



The State Bar of California

OPEN SESSION AGENDA ITEM 5.5 JULY 2024 BOARD OF TRUSTEES

DATE: July 18, 2024

TO: Members, Board of Trustees

FROM: Steven Moawad, Special Counsel, Regulation Division

SUBJECT: Proposed Amendments to Rules 2.2, 2.11, 2.16, and 2.71 of the Rules of the State Bar and Rule 9.31 of the Rules of Court Relating to Attorney Reporting and the Timing of the Annual Renewal Cycle: Request to Circulate for Public Comment

EXECUTIVE SUMMARY

This item requests Board approval to circulate for public comment amendments to various Rules of the State Bar and a Rule of Court relating to reporting of the information contained in the attorney record and the timing of the annual renewal cycle.

Proposed amendments to rule 2.2(B)(7) and some changes to 2.2(C) clarify a licensee's reporting requirements regarding their law firm size. Other proposed amendments to rule 2.2, 2.11, 2.16, and 2.71 remove references to February 1 as the renewal cycle deadline and the deadline to verify the attorney record information, and instead reference to the deadline listed in the Schedule of Charges and Deadlines. A proposed amendment to rule 9.31 of the Rules of Court modifies the 36-month limitation of the Minimum Continuing Legal Education (MCLE) compliance period to allow a transition period between the old deadline and the new deadline.

RECOMMENDED ACTION

Staff recommends the Board circulate the proposed amendments to rules 2.2, 2.11, 2.16, and 2.71 of the Rules of the State Bar and rule 9.31 of the Rules of Court for public comment.

DISCUSSION

Currently, the end of the annual renewal cycle, the deadline to pay annual licensing fees, and to comply with various reporting obligations is the first day of February of each year. The first day of February is the deadline set by several statutes, including Business and Professions Code

sections [6140](#) [due date for active licensees to pay the annual license fee], [6141](#) [due date for inactive licensees to pay the annual license fee], and [6002.1](#) [annual deadline for notifying the State Bar of changes to attorney record information].

As part of the discussions regarding the State Bar fee bill, [AB 3279](#), currently pending in the legislature, the State Bar is pursuing legislative changes to allow flexibility in the renewal cycle deadline. In anticipation of those changes and to effectuate the deadline changes, staff is recommending changes to four Rules of the State Bar. The proposed rule amendments would be circulated for public comment and the amendments related to changing the annual renewal cycle deadline would only be returned to the Board if the necessary statutory amendments are approved.

Proposed amendment to Rule 2.2 (Public information; duty to update licensee record)

In addition to adding language that would allow the State Bar to revise the reporting deadline through the Schedule of Charges and Deadlines, the proposed amendments clarify how to determine the size of a law firm, company, agency, or organization for reporting purposes and when such reporting is required.

Proposed amendment to Rule 2.11 (Due date; Form of payment)

The proposed amendments add language to allow the State Bar to revise the due date for the annual license fee and the date to cure a nonconforming payment through the Schedule of Charges and Deadlines.

Proposed amendment to Rule 2.16 (Waivers)

The proposed amendments allow the due date for a request for a waiver of the payment of annual license fees or penalties to be based on the due date of the annual license fees, as set forth in the Schedule of Charges and Deadlines. The proposed amendments also coordinate the age threshold for automatic annual license fee waivers for inactive licensees that are 70 years of age or older to align with the deadline for payment of annual license fees set forth in the Schedule of Charges and Deadlines.

Proposed amendment to Rule 2.71 (Compliance periods)

The proposed amendments allow, if a corresponding California Rule of Court is approved, the State Bar to revise the MCLE compliance period so long as the revised compliance period is a minimum of thirty-six months.

Currently, the MCLE compliance period is thirty-six months. The compliance period begins on February 1 and ends three years later on the last day of January. This means that licensees who must report their MCLE hours on February 1 must complete those courses between February 1 and January 31 three years later. The proposed amendments to rule 2.71 would state that the MCLE compliance period would begin on the deadline set forth in the Schedule of Charges and Deadlines and end no less than thirty-six months later. The intent is to ensure a transition period in which licensees who take MCLE courses based on the current MCLE cycle start date can apply those credits to their MCLE reporting. Eventually, licensees will be expected to adapt to the new MCLE compliance period.

Staff has included two versions of this rule. The version shown in attachments G (clean version) and H (redline version) show how proposed rule 2.71 would read if the Board adopts the amendments and proposed rules associated with the Staff Report entitled “Proposed Amendment to Rules 1.22, 2.51, 2.53, 2.55, 2.71 of the Rules of the State Bar and Proposed New Rules 2.140–2.153 of the Rules of the State Bar Relating to Regulatory Function of the State Bar: Request for Adoption” during the July 2024 Meeting. If the Board adopts the Title 1/Title 2 amendments in the aforementioned item and also approves the proposed language of rule 2.71 for circulation for public comment in this staff report, Attachment G (clean version), which includes both the amendments proposed by this item and the amendments approved by the above-mentioned Title 1/Title 2 item, will be circulated for public comment. The redline version corresponding to Attachment G is Attachment H. If the Board does not adopt the Title 1/Title 2 amendments referenced above at this meeting but does wish to approve the language for rule 2.71 proposed by this item, Attachment I (clean version), which contains the language proposed by this item without the changes proposed in the Title 1/Title 2 amendments of the aforementioned item, will be circulated for public comment. The redline version corresponding to Attachment I is Attachment J.

Rule of Court 9.31

The proposed amendment allows the State Bar to revise the MCLE compliance period so long as the revised compliance period is a minimum of thirty-six months.

PREVIOUS ACTION

None

FISCAL/PERSONNEL IMPACT

The proposed amendments to rule 2.2, 2.11 and 2.16 relating to changing the renewal cycle will change the beginning, and ending, of the billing cycle, and therefore may impact the timing of the receipt of some licensing fees, but will not affect the amount of revenue recorded in a budget year for licensee fees.

AMENDMENTS TO RULES OF COURT

Title 9, Division 2, Chapter 4, Rule 9.31

AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA

Title 2, Division 1, Rule 2.2
Title 2, Division 2, Rule 2.11
Title 2, Division 2, Rule 2.16
Title 2, Division 4, Rule 2.71

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 60 days, proposed amendments to rule 2.2 of the Rules of the State Bar, as set forth in Attachment A; and it is

FURTHER 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 60 days, proposed amendments to rule 2.11 of the Rules of the State Bar, as set forth in Attachment C; and it is

FURTHER 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 60 days, proposed amendments to rule 2.16 of the Rules of the State Bar, as set forth in Attachment E; and it is

FURTHER 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 60 days, proposed amendments to rule 2.71 of the Rules of the State Bar, as set forth in Attachment G, if the Board also adopts or has adopted the resolution amending rule 2.71 of the Rules of the State Bar associated with the staff report entitled “Proposed Amendment to Rules 1.22, 2.51, 2.53, 2.55, 2.71 of the Rules of the State Bar and Proposed New Rules 2.140–2.153 of the Rules of the State Bar Relating to Regulatory Function of the State Bar: Request for Adoption” during the July 2024 Board Meeting; and it is

FURTHER 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 60 days, proposed amendments to rule 2.71 of the Rules of the State Bar, as set forth in Attachment I, if the Board does not or did not adopt the resolution amending rule 2.71 of the Rules of the State Bar associated with the staff report entitled “Proposed Amendment to Rules 1.22, 2.51, 2.53, 2.55, 2.71 of the Rules of the State Bar and Proposed New Rules 2.140–2.153 of the Rules of the State Bar Relating to Regulatory Function of the State Bar: Request for Adoption” during the July 2024 Board Meeting; and it is

FURTHER 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 60 days, proposed amendments to rule 9.31 of the Rules of Court, as set forth in Attachment K; 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 2.2 of the Rules of the State Bar (Clean Version)
- B.** Proposed Rule 2.2 of the Rules of the State Bar (Redline Version)
- C.** Proposed Rule 2.11 of the Rules of the State Bar (Clean Version)
- D.** Proposed Rule 2.11 of the Rules of the State Bar (Redline Version)
- E.** Proposed Rule 2.16 of the Rules of the State Bar (Clean Version)
- F.** Proposed Rule 2.16 of the Rules of the State Bar (Redline Version)
- G.** Proposed Rule 2.71 of the Rules of the State Bar if the Board adopts the resolution associated with the agenda item entitled “Proposed Amendment to Rules 1.22, 2.51, 2.53, 2.55, 2.71 of the Rules of the State Bar and Proposed New Rules 2.140–2.153 of the Rules of the State Bar Relating to Regulatory Function of the State Bar: Request for Adoption” and amends rule 2.71 of the Rules of the State Bar during the July 2024 Meeting (Clean Version)
- H.** Proposed Rule 2.71 of the Rules of the State Bar if the Board adopts the resolution associated with agenda item entitled “Proposed Amendment to Rules 1.22, 2.51, 2.53, 2.55, 2.71 of the Rules of the State Bar and Proposed New Rules 2.140–2.153 of the Rules of the State Bar Relating to Regulatory Function of the State Bar: Request for Adoption” and amends rule 2.71 of the Rules of the State Bar during the July 2024 Meeting (Redline Version)
- I.** Proposed Rule 2.71 of the Rules of the State Bar if the Board does not adopt the resolution associated with the agenda item entitled “Proposed Amendment to Rules 1.22, 2.51, 2.53, 2.55, 2.71 of the Rules of the State Bar and Proposed New Rules 2.140–2.153 of the Rules of the State Bar Relating to Regulatory Function of the State Bar: Request for Adoption” and does not amend rule 2.71 of the Rules of the State Bar during the July 2024 Meeting (Clean Version)

- J. Proposed Rule 2.71 of the Rules of the State Bar if the Board does not adopt the resolution associated with the agenda item entitled “Proposed Amendment to Rules 1.22, 2.51, 2.53, 2.55, 2.71 of the Rules of the State Bar and Proposed New Rules 2.140–2.153 of the Rules of the State Bar Relating to Regulatory Function of the State Bar: Request for Adoption” and does not amend rule 2.71 of the Rules of the State Bar during the July 2024 Meeting (Redline Version)
- K. Proposed Rule 9.31 of the Rules of Court (Clean Version)
- L. Proposed Rule 9.31 of the Rules of Court (Redline Version)