Division 6, Chapter 2, Rule 2.150  
Title 2, Division 6, Chapter 2, Rule 2.151  
Title 2, Division 6, Chapter 2, Rule 2.152  
Title 2, Division 6, Chapter 2, Rule 2.153

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

Goal 3. Protect the Public by Regulating the Legal Profession

d. 1. Implement the Client Trust Account Protection Program.

## **RECOMMENDATIONS**

**Should the Board of Trustees, sitting as the Regulation and Discipline Committee, concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rule 2.2 of the Rules of the State Bar, as set forth in Attachment A; and it is

**FURTHER RESOLVED**, that the approval of the proposed amendments to rule 2.2 of the Rules of the State Bar is subject to the California Supreme Court's approval of proposed amendments to Rule of Court 9.9 without any material changes; and it is

**FURTHER RESOLVED**, that the effective date of the amendments to rule 2.2 of the Rules of the State Bar would be the effective date of proposed amendments to Rule of Court 9.9 if the California Supreme Court approves proposed amendments to Rule of Court 9.9 without any material changes; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rule 9.9 of the California Rules of Court, as set forth in Attachment C; and it is

**FURTHER RESOLVED**, that staff is directed to submit proposed new Rule of Court 9.9 to the California Supreme Court with a request that the proposed amendments to Rule of Court 9.9 be approved; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rule 2.5 of the Rules of the State Bar, as set forth in Attachment E; and it is

**FURTHER RESOLVED**, that the approval of the proposed addition of subdivision (L) to rule 2.5 of the Rules of the State Bar is subject to the California Supreme Court's approval of proposed amendments to Rule of Court 9.8.5 without any material changes; and it is

**FURTHER RESOLVED**, that the effective date of the proposed amendments to rule 2.5 of the Rules of the State Bar will be December 1, 2023, with the exception of the addition of rule 2.5(L) of the Rules of the State Bar which will be effective on the effective date of proposed amendments to Rule of Court 9.8.5 if the California Supreme Court approves proposed new Rule of Court 9.8.5 without any material changes; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rule 9.8.5 of the California Rules of Court, as set forth in Attachment G; and it is

**FURTHER RESOLVED**, that staff is directed to submit proposed new Rule of Court 9.8.5 to the California Supreme Court with a request that the proposed amendments to Rule of Court 9.8.5 be approved; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rule 2.15 of the Rules of the State Bar, as set forth in Attachment I; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rule 2.30 of the Rules of the State Bar, as set forth in Attachment K; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rules 2.51, 2.53, 2.71, 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, and 2.153 of the Rules of the State Bar, as set forth in Attachment M; and it is

**FURTHER RESOLVED**, that the approval of the proposed amendments to rules 2.51, 2.53, 2.71, 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, and 2.153 of the Rules of the State Bar is subject to the California Supreme Court's approval of proposed new rule 9.32 and proposed amendments to rule 9.49 of the California Rules of Court without any material changes; and it is

**FURTHER RESOLVED**, that the effective date of the amendments to rules 2.51, 2.53, 2.71, 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, and 2.153 of the Rules of the State Bar would be the effective date of proposed new rule 9.32 and proposed

amendments to rule 9.49 of the California Rules of Court without any material changes; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed new rule 9.32 and proposed amendments to rule 9.49 of the California Rules of Court, as set forth in Attachment O; and it is

**FURTHER RESOLVED**, that staff is directed to submit proposed new Rule of Court 9.32 and proposed amendments to rule 9.49 of the California Rules of Court to the California Supreme Court with a request that proposed new Rule of Court 9.32 and proposed amendments to rule 9.49 of the California Rules of Court be approved; and it is

**FURTHER RESOLVED**, following notice and publication for comment, the Board of Trustees, sitting as the Regulation and Discipline Committee, adopts proposed amendments to rule 2.111 of the Rules of the State Bar, as set forth in Attachment Q.

## **ATTACHMENTS LIST**

- A.** Proposed Rule 2.2 of the Rules of the State Bar (Clean Version)
- B.** Proposed Rule 2.2 of the Rules of the State Bar (Redline Version)
- C.** Proposed Rule 9.9 of the Rules of Court (Clean Version)
- D.** Proposed Rule 9.9 of the Rules of Court (Redline Version)
- E.** Proposed Rules 2.5 of the Rules of the State Bar (Clean Version)
- F.** Proposed Rules 2.5 of the Rules of the State Bar (Redline Version)
- G.** Proposed Rule 9.8.5 of the Rules of Court (Clean Version)
- H.** Proposed Rule 9.8.5 of the Rules of Court (Redline Version)
- I.** Proposed Rule 2.15 of the Rules of the State Bar (Clean Version)
- J.** Proposed Rule 2.15 of the Rules of the State Bar (Redline Version)
- K.** Proposed Rule 2.30 of the Rules of the State Bar (Clean Version)
- L.** Proposed Rule 2.30 of the Rules of the State Bar (Redline Version)

- M.** Proposed Rules 2.51, 2.53, 2.71, 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, and 2.153 of the Rules of the State Bar (Clean Version)
- N.** Proposed Rules 2.51, 2.53, 2.71, 2.140, 2.141, 2.142, 2.143, 2.144, 2.150, 2.151, 2.152, and 2.153 of the Rules of the State Bar (Redline Version)
- O.** Proposed Rules 9.32 and 9.49 of the Rules of Court (Clean Version)
- P.** Proposed Rules 9.32 and 9.49 of the Rules of Court (Redline Version)
- Q.** Proposed Rule 2.111 of the Rules of the State Bar (Clean Version)
- R.** Proposed Rule 2.111 of the Rules of the State Bar (Redline Version)

**Proposed Rule 2.2 of the Rules of the State Bar  
(Clean Version)**

**Rule 2.2 Public information; duty to update licensee record**

- (A) Licensees are responsible for maintaining the accuracy of the information in their State Bar record. Except for nonpublic email addresses provided pursuant to rule 9.9(a)(2) of the California Rules of Court and paragraph (B)(2) of this rule and trust account information provided pursuant to State Bar Rules 2.5 and paragraph (B)(8) of this rule, all information contained in the official licensee record is presumptively public, is collected and retained for the State Bar's regulatory purposes, and may be subject to disclosure under the California Public Records Act unless that disclosure is otherwise prohibited by law.
- (B) A licensee shall report to the State Bar:
- (1) Last name, first name, and any middle names;
  - (2) A nonpublic email address to be used for State Bar communications;
  - (3) Office address or, if no office is maintained, an address to be used for State Bar purposes;
  - (4) Office telephone number, or, if no office is maintained, a telephone number to be used for State Bar purposes;
  - (5) A professional website, if one is maintained;
  - (6) Practice sector;
  - (7) Law firm size;
  - (8) Trust account information, as set forth in rules 2.5;
  - (9) All legal specialties in which the licensee is certified;
  - (10) Any other jurisdictions in which the licensee is admitted and the date(s) of admission;
  - (11) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction;
  - (12) Any other information as directed by the California Supreme Court;
  - (13) Any other information as may be required by agreement with or by conditions of probation imposed by any other government agency; and

- (14) Any other information as may be required by law.
- (C) With the exception of certified legal specialties under subsection (B)(9) or admission to a new jurisdiction under subsection (B)(10), a licensee shall report to the State Bar a change in any of the information in subsection (B) no later than 30 days after the change and shall verify such information by February 1 of each year during the license renewal process, as well as at other times as determined by the State Bar. Changes in certified legal specialties or admission to a new jurisdiction shall be reported during the annual license renewal process.
- (D) A licensee may report the following information to the State Bar:
- (1) An email address to be posted publicly;
  - (2) Fax number;
  - (3) Area of practice; and
  - (4) Languages spoken by the attorney or office staff.
- (E) The following additional information shall also be a part of a licensee's public record and shall be maintained by the State Bar:
- (1) State bar license number;
  - (2) Date of admission in California;
  - (3) Law school attended;
  - (4) California Lawyers Association section membership, if any;
  - (5) License status;
  - (6) Date and any transfer from one license status to another; and
  - (7) Date and period of any discipline imposed in California.
- (F) A licensee must verify the information in subsection (B) prior to return to active status.
- (G) Noncompliance with the requirements of this rule is the failure to comply with any provision of this rule or the failure to pay penalties for noncompliance as set forth in the Schedule of Charges and Deadlines.
- (H) A licensee who fails to comply with this rule shall be enrolled as inactive and not eligible to practice law. The enrollment as inactive is administrative and no hearing is required. Enrollment as inactive under this rule terminates when a licensee submits proof of compliance and pays noncompliance and reinstatement fees.

**Proposed Rule 2.2 of the Rules of the State Bar  
(Redline Version)**

**Rule 2.2 Public information; duty to update licensee record**

~~A licensee record contains public information, including the following:~~

- (A) Licensees are responsible for maintaining the accuracy of the information in their State Bar record. ~~With the exception of~~ Except for nonpublic email addresses provided pursuant to ~~R~~rule 9.9(a)(2) of the California Rules of Court and paragraph (B)(2) of this rule and trust account information provided pursuant to State Bar Rules 2.5 and paragraph (B)(8) of this rule, all information contained in the official licensee record is presumptively public, is collected and retained for the State Bar's regulatory purposes, and may be subject to disclosure under the California Public Records Act unless that disclosure is otherwise prohibited by law.
- (B) A licensee shall report to the State Bar, ~~and shall verify with the State Bar at least annually, the following information:~~
- (1) Last name, first name, and any middle names;
  - (2) A nonpublic email address to be used for State Bar communications;
  - (3) Office address or, if no office is maintained, an address to be used for State Bar purposes;
  - (4) Office telephone number, or, if no office is maintained, a telephone number to be used for State Bar purposes;
  - (5) A professional website, if one is maintained;
  - (6) Practice sector;
  - (7) Law firm size;
  - (8) Trust account information, ~~LOLATAs~~ as set forth in rule 2.5~~account information;~~
  - (9) All legal specialties in which the licensee is certified;
  - (10) Any other jurisdictions in which the licensee is admitted and the date(s) of admission;
  - (11) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction;
  - (12) Any other information as directed by the California Supreme Court;

- (13) Any other information as may be required by agreement with or by conditions of probation imposed by any other government agency; and
  - (14) Any other information as may be required by law.
- (C) With the exception of certified legal specialties under subsection (B)(9) or admission to a new jurisdiction under subsection (B)(10), a licensee shall report to the State Bar a change in any of the information in subsection (B) no later than 30 days after the change and shall verify such information by February 1 of each year during the license renewal process, as well as at other times as determined by the State Bar. Changes in certified legal specialties or admission to a new jurisdiction shall be reported during the annual license renewal process.
- (D) A licensee may report the following information to the State Bar:
- (1) An email address to be posted publicly;
  - (2) Fax number;
  - (3) Area of practice; and
  - (4) Languages spoken by the attorney or office staff.
- (E) The following additional information shall also be a part of a licensee's public record and shall be maintained by the State Bar:
- (1) State bar license number;
  - (2) Date of admission in California;
  - (3) Law school attended;
  - (4) California Lawyers Association section membership, if any;
  - (5) License status;
  - (6) Date and any transfer from one license status to another; and
  - (7) Date and period of any discipline imposed in California.
- (F) [A licensee must verify the information in subsection \(B\) prior to return to active status.](#)
- (G) [Noncompliance with the requirements of this rule is the failure to comply with any provision of this rule or the failure to pay penalties for noncompliance as set forth in the Schedule of Charges and Deadlines.](#)
- (H) [A licensee who fails to comply with this rule shall be enrolled as inactive and not eligible to practice law. The enrollment as inactive is administrative and no hearing is required. Enrollment as inactive under this rule terminates when a licensee submits proof of compliance and pays noncompliance and reinstatement fees.](#)



**Proposed New Rule of Court 9.9 (Clean Version)**

**Rule 9.9. Online reporting by attorneys**

**(a) Required information**

To maintain the roll of attorneys required by rule 9.8 and to facilitate communications by the State Bar with its licensees, each licensee must use an online account on a secure system provided by the State Bar to report:

- (1) A current office address and telephone number, or if none, an alternative address;
- (2) A current e-mail address not to be disclosed on the State Bar's website or otherwise to the public without the licensee's consent;
- (3) A professional website, if one is maintained;
- (4) Practice sector;
- (5) Law firm size;
- (6) Trust account information;
- (7) All legal specialties in which the licensee is certified;
- (8) Any other jurisdictions in which the licensee is admitted and the date(s) of admission;
- (9) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction;
- (10) Any other information as directed by the California Supreme Court;
- (11) Any other information as may be required by agreement with or by conditions of probation imposed by any other government agency; and
- (12) Any other information as may be required by law.

**(b) Optional information**

A licensee may also use an online attorney records account to:

- (1) Provide an e-mail address for disclosure to the public on the State Bar Web site; and
- (2) Provide additional information as authorized by statute, rule or Supreme Court directive, or as requested by the State Bar.

**(c) Exclusions**

Unless otherwise permitted by law or the Supreme Court, the State Bar may not use e-mail as substitute means of providing a notice required to initiate a State Bar disciplinary or regulatory proceeding or to otherwise change a licensee's status involuntarily.

**(d) Exemption**

A licensee who does not have online access or an e-mail address may claim an exemption from the reporting requirements of this rule. The exemption must be requested in the manner prescribed by the State Bar.

**(e) Failure to Comply**

A licensee who fails to satisfy the requirements of this rule must be enrolled as an inactive licensee of the State Bar under the rules to be adopted by the Board of Trustees of the State Bar. Inactive enrollment imposed for noncompliance with the requirements of this rule is cumulative and does not preclude a disciplinary proceeding or other actions for violations of the State Bar Act, the Rules of Professional Conduct, or other applicable laws.

**(f) Fees and penalties**

The State Bar has the authority to set and collect appropriate fees and penalties.

## Proposed New Rule of Court 9.9 (Redline Version)

### Rule 9.9. Online reporting by attorneys

#### (a) Required information

To maintain the roll of attorneys required by rule 9.8 and to facilitate communications by the State Bar with its licensees, each licensee must use an online account on a secure system provided by the State Bar to report: ~~a current:~~

(1) A current office~~Office~~ address and telephone number, or if none, an alternative address;  
~~and~~

(2) ~~An~~ A current e-mail address not to be disclosed on the State Bar's website or otherwise to the public without the licensee's consent~~;~~;

(3) A professional website, if one is maintained;

(4) Practice sector;

(5) Law firm size;

(6) Trust account information;

(7) All legal specialties in which the licensee is certified;

(8) Any other jurisdictions in which the licensee is admitted and the date(s) of admission;

(9) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction;

(10) Any other information as directed by the California Supreme Court;

(11) Any other information as may be required by agreement with or by conditions of probation imposed by any other government agency; and

(12) Any other information required by law.

#### (b) Optional information

A licensee may also use an online attorney records account to:

- (1) Provide an e-mail address for disclosure to the public on the State Bar Web site; and
- (2) Provide additional information as authorized by statute, rule or Supreme Court directive, or as requested by the State Bar.

**(c) Exclusions**

Unless otherwise permitted by law or the Supreme Court, the State Bar may not use e-mail as substitute means of providing a notice required to initiate a State Bar disciplinary or regulatory proceeding or to otherwise change a licensee's status involuntarily.

**(d) Exemption**

A licensee who does not have online access or an e-mail address may claim an exemption from the reporting requirements of this rule. The exemption must be requested in the manner prescribed by the State Bar.

**(e) Failure to Comply**

A licensee who fails to satisfy the requirements of this rule must be enrolled as an inactive licensee of the State Bar under the rules to be adopted by the Board of Trustees of the State Bar. Inactive enrollment imposed for noncompliance with the requirements of this rule is cumulative and does not preclude a disciplinary proceeding or other actions for violations of the State Bar Act, the Rules of Professional Conduct, or other applicable laws.

**(f) Fees and penalties**

The State Bar has the authority to set and collect appropriate fees and penalties.

**Proposed Rule 2.5 of the Rules of the State Bar  
(Clean Version)**

**Rule 2.5 Client Trust Account protection program annual reporting, account registration and self-assessment completion requirements**

As authorized by California Rule of Court, rule 9.8.5, a licensee must comply with certain annual reporting requirements under the Client Trust Account Protection Program (CTAPP).

**(A) Definitions**

- (1) A licensee is “responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct” within the meaning of this rule ~~is~~ if, at any point during the reporting period, they acted as a signatory on a trust account, exercised managerial or primary administrative oversight for a trust account, or were otherwise responsible for complying with any of the requirements or prohibitions in rule 1.15 of the Rules of Professional Conduct. The requirements and prohibitions in rule 1.15 are not limited to banking and recordkeeping duties and include, for example, the responsibility for giving notice to the client or other person that funds were received on behalf of the client or other person and the duty to identify and discharge liens.
- (2) A “trust account” is any bank account or accounts opened to receive or hold funds in accordance with rule 1.15(a) of the Rules of Professional Conduct, regardless of the amount of funds in the account, and includes, but is not limited to, any IOLTA account under Business and Professions Code section 6211, subdivision (a) where the interest is paid to the State Bar and any account under Business and Professions Code section 6211, subdivision (b) where the interest is payable to a client or other person.
- (3) An “annual self-assessment” is a survey about client trust accounting duties and practices and includes, but is not limited to, questions and affirmations regarding a licensee’s trust account recordkeeping under rule 1.15(d)(3) of the Rules of Professional Conduct and the recordkeeping standards adopted by the Board under rule 1.15(e) of the Rules of Professional Conduct.
- (4) A “firm” means a law partnership; a professional law corporation; a lawyer acting as a sole proprietorship; an association authorized to practice law; or lawyers employed in a legal services organization or in the legal department, division or office of a corporation, of a government organization, or of another organization.
- (5) The “reportable time period” for a licensee who must pay their annual license fees under Title 2, rule 2.11 is the calendar year immediately preceding the licensee’s due date for paying their annual license fees. The “reportable time period” for a new licensee who must pay their initial license fees is from their date of admission through the due date for payment of their initial fees under Title 2, rule 2.12, or, if the due date to pay their initial fees is in the year following their date of admission, through December 31 of the year they were admitted. The “reportable time period” for a

licensee who, pursuant to paragraph (L), must comply with this rule prior to the return to active status is the end of the reporting period for which the licensee last completed reporting through the date of the request to transfer to active status.

(B) CTAPP Reporting Requirements

Unless a licensee is exempt under paragraph (K), a licensee must annually comply with the following reporting requirements:

- (1) Annual Trust Account Certification—A licensee must annually (a) report whether or not, at any time during the reportable time period, they were a licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct and (b) if they were a licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, then those licensees must also certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing a trust account and the safekeeping of funds entrusted by clients and others;
- (2) Annual Trust Account Registration—A licensee who was responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must, annually, register each and every trust account in which the licensee held such funds at any time during the reportable time period by identifying the bank routing number; bank name; bank account number; bank account name; account opened date; account closed date, if applicable; account balance on a specified date; and other information as required by the State Bar and in a manner prescribed by the State Bar for such reporting. A licensee will be considered in compliance with this subparagraph if the licensee's firm submits account registration information on behalf of one or more licensees affiliated with the firm that identifies the licensee as one on whose behalf the registration information is submitted; and
- (3) Annual Self-Assessment—A licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment and report the completion of the self-assessment in a manner prescribed by the State Bar for such reporting.

(C) CTAPP Reporting Deadline

The deadline for submitting the information to be annually reported under paragraph (B) of this rule is the licensee's due date for paying their license fees under Title 2, Division 2, rules 2.11 or 2.12 of the State Bar Rules.

(D) CTAPP Reporting Required Even if a Licensee is Not Responsible for Trust Funds at the Time of Reporting

The annual reports required under paragraph (B)(1) and paragraph (B)(3) of this rule must be submitted when a licensee, at any time during the reportable time period, has been a licensee responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, and this includes circumstances where the licensee at the time of submitting their report is no longer responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the

Rules of Professional Conduct. The registration of a trust account under paragraph (B)(2) of this rule also is required even if a licensee is not responsible for funds held in the trust account at the time of reporting so long as the licensee remains in practice with the firm that controls the trust account. A licensee is not required to register a trust account controlled by a firm with which the licensee no longer practices.

(E) CTAPP Reporting Required Even if a Licensee is Not Responsible for Trust Funds at the Time of Reporting

Under paragraph (B)(1), a licensee who is not exempt under paragraph (K) must report whether or not, at any time during the reportable time period, they were a licensee who was responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct. To comply with paragraph (B)(1), a licensee who was not responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must submit a report indicating that fact.

(F) Noncompliance

Noncompliance with the requirements of this rule is failure to:

- (1) complete annual trust account certification, registration, or self-assessment requirements under paragraph (B); or
- (2) pay fees for noncompliance

(G) Notice of CTAPP Reporting Noncompliance

A licensee who is sent a notice of noncompliance with any reporting required by this rule must comply as instructed in the notice or be involuntarily enrolled as inactive. An inactive licensee is not eligible to practice law.

(H) Enrollment as Inactive for Noncompliance

A licensee who fails to comply with a notice of CTAPP reporting noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

(I) Reinstatement Following Noncompliance

Enrollment as inactive for CTAPP reporting noncompliance terminates when a licensee submits proof of compliance and pays noncompliance and reinstatement fees.

(J) Fees for Noncompliance

Fees for noncompliance with any of the requirements in paragraph (B), including a reinstatement fee to terminate CTAPP inactive enrollment, are set forth in the Schedule of Charges and Deadlines.

(K) Licensees Who are Exempt from Compliance to this Rule

The following category of licensees are exempt from compliance with the reporting requirements in paragraph (B):

- (1) A licensee who was not on active status for the entirety of the reportable time period;  
or
- (2) A licensee who is not entitled to practice law at the time of the reporting deadline for any reason other than voluntary inactive enrollment.

(L) Compliance with this Rule Prior to Return to Active Status

A licensee who did not comply with CTAPP reporting because they were exempt from compliance under paragraph (K)(2) of this rule, must, pursuant to the procedure identified by the State Bar, complete the requirements in paragraph (B) and submit proof of compliance prior to being placed on active status.



**Proposed Rule 2.5 of the Rules of the State Bar  
(Redline Version)**

**Rule 2.5 Client Trust Account protection program annual reporting, account registration and self-assessment completion requirements**

As authorized by California Rule of Court, rule 9.8.5, a licensee must comply with certain annual reporting requirements under the Client Trust Account Protection Program (CTAPP).

(A) Definitions

- (1) A licensee is “responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct” within the meaning of this rule is: if, at any point during the reporting period, they acted as a signatory on a trust account, exercised managerial or primary administrative oversight for a trust account, or were otherwise responsible for complying with any of the requirements or prohibitions in rule 1.15 of the Rules of Professional Conduct. The requirements and prohibitions in rule 1.15 are not limited to banking and recordkeeping duties and include, for example, the responsibility for giving notice to the client or other person that funds were received on behalf of the client or other person and the duty to identify and discharge liens.
  - ~~(a) — a licensee who: (i) represents a client in a matter in which funds have been received by the licensee or licensee’s firm on behalf of the client or third person during the reportable time period; and (ii) has responsibility for complying with any of the requirements or prohibitions in rule 1.15 of the Rules of Professional Conduct—such requirements and prohibitions are not limited to recordkeeping duties and include, for example, the responsibility for giving notice to the client that funds were received on behalf of the client under rule 1.15(d)(1) of the Rules of Professional Conduct; or~~
  - ~~(b) — a licensee who acted as a signatory on a trust account or a licensee who exercised managerial or primary administrative oversight for a trust account.~~
- (2) A “trust account” is ~~the~~ any bank account or accounts opened to ~~comply~~ receive or hold funds with in accordance with rule 1.15(a) of the Rules of Professional Conduct, regardless of the amount of funds in the account, and includes, but is not limited to, ~~:(a) an~~ any IOLTA account under Business and Professions Code section 6211, subdivision (a) where the interest is paid to the State Bar; and ~~(b) any interest bearing bank trust deposit accounts, or dividend-paying trust investment~~ any accounts ~~established~~ under Business and Professions Code section 6211, subdivision (b) where the interest is payable to a client or other person.
- (3) An “annual self-assessment” is a survey about client trust accounting duties and practices and includes, but is not limited to, questions and affirmations regarding a licensee’s trust account recordkeeping under rule 1.15(d)(3) of the Rules of

Professional Conduct and the recordkeeping standards adopted by the Board under rule 1.15(e) of the Rules of Professional Conduct.

- (4) A “firm” means a law partnership; a professional law corporation; a lawyer acting as a sole proprietorship; an association authorized to practice law; or lawyers employed in a legal services organization or in the legal department, division or office of a corporation, of a government organization, or of another organization.
- (5) The “reportable time period” for a licensee who must pay their annual license fees under Title 2, rule 2.11 ~~for the information to be annually reported under paragraph (B) of this rule~~ is the calendar year immediately preceding a the licensee’s due date for paying their annual license ~~fees~~ fees under Title 2, Division 2, rule 2.11 of the State Bar Rules. The “reportable time period” for a new licensee who must pay their initial license fees is from their date of admission through the due date for payment of their initial fees under Title 2, rule 2.12, or, if the due date to pay their initial fees is in the year following their date of admission, through December 31 of the year they were admitted. The “reportable time period” for a licensee who, pursuant to paragraph (L), must comply with this rule prior to the return to active status is the end of the reporting period for which the licensee last completed reporting through the date of the request to transfer to active status.

(B) CTAPP Reporting Requirements

Unless a licensee is exempt under paragraph (K), a licensee must annually comply with the following reporting requirements:

- (1) Annual Trust Account Certification—A licensee must annually (a) report whether or not, at any time during the reportable time period, they were a licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct and (b) if they were a licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, then those licensees must also certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing a trust account and the safekeeping of funds entrusted by clients and others;
- (2) Annual Trust Account Registration—A licensee who was responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must, annually, register each and every trust account in which the licensee held such funds at any time during the reportable time period by identifying the bank routing number; bank name; bank account number; bank account name; account opened date; account closed date, if applicable; account balance on a specified date; and other information as required by the State Bar and ~~financial institutions,~~ in a manner prescribed by the State Bar for such reporting. A licensee will be considered in compliance with this subparagraph if the licensee’s firm submits account registration information on behalf of one or more licensees affiliated with the firm that identifies the licensee as one on whose behalf the registration information is submitted; and

- (3) Annual Self-Assessment—A licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment and report the completion of the self-assessment in a manner prescribed by the State Bar for such reporting.

(C) CTAPP Reporting Deadline

The deadline for submitting the information to be annually reported under paragraph (B) of this rule is the licensee's due date for paying their ~~annual~~ license fees under Title 2, Division 2, rules [2.11](#) or [2.12](#) of the State Bar Rules.

(D) CTAPP Reporting Required Even if a Licensee is Not Responsible for Trust Funds at the Time of Reporting

The annual reports required under paragraph (B)(1) and paragraph (B)(3) of this rule must be submitted when a licensee, at any time during the reportable time period, has been a licensee responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, and this includes circumstances where the licensee at the time of submitting their report is no longer responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct. The registration of a trust account under paragraph (B)(2) of this rule also is required even if a licensee is not responsible for funds held in the trust account at the time of reporting so long as the licensee remains in practice with the firm that controls the trust account. A licensee is not required to register a trust account controlled by a firm with which the licensee no longer practices.

(E) CTAPP Reporting Required Even if a Licensee is Not Responsible for Trust Funds at the Time of Reporting

Under paragraph (B)(1), a licensee who is not exempt under paragraph (K) must report whether or not, at any time during the reportable time period, they were a licensee who was responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct. To comply with paragraph (B)(1), a licensee who was not responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must submit a report indicating that fact.

(F) Noncompliance

Noncompliance with the requirements of this rule is failure to:

- (1) complete annual trust account certification, registration, or self-assessment requirements under paragraph (B); or
- (2) pay fees for noncompliance

(G) Notice of CTAPP Reporting Noncompliance

A licensee who is sent a notice of noncompliance with any reporting required by this rule must comply as instructed in the notice or be involuntarily enrolled as inactive. An inactive licensee is not eligible to practice law.

(H) Enrollment as Inactive for Noncompliance

A licensee who fails to comply with a notice of CTAPP reporting noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

(I) Reinstatement Following Noncompliance

Enrollment as inactive for CTAPP reporting noncompliance terminates when a licensee submits proof of compliance and pays noncompliance and reinstatement fees.

(J) Fees for Noncompliance

Fees for noncompliance with any of the requirements in paragraph (B), including a reinstatement fee to terminate CTAPP inactive enrollment, are set forth in the Schedule of Charges and Deadlines.

(K) Licensees Who are Exempt from Compliance to this Rule

The following category of licensees are exempt from compliance with the reporting requirements in paragraph (B):

- (1) A licensee who was not on active status for the entirety of the reportable time period; or
- (2) A licensee who is not entitled to practice law at the time of the reporting deadline for any reason other than voluntary inactive enrollment.

(L) Compliance with this Rule Prior to Return to Active Status

A licensee who did not comply with CTAPP reporting because they were exempt from compliance under paragraph (K)(2) of this rule, must, pursuant to the procedure identified by the State Bar, complete the requirements in paragraph (B) and submit proof of compliance prior to being placed on active status.

**Proposed Rule 9.8.5 of the Rules of Court (Clean Version)****Rule 9.8.5. State Bar Client Trust Account Protection Program****(a) Client trust account protection program requirements**

The State Bar of California must establish and administer a Client Trust Account Protection Program for the protection of client funds held in trust by a licensee that facilitates the State Bar's detection and deterrence of client trust accounting misconduct.

- (1) The State Bar must impose the following requirements under this program:
  - (A) **Annual Trust Account Certification**—All licensees must annually (1) report whether or not, at any time during the prior year, they were responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct and (2) if they were responsible, certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing client trust accounts and the safekeeping of funds entrusted by clients and others; and
  - (B) **Annual Trust Account Registration**—All licensees who were responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must, annually, register each and every trust account in which the licensee held such funds at any time during the prior year by identifying account numbers and financial institutions in a manner prescribed by the State Bar for such reporting that will securely maintain the information submitted.
- (2) Among the other requirements the State Bar may impose under this program are the following:
  - (A) **Annual Self-Assessment**—All licensees who were responsible, at any time during the prior year, for a client trust account under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment on client trust accounting duties and practices;
  - (B) **Compliance Review**—If selected by the State Bar, a licensee must complete and submit to the State Bar a client trust accounting compliance review to be conducted by a certified public accountant at the licensee's expense; and
  - (C) **Additional Actions**—If selected by the State Bar, an additional action or actions based on the results of a compliance review may include an investigative audit, a notice of mandatory corrective action, and a referral for disciplinary action.

**(b) Authorization for the Board of Trustees of the State Bar to adopt rules and regulations**

The Board of Trustees of the State Bar is authorized to formulate and adopt such rules and regulations as it deems necessary and appropriate to comply with this rule, including a rule or regulation that defines a licensee who is responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct.

**(c) Failure to comply with program**

A licensee who fails to satisfy the requirements of this program must be enrolled as an inactive licensee of the State Bar under the rules to be adopted by the Board of Trustees of the State Bar. Inactive enrollment imposed for noncompliance with the requirements of this program is cumulative and does not preclude a disciplinary proceeding or other actions for violations of the State Bar Act, the Rules of Professional Conduct, or other applicable laws.

**(d) Compliance with Program Prior to Return to Active Status**

A licensee who was exempt from the requirements of this program pursuant to the rules and regulations adopted by the Board of Trustees of the State Bar must satisfy the requirements of this program prior to return to active status.

**(e) Fees and penalties**

The State Bar has the authority to set and collect appropriate fees and penalties.

**Proposed Rules 9.8.5 of the Rules of Court (Redline Version)**

**Rule 9.8.5. State Bar Client Trust Account Protection Program**

**(a) Client trust account protection program requirements**

The State Bar of California must establish and administer a Client Trust Account Protection Program for the protection of client funds held in trust by a licensee that facilitates the State Bar's detection and deterrence of client trust accounting misconduct.

- (1) The State Bar must impose the following requirements under this program:
  - (A) Annual Trust Account Certification—All licensees must annually (1) report whether or not, at any time during the prior year, they were responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct and (2) if they were responsible, certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing client trust accounts and the safekeeping of funds entrusted by clients and others; and
  - (B) Annual Trust Account Registration—All licensees who were responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must, annually, register each and every trust account in which the licensee held such funds at any time during the prior year by identifying account numbers and financial institutions in a manner prescribed by the State Bar for such reporting that will securely maintain the information submitted.
- (2) Among the other requirements the State Bar may impose under this program are the following:
  - (A) Annual Self-Assessment—All licensees who were responsible, at any time during the prior year, for a client trust account under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment on client trust accounting duties and practices;
  - (B) Compliance Review—If selected by the State Bar, a licensee must complete and submit to the State Bar a client trust accounting compliance review to be conducted by a certified public accountant at the licensee's expense; and
  - (C) Additional Actions—If selected by the State Bar, an additional action or actions based on the results of a compliance review may include an investigative audit, a notice of mandatory corrective action, and a referral for disciplinary action.

**(b) Authorization for the Board of Trustees of the State Bar to adopt rules and regulations**

The Board of Trustees of the State Bar is authorized to formulate and adopt such rules and regulations as it deems necessary and appropriate to comply with this rule, including a rule or regulation that defines a licensee who is responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct.

**(c) Failure to comply with program**

A licensee who fails to satisfy the requirements of this program must be enrolled as an inactive licensee of the State Bar under the rules to be adopted by the Board of Trustees of the State Bar. Inactive enrollment imposed for noncompliance with the requirements of this program is cumulative and does not preclude a disciplinary proceeding or other actions for violations of the State Bar Act, the Rules of Professional Conduct, or other applicable laws.

**(d) Compliance with Program Prior to Return to Active Status**

A licensee who was exempt from the requirements of this program pursuant to the rules and regulations adopted by the Board of Trustees of the State Bar must satisfy the requirements of this program prior to return to active status.

**~~(d)~~(e) Fees and penalties**

The State Bar has the authority to set and collect appropriate fees and penalties.



**Proposed Rule 2.15 of the Rules of the State Bar  
(Clean Version)**

**Rule 2.15 Scaling**

- (A) In this rule, “penalties” are construed narrowly and only include late fees for failure to pay licensing fees pursuant to the current Schedule of Charges and Deadline.
- (B) An active licensee who has a total gross annual individual income from all sources of less than \$60,478.35 may request a 25% reduction of annual licensee fees. The payment and fee scaling declaration must be submitted by the date set forth in the Schedule of Charges and Deadlines. Payments and declarations submitted after the date set forth in the Schedule of Charges and Deadlines will incur a penalty. The penalty will be eligible for scaling. Reinstatement fees are not eligible for scaling. To be eligible for scaling, requests to scale must be submitted within the calendar year for which the fees are assessed. The request must include:
  - (1) the Active Licensee Fee Scaling Declaration signed under penalty of perjury; and
  - (2) payment of the reduced fee.New licensees admitted after May 31 do not qualify for scaling.
- (C) An employer that receives State Bar Legal Services Trust Fund grants and is a qualified legal services project or qualified support center as defined by statute may request a reduction of annual license fees by 25% for an active licensee employed on a continuous full-time basis or an active licensee employed on at least a half-time basis who has no income from other employment related to the practice of law. The request must be submitted by the date set forth in the Schedule of Charges and of Deadlines and include
  - (1) the Qualified Employer Fee Scaling Declaration signed under penalty of perjury that the employer is qualified and pays annual license fees on the licensee’s behalf; and
  - (2) payment of the reduced fee.
- (D) Licensees who scale are subject to audit and upon request must provide the State Bar with past federal and state income tax returns or other acceptable documentation of financial condition.
- (E) If the State Bar determines that a licensee is ineligible to scale, the licensee must pay full annual license fees and any late payment penalties.

**Proposed Rule 2.15 of the Rules of the State Bar  
(Redline Version)**

**Rule 2.15 Scaling**

- (A) ~~An active licensee who has a total gross annual individual income from all sources of less than \$60,478.35 may request a 25% reduction of annual licensee fees. The request must be submitted by the date set forth in the Schedule of Charges and Deadlines and include~~

- ~~(1) the Active Licensee Fee Scaling Declaration signed under penalty of perjury; and  
(2) payment of the reduced fee.~~

In this rule, "penalties" are construed narrowly and only include late fees for failure to pay licensing fees pursuant to the current Schedule of Charges and Deadline.

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- (1) the Active Licensee Fee Scaling Declaration signed under penalty of perjury; and  
(2) payment of the reduced fee.

New licensees admitted after May 31 do not qualify for scaling.

- ~~(B)~~(C) An employer that receives State Bar Legal Services Trust Fund grants and is a qualified legal services project or qualified support center as defined by statute may request a reduction of annual license fees by 25% for an active licensee employed on a continuous full-time basis or an active licensee employed on at least a half-time basis who has no income from other employment related to the practice of law. The request must be submitted by the date set forth in the Schedule of Charges and of Deadlines and include

- (1) the Qualified Employer Fee Scaling Declaration signed under penalty of perjury that the employer is qualified and pays annual license fees on the licensee's behalf; and  
(2) payment of the reduced fee.

- ~~(C)~~(D) Licensees who scale are subject to audit and upon request must provide the State Bar with past federal and state income tax returns or other acceptable documentation of financial condition.

- ~~(D)~~(E) If the State Bar determines that a licensee is ineligible to scale, the licensee must pay full annual license fees and any late payment penalties.

**Proposed Rule 2.30 of the Rules of the State Bar  
(Clean Version)**

**Rule 2.30 Inactive license status**

- (A) Any licensee not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request,<sup>2</sup> be enrolled as an inactive licensee. The State Bar may, in any case in which to do otherwise would work an injustice, permit retroactive enrollment of inactive licensees.
- (B) No licensee practicing law, or occupying a position in the employ of or rendering any legal service for an active licensee, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive licensee.
- (C) Notwithstanding (A) and (B) a licensee serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive licensee if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.

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<sup>2</sup> Rule 2.31(A).

**Proposed Rule 2.30 of the Rules of the State Bar  
(Redline Version)**

**Rule 2.30 Inactive license status**

- (A) Any licensee not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request,<sup>3</sup> be enrolled as an inactive licensee. The ~~Secretary~~ State Bar may, in any case in which to do otherwise would work an injustice, ~~and subject to any direction of the board~~ permit retroactive enrollment of inactive licensees.
- (B) No licensee practicing law, or occupying a position in the employ of or rendering any legal service for an active licensee, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive licensee.
- (C) Notwithstanding (A) and (B) a licensee serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive licensee if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.

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<sup>3</sup> Rule 2.31(A).

**Proposed Rules 2.51, 2.53, 2.71, 2.140, 2.141, 2.142, 2.143,  
2.144, 2.150, 2.151, 2.152, and 2.153 of the Rules of the State  
Bar (Clean Version)**

**DIVISION 4. MINIMUM CONTINUING LEGAL EDUCATION**

**Rule 2.51 Definitions**

- (A) An “MCLE activity” is continuing legal education that the State Bar approves as meeting standards for MCLE credit.
- (B) A “provider” is an individual or entity approved by the State Bar to grant MCLE credit for an MCLE activity.
- (C) “MCLE credit” is the number of credit hours that a licensee may claim to meet the requirements of these rules.
- (D) A “credit hour” is sixty minutes actually spent in an MCLE activity, less any time for breaks or other activities that lack educational content. A credit hour is reported to the nearest quarter hour in decimals.
- (E) An “approved jurisdiction” is recognized by the State Bar as having MCLE requirements that substantially meet State Bar standards for MCLE activities and computing MCLE credit hours in a manner acceptable to the State Bar. Approved jurisdictions are listed on the State Bar Web site.
- (F) A “participatory activity” is an MCLE activity for which the provider must verify attendance. Participatory activities may be presented in person or delivered by electronic means. Methods for verification include sign-in writing or electronically at the start of the course.
- (G) A “self-study activity” is any MCLE activity identified in Rule 2.83. Self-study activities may be presented in person or delivered by electronic means.

**Rule 2.53 New licensees**

- (A) A new licensee is permanently assigned to a MCLE compliance group on the date of admission.
- (B) The initial MCLE compliance period for a new licensee begins on the first day of the month in which the licensee was admitted. It ends when the period ends for the compliance group. If the initial period is less than the period for the compliance group, the required credit hours may be reduced as provided in these rules.<sup>4</sup>

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<sup>4</sup> Rule 2.72 (C).

- (C) A new licensee may not claim credit for education taken before the initial compliance period.

### **Rule 2.71 Compliance periods**

A compliance period consists of thirty-six months. It begins on the first day of February and ends three years later on the last day of January. The three compliance groups begin and end their compliance periods in different years. A licensee must report MCLE compliance no later than the day following the end of the compliance period. The report must be made online using My State Bar Profile or with an MCLE Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.

## **DIVISION 6. NEW ATTORNEY TRAINING**

### **Chapter 1. Purpose and scope**

#### **Rule 2.140 Definition of New Attorney Training**

State Bar New Attorney Training is made available directly from the State Bar and is focused on law practice competency for newly admitted licensees.

#### **Rule 2.141 Compliance Period**

- (A) A new licensee is required to complete a State Bar New Attorney Training program during the first year of admission. Compliance with State Bar New Attorney Training must be effectuated and reported completed, in a manner established by the State Bar, by the last day of the month of an attorney's one-year anniversary as a State Bar licensee. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.
- (B) New licensees who have completed any portion of the State Bar New Attorney Training program while enrolled in the State Bar's Provisional Licensure Program<sup>5</sup> are deemed to have satisfied that portion of the requirement and, therefore, do not have to retake that portion of the New Attorney Training program.

#### **Rule 2.142 Relationship to MCLE**

- (A) The State Bar New Attorney Training is not MCLE.
- (B) Notwithstanding paragraph (A), new licensees can apply State Bar New Attorney Training hours to their MCLE requirement, provided that the hours are completed within the licensee's MCLE compliance period.

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<sup>5</sup> [California Rule of Court, Rule 9.49](#)

## Rule 2.143 Exemptions

There are no exemptions from the State Bar New Attorney Training.

## Rule 2.144 Modifications

A licensee prevented from fulfilling the State Bar New Attorney Training requirement because of a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply for modification of their compliance requirements. The State Bar must approve any modification.

## **Chapter 2. Noncompliance**

### Rule 2.150 Definition

Noncompliance is failure to:

- (A) Complete the required State Bar New Attorney Training during the compliance period or an extension of it; or
- (B) Pay fees for noncompliance.

### Rule 2.151 Notice of noncompliance

A licensee who is sent a notice of noncompliance must comply with its terms or be involuntarily enrolled as inactive. An inactive licensee is not eligible to practice law.

### Rule 2.152 Enrollment as inactive for State Bar New Attorney Training noncompliance

A licensee who fails to comply with a notice of noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

### Rule 2.153 Reinstatement following State Bar New Attorney Training noncompliance

Enrollment as inactive for State Bar New Attorney Training noncompliance terminates when a licensee completes the training and pays noncompliance fees and reinstatement fees.

**Proposed Rules 2.51, 2.53, 2.71, 2.140, 2.141, 2.142, 2.143,  
2.144, 2.150, 2.151, 2.152, and 2.153 of the Rules of the State  
Bar (Redline Version)**

**Rule 2.51 Definitions**

- (A) An “MCLE activity” is continuing legal education that the State Bar approves as meeting standards for MCLE credit.
- (B) A “provider” is an individual or entity approved by the State Bar to grant MCLE credit for an MCLE activity.
- (C) “MCLE credit” is the number of credit hours that a licensee may claim to meet the requirements of these rules.
- (D) A “credit hour” is sixty minutes actually spent in an MCLE activity, less any time for breaks or other activities that lack educational content. A credit hour is reported to the nearest quarter hour in decimals.
- (E) An “approved jurisdiction” is recognized by the State Bar as having MCLE requirements that substantially meet State Bar standards for MCLE activities and computing MCLE credit hours in a manner acceptable to the State Bar. Approved jurisdictions are listed on the State Bar Web site.
- (F) A “participatory activity” is an MCLE activity for which the provider must verify attendance. Participatory activities may be presented in person or delivered by electronic means. Methods for verification include sign-in writing or electronically at the start of the course.
- (G) A “self-study activity” is any MCLE activity identified in Rule 2.83. Self-study activities may be presented in person or delivered by electronic means.
- ~~(H) State Bar New Attorney Training is MCLE that is developed and made available directly from the State Bar and is focused on law practice competency for newly admitted licensees.~~

**Rule 2.53 New licensees**

- (A) A new licensee is permanently assigned to a [MCLE](#) compliance group on the date of admission.
- (B) The initial [MCLE](#) compliance period for a new licensee begins on the first day of the month in which the licensee was admitted. It ends when the period ends for the compliance group. If the



initial period is less than the period for the compliance group, the required credit hours may be reduced as provided in these rules.<sup>6</sup>

(C) A new licensee may not claim credit for education taken before the initial compliance period.

~~(D) A new licensee is required to complete a State Bar New Attorney Training program during the first year of admission.~~

~~(E) New licensees who have completed any portion of the New Attorney Training program while enrolled in the State Bar's Provisional Licensure Program<sup>7</sup> are deemed to have satisfied that portion of the requirement and, therefore, do not have to retake that portion of the New Attorney Training program.~~

~~(F) New licensees can apply New Attorney Training hours to their regular MCLE requirement, provided that the hours are completed within the licensee's MCLE compliance period.~~

## **Rule 2.71 Compliance periods**

~~(A)~~ A compliance period consists of thirty-six months. It begins on the first day of February and ends three years later on the last day of January. The three compliance groups begin and end their compliance periods in different years. A licensee must report MCLE compliance no later than the day following the end of the compliance period. The report must be made online using My State Bar Profile or with an MCLE Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.

~~(B) Compliance with State Bar New Attorney Training must be effectuated and reported completed, in a manner established by the State Bar, by the last day of the month of an attorney's one-year anniversary as a State Bar licensee. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.~~

## **DIVISION 6. NEW ATTORNEY TRAINING**

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State Bar New Attorney Training is made available directly from the State Bar and is focused on law practice competency for newly admitted licensees.

#### **Rule 2.141 Compliance Period**

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<sup>6</sup> Rule 2.72 (C).

<sup>7</sup> California Rule of Court, Rule 9.49

- (A) A new licensee is required to complete a State Bar New Attorney Training program during the first year of admission. Compliance with State Bar New Attorney Training must be effectuated and reported completed, in a manner established by the State Bar, by the last day of the month of an attorney's one-year anniversary as a State Bar licensee. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.
- (B) New licensees who have completed any portion of the State Bar New Attorney Training program while enrolled in the State Bar's Provisional Licensure Program<sup>8</sup> are deemed to have satisfied that portion of the requirement and, therefore, do not have to retake that portion of the New Attorney Training program.

#### Rule 2.142 Relationship to MCLE

- (A) The State Bar New Attorney Training is not MCLE.
- (B) Notwithstanding paragraph (A), new licensees can apply State Bar New Attorney Training hours to their MCLE requirement, provided that the hours are completed within the licensee's MCLE compliance period.

#### Rule 2.143 Exemptions

There are no exemptions from the State Bar New Attorney Training.

#### Rule 2.144 Modifications

A licensee prevented from fulfilling the State Bar New Attorney Training requirement because of a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply for modification of their compliance requirements. The State Bar must approve any modification.

### **Chapter 2. Noncompliance**

#### Rule 2.150 Definition

Noncompliance is failure to:

- (A) Complete the required State Bar New Attorney Training during the compliance period or an extension of it; or
- (B) Pay fees for noncompliance.

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<sup>8</sup> California Rule of Court, Rule 9.49

Rule 2.151 Notice of noncompliance

A licensee who is sent a notice of noncompliance must comply with its terms or be involuntarily enrolled as inactive. An inactive licensee is not eligible to practice law.

Rule 2.152 Enrollment as inactive for State Bar New Attorney Training noncompliance

A licensee who fails to comply with a notice of noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

Rule 2.153 Reinstatement following State Bar New Attorney Training noncompliance

Enrollment as inactive for State Bar New Attorney Training noncompliance terminates when a licensee completes the training and pays noncompliance fees and reinstatement fees.

**Proposed Rules 9.32 and 9.49 of the Rules of Court  
(Clean Version)**

**Rule 9.32. New Attorney Training**

**(a) State Bar new attorney training**

The State Bar must establish and administer an attorney training program under rules adopted by the Board of Trustees of the State Bar.

**(b) State Bar new attorney training requirements**

Each new licensee of the State Bar must, by the last day of the month of an attorney's one-year anniversary as a State Bar licensee, complete the new attorney training program.

**(c) Exemptions**

There are no exemptions from the State Bar New Attorney Training.

**(d) Failure to comply with program**

A licensee of the State Bar who fails to satisfy the requirements of the State Bar new attorney training program must be enrolled as an inactive licensee of the State Bar under rules adopted by the Board of Trustees of the State Bar.

**(e) Fees and penalties**

The State Bar has the authority to set and collect appropriate fees and penalties.

**Rule 9.49. Provisional Licensure of 2020 Law School Graduates**

**(a) State Bar Provisional Licensure Program**

(1) The State Bar shall administer a program for provisionally licensing eligible 2020 Law School Graduates. The program shall be referred to as the "Provisional Licensure Program."

(2) The Provisional Licensure Program shall terminate on May 31, 2023 for 2020 Law School Graduates admitted to the program prior to December 31, 2022 who fail to satisfy all of the following requirements on or before May 31, 2023:

(A) Successful completion of the State Bar New Attorney Training Program;

- (B) A passing score on the Multistate Professional Responsibility Exam;
  - (C) An active positive moral determination, unless the applicant has been suspended pending resolution of a final review or appeal under (j)(l)(C);
  - (D) Submission of all other documentation of completion in the format required by the State Bar;
  - (E) Approval of an eligible supervisor committed to supervise the participant through the end of 2023.
- (3) For 2020 Law School Graduates who have not received a passing score on the California Bar Exam, but have satisfied all the requirements under (a)(2) on or before May 31, 2023, the Provisional Licensure Program under this rule shall terminate on December 31, 2025.
- (4) Upon termination of the Provisional Licensure Program, no one who was provisionally licensed pursuant to this rule shall be permitted to continue to practice as a Provisionally Licensed Lawyer, nor shall they represent that they remain provisionally licensed or are otherwise authorized to practice law in the State of California unless they have been admitted to the practice of law in California after meeting all criteria for admission including passage of the California Bar Examination, or are otherwise authorized to practice law in this state other than under this rule. The temporary authorization to practice under supervision under the Provisional Licensure Program does not confer either a plenary license or any vested or implied right to be licensed.

#### **(b) Definitions**

- (1) A "2020 Law School Graduate" means a person who became eligible to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061 between December 1, 2019 and December 31, 2020, either by graduating from a qualifying law school with a juris doctor (J.D.) or master of laws (LLM) degree during that time period, or by otherwise meeting the legal education requirements of Business and Professions Code sections 6060 and 6061 during that time period.
- (2) For purposes of this rule, a "Provisionally Licensed Lawyer" means a 2020 Law School Graduate who meets the eligibility criteria of this rule and is granted provisional licensure by the State Bar.
- (3) "Supervising Lawyer" means a lawyer who meets the eligibility criteria of this rule and who supervises one or more Provisionally Licensed Lawyers.
- (4) "Firm" or "law firm" means a law partnership; a professional law corporation; a lawyer acting as a sole proprietorship; an association authorized to practice law; or lawyers employed in a legal services organization or in the legal department, division, or office of a corporation, of a governmental organization, or of another organization as defined by rule 1.01 of the Rules of Professional Conduct and the commentary thereto.

#### **(c) Application Requirements**

- (1) To participate in the Provisional Licensure Program, an applicant must complete the following application requirements no later than June 1, 2022.
- (A) Submit an Application for Provisional Licensure with the State Bar, along with a fee of \$75, or \$50 if the employer paying the fee receives State Bar Legal Services Trust Fund grants and is a qualified legal

services project or qualified support center as defined by statute. There shall be no fee for applicants whose sole use of the Provisional License will be in an unpaid volunteer capacity under the direction of the Supervising Lawyer;

(B) Submit to the State Bar a declaration signed by the applicant agreeing that the applicant will be subject to the disciplinary authority of the Supreme Court of California and the State Bar with respect to the laws of the State of California and governing the conduct of lawyers, and attesting that the applicant will not practice California law other than under the supervision of a Supervising Lawyer during the time the applicant is provisionally licensed under this rule; and attesting that the applicant will not practice law in a jurisdiction where to do so would be in violation of laws of the profession in that jurisdiction; and

(C) Submit to the State Bar a declaration signed by a Supervising Lawyer who meets the requirements of this rule attesting that the applicant is employed by or volunteers at, or has a conditional offer to be employed by or volunteer with the firm where the Supervising Lawyer works and that the firm has an office located in California; that the nature of the employment conforms with the requirements of this rule; whether the employment is paid or unpaid; and that the Supervising Lawyer meets the eligibility requirements of and will comply with this rule. If an applicant works or volunteers for more than one firm concurrently as a Provisionally Licensed Lawyer, the applicant shall have a Supervising Lawyer at each firm and shall submit a declaration from each Supervising Lawyer.

(2) An Application for Provisional Licensure may be denied if:

(A) An applicant fails to comply with eligibility or application requirements;

(B) In connection with the Application for Provisional Licensure, an applicant makes a statement of material fact that the applicant knows to be false or makes the statement with reckless disregard as to its truth or falsity; or

(C) In connection with the Application for Provisional Licensure, an applicant fails to disclose a fact necessary to correct a statement known by the applicant to have created a material misapprehension in the matter, except that this rule does not authorize disclosure of information protected by Business and Professions Code section 6068, subdivision (e) or rule 1.6 of the California Rules of Professional Conduct.

#### **(d) Eligibility Requirements**

Except as provided in (a), to qualify as a Provisionally Licensed Lawyer under this rule, the applicant must:

(1) Meet all of the requirements for admission to the State Bar with the following exceptions:

(A) The applicant need not have sat for or passed the California Bar Examination;

(B) The applicant need not have obtained a positive moral character determination, so long as the applicant submitted a complete Application for Determination of Moral Character to the State Bar prior to submission of an Application for Provisional Licensure and that application has not resulted in issuance of an adverse moral character determination by the State Bar; and

(C) The applicant need not have sat for or passed the Multistate Professional Responsibility Exam prior to submission of an Application for Provisional Licensure if the applicant attests they will complete the legal ethics components of the New Attorney Training, described under (e)(1) of this rule, within the first 30 days of licensure as a Provisionally Licensed Attorney. If the legal ethics components of the New Attorney Training are not made available to the applicant at the time of licensure, the 30 days shall run from the first day the training components are made available.

(2) Comply with any rules or guidelines adopted by the State Bar relating to the State Bar's Provisional Licensure Program;

(3) Be employed by or volunteering with, or have a conditional offer of employment from or to volunteer with a firm that has an office located in California.; and

(4) Practice law under a Supervising Lawyer who is an active licensee in good standing of the State Bar or is a current judge of a court of record within the California judicial branch, who satisfies the requirements for serving as a Supervising Lawyer under this rule.

#### **(e) Responsibilities of Provisionally Licensed Lawyers**

Provisionally Licensed Lawyers must comply with all of the following requirements. Failure to comply with these requirements shall result in immediate termination from the Provisional Licensure Program:

(1) Complete the State Bar New Attorney Training program, as described in State Bar Rule 2.141, during the first 12 months of licensure as a Provisionally Licensed Lawyer;

(2) Expressly refer to themselves orally, including but not limited to, in conversations with clients or potential clients, and in writing, including but not limited to, in court pleadings or other papers filed in any court or tribunal, on letterhead, business cards, advertising, and signature blocks, as a Provisionally Licensed Lawyer and/or participant in the State Bar's Provisional Licensure Program, and not describe themselves as a fully-licensed lawyer, or imply in any way orally or in writing that they are a fully-licensed lawyer;

(3) Include on every document the Provisionally Licensed Lawyer files in court or with any other tribunal the following information about the Supervising Lawyer: name, mailing address, telephone number, and State Bar number;

(4) Maintain with the State Bar a current e-mail address and an address of record that is the current California office address of the Provisionally Licensed Lawyer's firm;

(5) Report to the State Bar immediately upon termination of supervision by the Supervising Lawyer for any reason;

(6) Report to the State Bar any information required of lawyers by the State Bar Act, such as that required by Business and Professions Code sections 6068(o) and 6068.8(c), or by other legal authority;

(7) If reassigned to a new Supervising Lawyer for the same firm, submit a declaration from the new Supervising Lawyer in compliance with (c)(1)(C) and obtain State Bar approval before the new Supervising Lawyer assumes supervisory responsibility over the Provisionally Licensed Lawyer.

(8) Submit a new Application for Provisional Licensure and obtain State Bar approval before beginning employment with a new firm;

(9) Abide by the laws of the State of California relating to the practice of law, the California Rules of Professional Conduct, and the rules and regulations of the State Bar.

(Subd (e) amended effective February 1, 2021.)

**(f) Prohibition on Accessing Client Trust Accounts**

While practicing law under this rule, the Provisionally Licensed Lawyer must not open, maintain, withdraw funds from, deposit funds into, or attempt to open, maintain, or withdraw from or deposit into any client trust account.

**(g) Permitted Activities**

Subject to all applicable rules, regulations, and statutes, a Provisionally Licensed Lawyer may provide legal services to a client, including but not limited to appearing before a court or administrative tribunal, drafting legal documents, contracts or transactional documents, and pleadings, engaging in negotiations and settlement discussions, and providing other legal advice and counsel, provided that the work is performed under the supervision of a Supervising Lawyer.

**(h) Communications and Work Product**

For purposes of applying the privileges and doctrines relating to lawyer-client

communications and lawyer work product, the Provisionally Licensed Lawyer shall be considered a subordinate of the Supervising Lawyer and thus communications and work product of the Provisionally Licensed Lawyer shall qualify for protection under such privileges and doctrines on the same basis.

**(i) Supervision**

(1) To meet the requirements of this rule, a Supervising Lawyer must:

(A) Work for the same firm by which the Provisionally Licensed Lawyer is or will be employed or at which the Provisionally Licensed Lawyer is or will be volunteering;

(B) Have practiced law for at least four years in any United States jurisdiction and have actively practiced law in California or taught law at a California Law School for at least two years immediately preceding the time of supervision, and be a licensee in good standing of the State Bar of California or be a current judge of a court of record within the California judicial branch;

(C) Exercise competence in any area of legal service authorized under California law in which the Supervising Lawyer is supervising the Provisionally Licensed Lawyer, consistent with the requirements of rule 1.1 of the Rules of Professional Conduct;

(D) With the exception of a current judge of a court of record within the California judicial branch, not be inactive in California, or ineligible to practice, actually suspended, under a stayed suspension order, or have resigned or been disbarred in any jurisdiction;



(E) Disclose in writing, via email or other means, at the outset of representation or before the Provisionally Licensed Lawyer begins to provide legal services, that a Provisionally Licensed Lawyer and/or participant in the State Bar's Provisional Licensure Program may provide legal services related to the client's matter;

(F) Be prepared to assume personal representation of the Provisionally Licensed Lawyer's clients if the Provisionally Licensed Lawyer becomes ineligible to practice under this rule or is otherwise unavailable to continue the representation;

(G) Agree to assume professional responsibility for any work that the Provisionally Licensed Lawyer performs under this rule; and

(H) Agree to notify the State Bar of California, in writing, within 10 calendar days if the Supervising Lawyer becomes aware or reasonably should have become aware that:

- i. The Provisionally Licensed Lawyer has terminated employment;
- ii. The Provisionally Licensed Lawyer is no longer eligible for participation in the Provisional Licensure Program;
- iii. The Supervising Lawyer no longer meets the requirements of this rule;
- iv. The Supervising Lawyer is no longer supervising the Provisionally Licensed Lawyer; or
- v. The Supervising Lawyer has changed offices or email addresses.

(2) A Supervising Lawyer may delegate some or all day-to-day supervisory responsibilities or supervisory responsibilities related to certain practice areas or assignments to another lawyer in the same organization who otherwise meets the requirements for Supervising Lawyers, without the need for those additional supervisors to file a declaration with the State Bar. The Supervising Lawyer's obligations under (i)(1)(G) are not affected by any such delegation.

(3) A Supervising Lawyer who is a current judge of a court of record within the California judicial branch and lawyers to whom the judge delegates day-to-day supervisory responsibilities pursuant to (2) shall not be subject to the requirements of (i)(D) through (G).

#### **(j) Termination of Provisional Licensure**

(1) A Provisionally Licensed Lawyer's provisional license terminates:

(A) Upon determination by the State Bar Court that the Provisionally Licensed Lawyer is culpable of conduct that would result in discipline if the Provisionally Licensed Lawyer were fully licensed by the State Bar of California, or upon imposition of any sanction for misconduct by any court or tribunal, or any professional or occupational licensing authority, including administrative or stayed suspension against the Provisionally Licensed Lawyer;

(B) Upon imposition of any discipline for misconduct by the State Bar of California, the Supreme Court, or any other bar, including administrative or stayed suspension, against the Supervising Lawyer, unless

the Provisionally Licensed Lawyer has, within 15 calendar days of imposition of such discipline, obtained approval from the State Bar for a new Supervising Lawyer as required by this rule;

(C) Upon initial issuance of an adverse moral character determination by the State Bar. If the Provisionally Licensed Lawyer requests a review of the adverse determination under rule 4.47.1 of the Rules of the State Bar or appeals the adverse moral character determination of the Committee under rule 4.47 of the Rules of the State Bar, in lieu of termination the provisional license shall be suspended until final resolution of the review or appeal.

(D) Upon admission to the State Bar of California;

(E) Upon cessation of the Provisional Licensure Program;

(F) Upon request of the Provisionally Licensed Lawyer;

(G) For failure to complete the State Bar New Attorney Training Program consistent with (e)(1)(A) of this rule or failure to complete the legal ethics components under (d)(1)(C) of this rule;

(H) For failure to pay any fees required by the State Bar; or

(I) If the Provisionally Licensed Lawyer no longer meets the requirements of this rule.

(2) A notice of termination is effective ten calendar days from the date of receipt. Receipt is deemed to be five calendar days from the date of mailing to a California address or emailing to the provisional licensee's email address of record; ten calendar days from the date of mailing to an address elsewhere in the United States; and twenty calendar days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(3) A Provisionally Licensed Lawyer whose provisional licensure terminated upon request or upon imposition of discipline against the Supervising Lawyer may be reinstated if they meet all eligibility and application requirements of this rule.

#### **(k) Public Records**

State Bar records for Provisionally Licensed Lawyers, including office address and discipline records, are public to the same extent as State Bar records related to fully-licensed lawyers.

#### **(l) Inherent Power of Supreme Court**

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

**Proposed Rules 9.32 and 9.49 of the Rules of Court  
(Redline Version)**

**Rule 9.32. New Attorney Training**

**(a) State Bar new attorney training**

The State Bar must establish and administer an attorney training program under rules adopted by the Board of Trustees of the State Bar.

**(b) State Bar new attorney training requirements**

Each new licensee of the State Bar must, by the last day of the month of an attorney's one-year anniversary as a State Bar licensee, complete the new attorney training program.

**(c) Exemptions**

There are no exemptions from the State Bar New Attorney Training.

**(d) Failure to comply with program**

A licensee of the State Bar who fails to satisfy the requirements of the State Bar new attorney training program must be enrolled as an inactive licensee of the State Bar under rules adopted by the Board of Trustees of the State Bar.

**(e) Fees and penalties**

The State Bar has the authority to set and collect appropriate fees and penalties.

**Rule 9.49. Provisional Licensure of 2020 Law School Graduates**

**(a) State Bar Provisional Licensure Program**

(1) The State Bar shall administer a program for provisionally licensing eligible 2020 Law School Graduates. The program shall be referred to as the "Provisional Licensure Program."

(2) The Provisional Licensure Program shall terminate on May 31, 2023 for 2020 Law School Graduates admitted to the program prior to December 31, 2022 who fail to satisfy all of the following requirements on or before May 31, 2023:

(A) Successful completion of the State Bar New Attorney Training Program;

- (B) A passing score on the Multistate Professional Responsibility Exam;
  - (C) An active positive moral determination, unless the applicant has been suspended pending resolution of a final review or appeal under (j)(l)(C);
  - (D) Submission of all other documentation of completion in the format required by the State Bar;
  - (E) Approval of an eligible supervisor committed to supervise the participant through the end of 2023.
- (3) For 2020 Law School Graduates who have not received a passing score on the California Bar Exam, but have satisfied all the requirements under (a)(2) on or before May 31, 2023, the Provisional Licensure Program under this rule shall terminate on December 31, 2025.
- (4) Upon termination of the Provisional Licensure Program, no one who was provisionally licensed pursuant to this rule shall be permitted to continue to practice as a Provisionally Licensed Lawyer, nor shall they represent that they remain provisionally licensed or are otherwise authorized to practice law in the State of California unless they have been admitted to the practice of law in California after meeting all criteria for admission including passage of the California Bar Examination, or are otherwise authorized to practice law in this state other than under this rule. The temporary authorization to practice under supervision under the Provisional Licensure Program does not confer either a plenary license or any vested or implied right to be licensed.

#### **(b) Definitions**

- (1) A "2020 Law School Graduate" means a person who became eligible to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061 between December 1, 2019 and December 31, 2020, either by graduating from a qualifying law school with a juris doctor (J.D.) or master of laws (LLM) degree during that time period, or by otherwise meeting the legal education requirements of Business and Professions Code sections 6060 and 6061 during that time period.
- (2) For purposes of this rule, a "Provisionally Licensed Lawyer" means a 2020 Law School Graduate who meets the eligibility criteria of this rule and is granted provisional licensure by the State Bar.
- (3) "Supervising Lawyer" means a lawyer who meets the eligibility criteria of this rule and who supervises one or more Provisionally Licensed Lawyers.
- (4) "Firm" or "law firm" means a law partnership; a professional law corporation; a lawyer acting as a sole proprietorship; an association authorized to practice law; or lawyers employed in a legal services organization or in the legal department, division, or office of a corporation, of a governmental organization, or of another organization as defined by rule 1.01 of the Rules of Professional Conduct and the commentary thereto.

#### **(c) Application Requirements**

- (1) To participate in the Provisional Licensure Program, an applicant must complete the following application requirements no later than June 1, 2022.
- (A) Submit an Application for Provisional Licensure with the State Bar, along with a fee of \$75, or \$50 if the employer paying the fee receives State Bar Legal Services Trust Fund grants and is a qualified legal

services project or qualified support center as defined by statute. There shall be no fee for applicants whose sole use of the Provisional License will be in an unpaid volunteer capacity under the direction of the Supervising Lawyer;

(B) Submit to the State Bar a declaration signed by the applicant agreeing that the applicant will be subject to the disciplinary authority of the Supreme Court of California and the State Bar with respect to the laws of the State of California and governing the conduct of lawyers, and attesting that the applicant will not practice California law other than under the supervision of a Supervising Lawyer during the time the applicant is provisionally licensed under this rule; and attesting that the applicant will not practice law in a jurisdiction where to do so would be in violation of laws of the profession in that jurisdiction; and

(C) Submit to the State Bar a declaration signed by a Supervising Lawyer who meets the requirements of this rule attesting that the applicant is employed by or volunteers at, or has a conditional offer to be employed by or volunteer with the firm where the Supervising Lawyer works and that the firm has an office located in California; that the nature of the employment conforms with the requirements of this rule; whether the employment is paid or unpaid; and that the Supervising Lawyer meets the eligibility requirements of and will comply with this rule. If an applicant works or volunteers for more than one firm concurrently as a Provisionally Licensed Lawyer, the applicant shall have a Supervising Lawyer at each firm and shall submit a declaration from each Supervising Lawyer.

(2) An Application for Provisional Licensure may be denied if:

(A) An applicant fails to comply with eligibility or application requirements;

(B) In connection with the Application for Provisional Licensure, an applicant makes a statement of material fact that the applicant knows to be false or makes the statement with reckless disregard as to its truth or falsity; or

(C) In connection with the Application for Provisional Licensure, an applicant fails to disclose a fact necessary to correct a statement known by the applicant to have created a material misapprehension in the matter, except that this rule does not authorize disclosure of information protected by Business and Professions Code section 6068, subdivision (e) or rule 1.6 of the California Rules of Professional Conduct.

#### **(d) Eligibility Requirements**

Except as provided in (a), to qualify as a Provisionally Licensed Lawyer under this rule, the applicant must:

(1) Meet all of the requirements for admission to the State Bar with the following exceptions:

(A) The applicant need not have sat for or passed the California Bar Examination;

(B) The applicant need not have obtained a positive moral character determination, so long as the applicant submitted a complete Application for Determination of Moral Character to the State Bar prior to submission of an Application for Provisional Licensure and that application has not resulted in issuance of an adverse moral character determination by the State Bar; and

(C) The applicant need not have sat for or passed the Multistate Professional Responsibility Exam prior to submission of an Application for Provisional Licensure if the applicant attests they will complete the legal ethics components of the New Attorney Training, described under (e)(1) of this rule, within the first 30 days of licensure as a Provisionally Licensed Attorney. If the legal ethics components of the New Attorney Training are not made available to the applicant at the time of licensure, the 30 days shall run from the first day the training components are made available. ~~The exemption set forth in (e)(1) of this rule does not apply to Provisionally Licensed Lawyers who must take the legal ethics components in lieu of passage of the MPRE.~~

(2) Comply with any rules or guidelines adopted by the State Bar relating to the State Bar's Provisional Licensure Program;

(3) Be employed by or volunteering with, or have a conditional offer of employment from or to volunteer with a firm that has an office located in California.; and

(4) Practice law under a Supervising Lawyer who is an active licensee in good standing of the State Bar or is a current judge of a court of record within the California judicial branch, who satisfies the requirements for serving as a Supervising Lawyer under this rule.

#### **(e) Responsibilities of Provisionally Licensed Lawyers**

Provisionally Licensed Lawyers must comply with all of the following requirements. Failure to comply with these requirements shall result in immediate termination from the Provisional Licensure Program:

(1) Complete the State Bar New Attorney Training program, as described in State Bar Rule ~~2-532.141~~, during the first 12 months of licensure as a Provisionally Licensed Lawyer, ~~unless they would otherwise be exempt from this requirement under the State Bar Rules if they were admitted to the State Bar as a lawyer;~~

(2) Expressly refer to themselves orally, including but not limited to, in conversations with clients or potential clients, and in writing, including but not limited to, in court pleadings or other papers filed in any court or tribunal, on letterhead, business cards, advertising, and signature blocks, as a Provisionally Licensed Lawyer and/or participant in the State Bar's Provisional Licensure Program, and not describe themselves as a fully-licensed lawyer, or imply in any way orally or in writing that they are a fully-licensed lawyer;

(3) Include on every document the Provisionally Licensed Lawyer files in court or with any other tribunal the following information about the Supervising Lawyer: name, mailing address, telephone number, and State Bar number;

(4) Maintain with the State Bar a current e-mail address and an address of record that is the current California office address of the Provisionally Licensed Lawyer's firm;

(5) Report to the State Bar immediately upon termination of supervision by the Supervising Lawyer for any reason;

(6) Report to the State Bar any information required of lawyers by the State Bar Act, such as that required by Business and Professions Code sections 6068(o) and 6068.8(c), or by other legal authority;

(7) If reassigned to a new Supervising Lawyer for the same firm, submit a declaration from the new Supervising Lawyer in compliance with (c)(1)(C) and obtain State Bar approval before the new Supervising Lawyer assumes supervisory responsibility over the Provisionally Licensed Lawyer.

(8) Submit a new Application for Provisional Licensure and obtain State Bar approval before beginning employment with a new firm;

(9) Abide by the laws of the State of California relating to the practice of law, the California Rules of Professional Conduct, and the rules and regulations of the State Bar.

(Subd (e) amended effective February 1, 2021.)

**(f) Prohibition on Accessing Client Trust Accounts**

While practicing law under this rule, the Provisionally Licensed Lawyer must not open, maintain, withdraw funds from, deposit funds into, or attempt to open, maintain, or withdraw from or deposit into any client trust account.

**(g) Permitted Activities**

Subject to all applicable rules, regulations, and statutes, a Provisionally Licensed Lawyer may provide legal services to a client, including but not limited to appearing before a court or administrative tribunal, drafting legal documents, contracts or transactional documents, and pleadings, engaging in negotiations and settlement discussions, and providing other legal advice and counsel, provided that the work is performed under the supervision of a Supervising Lawyer.

**(h) Communications and Work Product**

For purposes of applying the privileges and doctrines relating to lawyer-client

communications and lawyer work product, the Provisionally Licensed Lawyer shall be considered a subordinate of the Supervising Lawyer and thus communications and work product of the Provisionally Licensed Lawyer shall qualify for protection under such privileges and doctrines on the same basis.

**(i) Supervision**

(1) To meet the requirements of this rule, a Supervising Lawyer must:

(A) Work for the same firm by which the Provisionally Licensed Lawyer is or will be employed or at which the Provisionally Licensed Lawyer is or will be volunteering;

(B) Have practiced law for at least four years in any United States jurisdiction and have actively practiced law in California or taught law at a California Law School for at least two years immediately preceding the time of supervision, and be a licensee in good standing of the State Bar of California or be a current judge of a court of record within the California judicial branch;

(C) Exercise competence in any area of legal service authorized under California law in which the Supervising Lawyer is supervising the Provisionally Licensed Lawyer, consistent with the requirements of rule 1.1 of the Rules of Professional Conduct;

(D) With the exception of a current judge of a court of record within the California judicial branch, not be inactive in California, or ineligible to practice, actually suspended, under a stayed suspension order, or have resigned or been disbarred in any jurisdiction;

(E) Disclose in writing, via email or other means, at the outset of representation or before the Provisionally Licensed Lawyer begins to provide legal services, that a Provisionally Licensed Lawyer and/or participant in the State Bar's Provisional Licensure Program may provide legal services related to the client's matter;

(F) Be prepared to assume personal representation of the Provisionally Licensed Lawyer's clients if the Provisionally Licensed Lawyer becomes ineligible to practice under this rule or is otherwise unavailable to continue the representation;

(G) Agree to assume professional responsibility for any work that the Provisionally Licensed Lawyer performs under this rule; and

(H) Agree to notify the State Bar of California, in writing, within 10 calendar days if the Supervising Lawyer becomes aware or reasonably should have become aware that:

- i. The Provisionally Licensed Lawyer has terminated employment;
- ii. The Provisionally Licensed Lawyer is no longer eligible for participation in the Provisional Licensure Program;
- iii. The Supervising Lawyer no longer meets the requirements of this rule;
- iv. The Supervising Lawyer is no longer supervising the Provisionally Licensed Lawyer; or
- v. The Supervising Lawyer has changed offices or email addresses.

(2) A Supervising Lawyer may delegate some or all day-to-day supervisory responsibilities or supervisory responsibilities related to certain practice areas or assignments to another lawyer in the same organization who otherwise meets the requirements for Supervising Lawyers, without the need for those additional supervisors to file a declaration with the State Bar. The Supervising Lawyer's obligations under (i)(1)(G) are not affected by any such delegation.

(3) A Supervising Lawyer who is a current judge of a court of record within the California judicial branch and lawyers to whom the judge delegates day-to-day supervisory responsibilities pursuant to (2) shall not be subject to the requirements of (i)(D) through (G).

#### **(j) Termination of Provisional Licensure**

(1) A Provisionally Licensed Lawyer's provisional license terminates:

(A) Upon determination by the State Bar Court that the Provisionally Licensed Lawyer is culpable of conduct that would result in discipline if the Provisionally Licensed Lawyer were fully licensed by the State Bar of California, or upon imposition of any sanction for misconduct by any court or tribunal, or any professional or occupational licensing authority, including administrative or stayed suspension against the Provisionally Licensed Lawyer;



(B) Upon imposition of any discipline for misconduct by the State Bar of California, the Supreme Court, or any other bar, including administrative or stayed suspension, against the Supervising Lawyer, unless the Provisionally Licensed Lawyer has, within 15 calendar days of imposition of such discipline, obtained approval from the State Bar for a new Supervising Lawyer as required by this rule;

(C) Upon initial issuance of an adverse moral character determination by the State Bar. If the Provisionally Licensed Lawyer requests a review of the adverse determination under rule 4.47.1 of the Rules of the State Bar or appeals the adverse moral character determination of the Committee under rule 4.47 of the Rules of the State Bar, in lieu of termination the provisional license shall be suspended until final resolution of the review or appeal.

(D) Upon admission to the State Bar of California;

(E) Upon cessation of the Provisional Licensure Program;

(F) Upon request of the Provisionally Licensed Lawyer;

(G) For failure to complete the State Bar New Attorney Training Program consistent with (e)(1)(A) of this rule or failure to complete the legal ethics components under (d)(1)(C) of this rule;

(H) For failure to pay any fees required by the State Bar; or

(I) If the Provisionally Licensed Lawyer no longer meets the requirements of this rule.

(2) A notice of termination is effective ten calendar days from the date of receipt. Receipt is deemed to be five calendar days from the date of mailing to a California address or emailing to the provisional licensee's email address of record; ten calendar days from the date of mailing to an address elsewhere in the United States; and twenty calendar days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(3) A Provisionally Licensed Lawyer whose provisional licensure terminated upon request or upon imposition of discipline against the Supervising Lawyer may be reinstated if they meet all eligibility and application requirements of this rule.

#### **(k) Public Records**

State Bar records for Provisionally Licensed Lawyers, including office address and discipline records, are public to the same extent as State Bar records related to fully-licensed lawyers.

#### **(l) Inherent Power of Supreme Court**

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

**Proposed Rule 2.111 of the Rules of the State Bar  
(Clean Version)**

**Rule 2.111      Funds not to be held in an IOLTA account**

- (A) If a licensee determines that the funds can earn income for the benefit of the client or third party in excess of the costs incurred to secure such income, the funds must be deposited in a trust account in accordance with the provisions of Section 6211(b) of the Business and Professions Code and Rule 1.15 of the Rules of Professional Conduct or as the client or third party directs in writing.
- (B) A licensee should not designate an exempt account<sup>9</sup> as an IOLTA account.

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<sup>9</sup> As defined in Rule 2.100 (D)

**Proposed Rule 2.111 of the Rules of the State Bar  
(Redline Version)**

**Rule 2.111 Funds not to be held in an IOLTA account**

- (A) If a licensee determines that the funds can earn income for the benefit of the client or third party in excess of the costs incurred to secure such income, the funds must be deposited in a trust account in accordance with the provisions of Section 6211(b) of the Business and Professions Code and Rule ~~4-100~~ 1.15 of the Rules of Professional Conduct or as the client or third party directs in writing.
- (B) A licensee should not designate an exempt account<sup>10</sup> as an IOLTA account.

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<sup>10</sup> As defined in Rule 2.100 (D)