



The State Bar of California

OPEN SESSION AGENDA ITEM 5.2 MAY 2025 BOARD OF TRUSTEES

DATE: May 22, 2025

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

FROM: Terrie Goldade, Supervising Attorney, Office of Case Management & Supervision
Melanie Lawrence, Program Director III, Office of Professional Support & Client Protection

SUBJECT: Proposed Changes to California Rules of Court to Modify Rule Regarding Stipulations for Modification of Probation Terms (Rule 9.10(c)) and to Add New Rule Regarding Professional Responsibility Examination Requirement (Rule 9.24): Return from Public Comment, Request for Approval and Submission to the California Supreme Court

EXECUTIVE SUMMARY

At the February 21, 2025, meeting of the Board of Trustees sitting as the Regulation and Discipline Committee, staff presented a proposed amendment to California Rules of Court 9.10(c) and proposed new California Rules of Court 9.24.¹ The proposed amendment to Rule 9.10(c) would authorize the State Bar Court to modify probation conditions based upon stipulations between the office that monitors compliance with discipline conditions, in addition to the Office of Chief Trial Counsel (OCTC), and disciplined licensees (respondents). The new rule would state that the Supreme Court may, but is not required to, order passage of a professional responsibility examination following an order suspending a respondent from the practice of law.

The Regulation and Discipline Committee directed staff to submit the rules for public comment for 45 days. Twelve public comments were received. In relation to amending rule 9.10(c), nine agree with the proposal and three disagree. In relation to adding new rule 9.24, seven agree with the proposal, two agree with the proposal if modified, two disagree, and one had no

¹ All references to rules are to the California Rules of Court unless otherwise stated.

position. This staff report presents the proposed amendment and new rule for approval and submission to the Supreme Court.

RECOMMENDED ACTION

It is recommended that the Board of Trustees approve the proposed amendment to rule 9.10(c) and new rule 9.24 (see Attachments A and B) and direct staff to send the amended rule and new rule to the Supreme Court of California for consideration.

DISCUSSION

PROPOSED AMENDMENT AND NEW RULE

Rule 9.10(c) authorizes the State Bar Court to make modifications to probation conditions based upon stipulations between respondents and OCTC. The proposed amendment to rule 9.10 adds that the office that monitors compliance with discipline conditions (currently called the Office of Case Management & Supervision (OCMS)), in addition to OCTC, may enter into stipulations to modify probation conditions. The proposed amendment will streamline the process for modifications that are agreed upon by the parties.

Following the California Supreme Court's decision in *Segretti v. State Bar*, (1976) 15 Cal.3d 878, providing proof of passage of a professional responsibility examination is ordered in most disciplinary matters, generally the Multistate Professional Responsibility Examination offered by the National Conference of Bar Examiners. The proposed new rule 9.24 would be added to state that a professional responsibility examination is not mandatory following an order suspending a respondent from the practice of law. The new rule acknowledges that there are now alternatives to the MPRE that the Supreme Court can order instead of the MPRE, should the Supreme Court deem those alternatives more appropriate for the particular respondent.

The proposed amendment to rule 9.10(c) and new rule 9.24 must be approved by the Board before submission to the Supreme Court of California for review and potential approval.

PUBLIC COMMENT

During the public comment period, the State Bar received twelve comments, ten of which provided narrative and three of which did not specifically address these proposals.

- In relation to amending rule 9.10(c):
 - nine commenters agree with the proposal; and
 - three commenters disagree (but no narrative comments were provided in relation to the substance of the proposed amendment).

Two narrative comments received were supportive, endorsing that stipulations should be encouraged and add efficiency.

- In relation to adding new rule 9.24:
 - Seven commenters agree with the proposal;
 - two commenters agree, if the proposal is modified;

- two commenters disagree; and
- one commenter has no position.

Ten narrative comments were received in relation to adding new rule 9.24. In support of the rule, comments included that it did not make sense to have a blanket rule and that a failure to know the rules may suggest that requiring the exam is appropriate. Two comments were submitted by defense counsel in support, indicating a belief that requiring the MPRE does not protect the public and that requiring the exam is akin to a punishment where the misconduct did not arise from a rule violation.

One comment expressed strong opposition to the proposed rule, stating that all disciplined attorneys should be required to pass the MPRE because the public should be assured that the attorney at least knows what is supposed to be done. Staff notes that, should the court determine that a respondent does not know what ethical duties are required, and that the passage of the MPRE could remedy that, the proposed new rule provides the court the option to order such.

Two narrative comments did not seem to demonstrate understanding of the substance of proposed new rule 9.24 because they did not focus on the testing requirement as it applies to disciplined attorneys.

Three of the narrative comments were not in relation to either of the proposals of the agenda item.

After reviewing the public comments received, staff determined that rule 9.10(c) and new rule 9.24 do not require further amendment and submits the proposed rule amendment and new rule for approval. The proposed amendment will increase efficiency. The new rule will provide flexibility for the court to determine the most appropriate resources required to rehabilitate each particular disciplined attorney so that the public is protected.

PREVIOUS ACTION

[Proposed Changes to California Rules of Court to Modify Rule Regarding Stipulations for Modification of Probation Terms \(Rule 9.10\) and to Add New Rule Regarding Professional Responsibility Examination Requirement \(Rule 9.24\): Request to Circulate for Public Comment](#)

FISCAL/PERSONNEL IMPACT

If adopted, no longer requiring virtually all respondents to provide proof of passage of a professional responsibility examination may result in a net neutral impact on personnel work if respondents complete conditions in lieu of the MPRE; however, it may reduce personnel work in OCMS given that some respondents file motions for extension of time in relation to the MPRE, at least in part because the MPRE is only offered three times a year.

Permitting OCMS to stipulate with respondents is anticipated to result in less personnel work for both OCMS and State Bar Court because the parties would need to submit only one document for the State Bar Court's review, instead of a motion and a response.

AMENDMENTS TO RULES

Title 9, Division 2, Chapter 3, of the California Rules of Court

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 3. Protect the Public by Regulating the Legal Profession

- b. 3. Provide effective support for attorneys experiencing practice management and other challenges that affect competency.

RESOLUTIONS

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

RESOLVED, following notice and publication for comment, that the Board of Trustees, sitting as the Regulation and Discipline Committee, approves the amendments to California Rules of Court, rule 9.10(c) set forth in Attachments A and B, and the proposed new rule 9.24 set forth in Attachment C; and it is

FURTHER RESOLVED, that staff is directed to submit the proposed amendment to California Rules of Court, rule 9.10(c) set forth in Attachments A and B, and proposed new rule 9.24 set forth in Attachment C to the California Supreme Court.

ATTACHMENTS LIST

- A. Proposed Amendment to California Rules of Court, Title 9, Division 2, Chapter 3, Rule 9.10 – Redline
- B. Proposed Amendment to California Rules of Court, Title 9, Division 2, Chapter 3, Rule 9.10 – Clean
- C. Proposed New California Rules of Court, Title 9, Division 2, Chapter 3, Rule 9.24
- D. Table of Public Comments Received