



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 5.4 MAY 2025 BOARD OF TRUSTEES**

**DATE:** May 22, 2025

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

**FROM:** Melanie J. Lawrence, Program Director, Office of Professional Support & Client Protection  
Isabel Liou, Attorney, Office of Professional Support & Client Protection

**SUBJECT:** Request for Approval of Proposed Amendments to Beverly Hills Bar Association Mandatory Fee Arbitration Rules

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### **EXECUTIVE SUMMARY**

Statutorily mandated arbitration of attorney-client fee and cost disputes may be conducted by a local bar association. Fee arbitration rules of procedure promulgated by a local bar association are subject to review by the Board of Trustees. The Beverly Hills Bar Association (BHBA) seeks to update its fee arbitration rules with various amendments. The Mandatory Fee Arbitration (MFA) program's presiding arbitrator and staff have reviewed BHBA's proposed rule amendments and determined that they comport with the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs (Minimum Standards) as approved by the Board.

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### **RECOMMENDED ACTION**

Staff recommends the Board approve BHBA's proposed amendments to its Rules of Procedure for Fee Arbitrations, as set forth in Attachment A.

### **DISCUSSION**

Under Business and Professions Code section 6200, subdivision (d), bar associations are authorized to sponsor MFA programs. Local bar programs' rules of procedure must comply with Business and Professions Code sections 6200–6206 and the minimum standards adopted by the Board. Specifically, arbitration rules of procedure promulgated by local bar programs are subject to review by the Board, or a committee designated by the Board, to ensure that the

rules provide for a fair, impartial, and speedy hearing and arbitration award. The Board's approval of a bar association's rules of procedure gives that program jurisdiction to arbitrate fee disputes submitted under the auspices of the MFA program (Minimum Standards, para 1).

In 2020, the BHBA's MFA Rules of Procedure were updated to permit videoconference hearings. Aside from this minor revision, the BHBA rules were last revised over ten years ago. The BHBA now seeks to update its rules to expand its filing jurisdiction to include Ventura County, raises the three-arbitrator panel threshold to \$25,000 in dispute, and to permit electronic submission and service of documents. In addition, the proposed amendments aim to simplify BHBA's filing fee schedule and clarify existing definitions and procedures. Many of the proposed amendments to the BHBA rules mirror the State Bar Model Rules of Procedure for Fee Arbitrations, State Bar MFA rules, and other local bar programs' rules. Significant substantive updates to the rules are discussed in detail below.

#### **Rule 10.2, Filing Jurisdiction**

Currently, the BHBA program will arbitrate fee disputes involving attorneys who performed substantial services in Los Angeles County, or where at least one attorney involved in the dispute has or maintained an office in Los Angeles County at the time the services were rendered. Now, the BHBA seeks to add Ventura County to its filing jurisdiction. The Ventura County Bar Association (VCBA) discontinued its MFA program in March 2024 and, at present, fee disputes involving attorneys from Ventura County are filed with the State Bar program.

The VCBA is aware of the BHBA's proposed amendment to add Ventura County to its filing jurisdiction and does not oppose this amendment as the VCBA does not have any plan at present to resume offering mandatory fee arbitration in the near future. This amendment would also alleviate the burden on the State Bar program by permitting the BHBA to accept jurisdiction of cases involving attorneys from Ventura County.

#### **Rule 14.4, Filing Fee Schedule**

The BHBA seeks to update and simplify its filing fee schedule by switching to a 5 percent formula and eliminating the \$50 minimum filing fee. The maximum filing fee remains capped at \$5,000.

Previously, the BHBA employed a tiered filing fee schedule and charged \$50 plus either six or seven percent of the disputed amount. The proposed amendment will simplify filing fee calculations and will reduce the cost of fee arbitration for applicants.

#### **Rule 20.1, Appointment of Panel**

The BHBA proposes to increase the disputed amount threshold when a panel of three arbitrators will be appointed to hear a case from more than \$15,000 in dispute to more than \$25,000 in dispute. Cases involving disputed amounts of \$25,000 or less would be heard by one attorney arbitrator, while three-arbitrator panels are composed of two attorney arbitrators and one nonattorney arbitrator. This \$25,000 threshold is used by several other Los Angeles County bar association programs and is also the three-panel threshold for the State Bar MFA program.

**Rule 25.6, Confidentiality**

This proposed amendment clarifies that the entire arbitration case file, including the award, is confidential.

**Rule 29.2, Compelling Production of Documents at the Hearing by Subpoena or Notice**

This proposed new rule is modeled after a rule currently in use by the Los Angeles County Bar Association's fee arbitration program, and is designed to give a party the option of requesting desired documents that may be necessary to the fee dispute by written notice instead of through the subpoena process.

**Rule 30.0, Commencement of Hearing; Notice; Attendance.**

This proposed amendment adopts State Bar Rule 3.539 language related to the scheduling of the hearing within 45 or 90 days from the Notice of Assignment of panel, and also clarifies that the arbitrator has the discretion to determine the mode of conducting the hearing, including by telephone or videoconference.

**Rule 39.0, Correction or Amendment of Award by Hearing Panel**

Proposed amendments to this rule are based on State Bar Rule 3.545 on correction or amendment of an arbitration award.

**Rule 40.0, Service**

This rule was amended to permit electronic service of documents with the written consent of the parties.

**Rule 41.0, Enforcement Authority**

Proposed amendments to this rule reflect recent revisions to the State Bar's MFA rules related to enforcement of fee arbitration awards.

State Bar staff and Presiding Arbitrator, Clark S. Stone, have reviewed the BHBA's revised MFA rules and have determined that they comply with Business and Professions Code sections 6200 et seq. and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs. Therefore, it is recommended that the Board of Trustees approve the BHBA's MFA rules as presented in Attachment A.

**PREVIOUS ACTION**

None

**FISCAL/PERSONNEL IMPACT**

None

**AMENDMENTS TO RULES**

None

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

None

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

None – core business operations

## **RESOLUTIONS**

**Should the Board of Trustees, sitting as the Regulation and Discipline Committee, concur, it is:**

**RESOLVED**, that the Board of Trustees, sitting as the Regulation and Discipline Committee hereby approves the Beverly Hills Bar Association's amendments to the Rules of Procedure for Fee Arbitrations, in the form attached as Attachment A, as being in compliance with Business and Professions Code sections 6200–6206 and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitrations.

## **ATTACHMENTS LIST**

- A.** Beverly Hills Bar Association Mandatory Fee Arbitration Program Rules of Procedure for Fee Arbitrations (redline)
- B.** Beverly Hills Bar Association Mandatory Fee Arbitration Program Rules of Procedure for Fee Arbitrations (clean)
- C.** Model Rules of Procedure for Fee Arbitrations