



The State Bar of California

OPEN SESSION AGENDA ITEM 5.6 JULY 2024 BOARD OF TRUSTEES

DATE: July 18, 2024

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

FROM: Steven Moawad, Special Counsel, Regulation Division

SUBJECT: Proposed Amendments to Rule 2.31 Relating to the Deadline for Submission of the Transfer to Inactive Status Form and the Effective Date of the Transfer: Request to Circulate for Public Comment

EXECUTIVE SUMMARY

This item requests Board approval to circulate for public comment amendments to rule 2.31 of the Rules of the State Bar relating to transfer to inactive status.

RECOMMENDED ACTION

Staff recommends the Board circulate the proposed amendments to rule 2.31 of the Rules of the State Bar for Public Comment.

DISCUSSION

Current State Bar rules provide that licensees can transfer to inactive status by submitting the Transfer to Inactive Status Form by February 1, the deadline to pay licensing fees for the calendar year. Because the last day to transfer to inactive status and still pay the annual fees of an inactive licensee is February 1, many licensees choose to submit their Transfer to Inactive Status Form in late January or on February 1.

The large number of requests to transfer to inactive submitted in late January and on February 1 are particularly burdensome for staff because staff must review and process the request, adjust the active rate licensing fee previously assessed to the licensee at the beginning of the renewal cycle, and communicate to the licensee that they can pay the reduced fee prior to the

February 1 deadline. The work required is all the more difficult because these requests come during the renewal cycle, the busiest time of year for the Division of Regulation.

Further, given that the annual licensing fee is for a calendar year (e.g., 2024, 2025), there is no reason to permit licensees to practice law until February 1 and still pay the inactive rate for that calendar year.

Therefore, to be eligible for the inactive rate, staff recommends requiring licensees to submit the Transfer to Inactive Status form on or before December 1 and that the effective date of the transfer be on or before December 31. This change, in conjunction with delaying the start of the renewal cycle until after December 31 will permit staff to update the status of licensees prior to the beginning of the renewal cycle and will eliminate the work to adjust the active rate previously assessed.

Finally, the requirement to comply with the Client Trust Account Protection Program (CTAPP) applies to both active and inactive licensees who were active at any point during the reporting period. CTAPP reporting periods are calendar years (e.g., 1/1/24–12/31/24). When licensees transfer to inactive status in January or February, they are obligated to comply with CTAPP reporting the following year. Many inactive licensees forget that the CTAPP reporting obligation applies to them and staff must repeatedly reach out to ensure the reporting is completed. Encouraging licensees transfer to inactive with an effective date in December will reduce the need for licensees who have been inactive for 11 months to comply with CTAPP.

To enact this rule change and realize the benefits of the changes in time for the 2025 renewal cycle, this item seeks Board approval to circulate the proposed changes to this rule for public comment for a period of 45 days. Staff anticipates returning this item to the Board in September 2024. Licensees would need to submit the Transfer to Inactive Status Form by December 1, 2024, to be eligible for the inactive rate in 2025.

Proposed amendments to Rule 2.31 (Change of license status)

The proposed amendments change the date by which a licensee must submit a Transfer to Inactive form to pay the inactive license fee rate for the subsequent year from February 1 to December 1 with an effective date of their transfer to inactive status set as December 31 or earlier of the year they filed the form. The proposed amendments allow submission of Transfer to Inactive Status forms after December 1 or with an effective date after December 31, but those licensees would be required to pay the annual fees at the active rate and are not entitled to a refund because of the change to inactive status.

PREVIOUS ACTION

None

FISCAL/PERSONNEL IMPACT

Time savings for staff.

AMENDMENTS TO RULES

Title 2, Division 3, Rule 2.31

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, authorizes staff to make available for public comment, for a period of 45 days, the proposed amendments to rule 2.31 of the Rules of the State Bar, as set forth in Attachments A and B; and it is

FURTHER RESOLVED, that this authorization for release of public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed amended Rules of Court or Rules of the State Bar.

ATTACHMENTS LIST

- A.** Proposed Rule 2.31 of the Rules of the State Bar (Clean Version)
- B.** Proposed Rule 2.31 of the Rules of the State Bar (Redline Version)