

**DATE:** July 21, 2016  
**TO:** Members, Admissions and Education Committee  
Members, Board of Trustees  
**FROM:** Elizabeth R. Parker, Executive Director  
**SUBJECT:** TFAAR New Attorney MCLE Requirement

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### **EXECUTIVE SUMMARY**

This agenda item summarizes both the original Task Force on Admissions Regulation Reform (TFAAR) recommendation regarding new attorney Mandatory Continuing Legal Education (MCLE) and the proposed modified implementation approach developed by State Bar staff.

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### **BACKGROUND AND DISCUSSION: New Attorney MCLE**

*Original TFAAR II Approach:* New admittees will be required to take ten additional hours of MCLE courses specifically focused on law practice competency training, over and above the required MCLE hours for all active members of the Bar. Credit toward this enhanced MCLE requirement, the Phase I Report recommended, will be available for participation in Bar-approved mentoring programs.

*Revised Approach:* Attorneys would be required to complete a New Attorney Training MCLE program during their first year post-admission. The curriculum would be developed by the State Bar, and would be no more than ten hours in length in total. These ten hours will not be in addition to the currently required MCLE hours for active members of the State Bar. Instead, up to ten of those currently required hours will comprise New Attorney Training, and this training will be prescribed for completion within the first 12 months of admission to the California State Bar. This change could be effectuated by amending the State Bar Rules, which only require the Board's approval.

The revised approach addresses concerns that adding additional MCLE requirements on new attorneys would present both monetary and time burdens. It is also highly unlikely that legislation, which would be required if additional hours of MCLE were mandated, would find success and eventually become law, as other similar bills have been vetoed by the Governor. By incorporating a New Attorney Training into the existing MCLE framework, the goal of ensuring that new admittees receive a baseline level of core competency training is met without implicating these concerns. The State Bar would develop the New Attorney Training curriculum, which would be available in a module-based, on-line, format, at a no- or low-cost.

New admittees who do not complete the online New Attorney Training program by the last day of the month of their 1-year anniversary month as a member would be assessed a non-

compliance fee.

Those new admittees who still have not completed the New Attorney Training by their next regular MCLE reporting deadline would be subject to a sixty-day notice to bring themselves into full compliance, or risk being placed on Administrative Inactive status and not eligible to practice (consistent with the repercussions of not completing regular requirements).

A summary of the primary differences between the original TFARR recommendation and the modified proposal follows:

- 1) By incorporating the New Attorney Training within regular MCLE requirements, the same MCLE exemptions described in statute (Business and Professions Code section 6070) and Rule of Court 9.31 would apply. These include exemptions for full-time law school professors, employees of the State of California, and employees of the US government. State Bar rules add California Officers and Elected Officials to this list. The original TFARR recommendation did not provide for these exemptions.
- 2) The original TFARR recommendation allowed potential new members to get started on MCLE requirements (in anticipation of bar exam results) 4 months prior to admission. This provision is not necessary under the proposed approach, which incorporates New Attorney Training into existing MCLE requirements.
- 3) The rules reference a non-compliance fee for failure to complete the New Attorney Training by the last day of the month of the attorney's one-year anniversary of admission. Staff proposes that the fee be set at \$75, which is the same as the non-compliance fee for failure to timely report regular MCLE requirements. The original TFAAR recommendation provided for a separate Administrative Inactive status for failure to comply with "first-year" MCLE while under the revised approach the possibility of being placed on Administrative Inactive status is related to failure to comply with total MCLE requirements due every three years.

## **FISCAL/PERSONNEL IMPACT**

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## **RULE AMENDMENTS**

Title Provide Title #., Division Provide Division #., Chapter Provide Chapter #.

## **BOARD BOOK IMPACT**

Tab Provide Tab #., Article Provide Article #., Section Provide Section #., Page Provide Page #.

## **BOARD GOALS & OBJECTIVES**

## **BOARD COMMITTEE RECOMMENDATIONS**

**RESOLVED**, that the Admissions and Education Committee recommends that proposed amendments to \_\_\_\_\_ as attached hereto be released for public comment for a period of 45 days; and it is

**FURTHER RESOLVED**, that this authorization for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposal.

**ATTACHMENT(S) LIST**

- A. July 2016 Version of Proposed Amendments to State Bar Rules re New Attorney MCLE Requirement (to be prepared)

DRAFT