



The State Bar of California

OPEN SESSION AGENDA ITEM 4.5 JULY 2024 BOARD OF TRUSTEES

DATE: July 18, 2024

TO: Members, Board of Trustees

FROM: Danielle MacRae, Lead Program Analyst, Office of Access & Inclusion
Elizabeth Hom, Program Director, Office of Access & Inclusion

SUBJECT: Proposed Amendments to State Bar Rules Regarding Pro Bono Practice Program (Rules 3.325–3.330): Return from Public Comment and Request for Approval

EXECUTIVE SUMMARY

The State Bar administers a Pro Bono Practice Program (PBPP) which allows attorneys who would otherwise be inactive to maintain an active attorney license, with waived license fees, to exclusively provide pro bono legal services in partnership with specific legal services providers. In March, the Board voted to release for a 45-day public comment period the proposed amendments to State Bar Rules governing the PBPP program. The proposed revisions seek to streamline requirements for attorneys, to expand the number of eligible organizations, and to increase access to justice for low- and moderate-income Californians. Six comments were received. This agenda item presents the proposed amendments for approval.

RECOMMENDED ACTION

It is recommended that the Board of Trustees approve the proposed amendments to State Bar Rules 3.325-3.330 regarding the Pro Bono Practice Program (see Attachment A for proposed revisions).

DISCUSSION

During the public comment period, the State Bar received six comments on the proposed changes: three agreed with the proposed recommendations, one agreed with the proposed recommendations if modified, and two disagreed with the proposed recommendations. The commenter who agreed only if modified suggested that participating attorneys have the option to provide malpractice insurance coverage for themselves or through another supervising

organization to offset the costs for nonprofits. State Bar staff do not anticipate malpractice insurance for volunteers to be cost prohibitive for nonprofits. The two disagreeing comments expressed concerns unrelated to the Pro Bono Practice Program.¹

The California Access to Justice Commission (CalATJ) submitted one of the comments in support. CalATJ expressed concern with removing the word “disadvantaged” from prior versions of the proposed rule text as it relates to the client population of eligible nonprofit organizations. The proposed rule would allow “a nonprofit that provides free legal services to or on behalf of indigent Californians” to participate in the program. Prior language expanding eligibility to nonprofits providing services to or on behalf of indigent or disadvantaged Californians, but State Bar staff removed “disadvantaged” because it is not defined within State Bar Rules and could be misapplied. The other two comments of support were submitted by attorneys. One was from a retired attorney who expressed interest in providing more pro bono legal services; the other did not provide written comment beyond expressing support for the revisions.

In addition to the comments received from the public, State Bar staff received positive feedback from stakeholders on the changes in the rules and their anticipated implementation and will continue to gather feedback from stakeholders as program changes are implemented, if the proposed revisions are adopted.

PREVIOUS ACTION

- [Proposed Amendments to State Bar Rules Regarding Pro Bono Practice Program \(Rule 3.325-3.330\): Request to Circulate for Public Comment](#)
- [Proposed Amendments to State Bar Rules Regarding Pro Bono Practice Program \(Rules 3.325-3.330\): Request to Circulate for Second Public Comment](#)

FISCAL/PERSONNEL IMPACT

If adopted, the proposed revisions would result in the State Bar receiving additional PBPP applications, requiring more staff time to review applications and administer the program. However, the increased demand on staff time would likely be marginal and a need for more staffing or financial resources is not expected at this time. Similarly, collecting pro bono hours would require increased personnel time, but staff does not anticipate it to be overly burdensome in the near term.

AMENDMENTS TO RULES

Title 3, Division 2, Chapter 6, Rules 3.325-3.330

¹ The two disagreeing comments appeared to be complaining about legal services provided by specific attorneys and organizations.

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- a. 3. Incentivize and support licensees and law firms to increase the number of pro bono hours provided to underserved groups.

RESOLUTIONS

Should the Board of Trustees concur, it is:

RESOLVED, that the Board of Trustees approves and adopts amendments to Title 3, Division 2, Rules 3.325–3.330 of the State Bar Rules, provided as Attachment A, effective July 18, 2024.

ATTACHMENTS LIST

- A. [Proposed Revisions to State Bar Rules Title 3, Division 2, Chapter 6. Pro Bono Practice Attorneys – Redline](#)
- B. Table of Public Comments Received