The State Bar of California

OPEN SESSION
AGENDA ITEM
6.17 NOVEMBER 2025
BOARD OF TRUSTEES

DATE: **November 20, 2025**

TO: **Members, Board of Trustees**

FROM: **Steven Moawad, Special Counsel, Regulation Division**
Catherine Ongiri, Program Director, Regulation Division

SUBJECT: **Discussion Regarding Implementation of Supreme Court Order on Civility and Proposed New Rule 2.3 of the State Bar Rules Regarding the Civility Oath: Request to Circulate for Public Comment and Request for Emergency Adoption**

EXECUTIVE SUMMARY

This item requests Board of Trustees' approval of Interim rule 2.3 of the State Bar Rules and authorization to circulate proposed new rule 2.3 of the State Bar Rules for a 30-day public comment period. This item also provides an update on State Bar civility efforts following the Supreme Court's September 25, 2025, order in response to the State Bar's petition requesting approval of proposed amendments to rule 9.7 of the California Rules of Court (rule 9.7) and certain revisions to the California Rules of Professional Conduct.

RECOMMENDED ACTION

Staff recommends the Board adopt Interim rule 2.3 for 120 days and circulate proposed new rule 2.3 for a 30-day public comment period.

DISCUSSION

In July 2023, the Board, following consideration of public comments received, adopted proposed amendments to rule 9.7 and directed staff to submit these proposed amendments to the California Supreme Court with a request that the proposed amendments be approved.

As part of the same agenda item, following consideration of public comments received, the Board adopted a previous version of proposed new rule 2.3 of the State Bar Rules subject to the California Supreme Court's approval of proposed amendments to rule 9.7 without any material changes.

On August 28, 2023, the State Bar filed a petition in the Supreme Court (S281631) requesting that the Court approve proposed amended rule 9.7, and proposed amended rules 1.2 and 8.4 and proposed new rule 8.4.2 of the California Rules of Professional Conduct.

On September 25, 2025, the Supreme Court approved amendments to rule 9.7, as modified by the Court. The modifications are material changes to the proposed rule 9.7.[1] The 2023 version of rule 2.3 of the State Bar Rules cannot become operative due to the material changes made by the Supreme Court to rule 9.7, thus necessitating the proposed new State Bar rule 2.3 presented in this item.

EMERGENCY ACTION REQUIRED

Rule 9.7, effective October 1, 2025, requires the State Bar to enroll licensees and Special Admissions Attorneys who are noncompliant with the oath requirements "as an inactive licensee of the State Bar under rules adopted by the Board of Trustees of the State Bar" in 2026. To prepare licensees to comply with upcoming renewal cycle[2] requirements, the State Bar includes notice about renewal cycle requirements in an all-licensee newsletter, which will likely be sent in December 2025 or early January 2026, and a December 2025 letter to 9.9 exempt licensees, who do not use My State Bar Profile to complete their reporting. As a result, because the State Bar must have its rule in place well before the opening of the renewal cycle on February 1, 2026, the State Bar does not have time to follow the normal rule-making process, including sending a modified version of rule 2.3 out for public comment prior to adoption.

Rule 1.10(C) of the State Bar Rules allows the Board to adopt a rule on an interim basis without first circulating it for public comment in the case of an emergency. No interim measure may remain in effect for more than 120 days. Because the Supreme Court requires rule 9.7 be implemented and enforced in conjunction with the 2026 renewal cycle and because the State Bar has no rule to ensure compliance with rule 9.7, the abbreviated timeline to effectuate the requirements of rule 9.7 constitutes an emergency under rule 1.10(C).

[1] One modification made by the Supreme Court requires, beginning April 1, 2026, that the State Bar take action against State Bar licensees and Special Admissions Attorneys, including, for purposes of this rule, Foreign Legal Consultants who fail to declare adherence to the oath language provided in subparagraph (a) of rule 9.7 and Business and Professions Code section 6067.

[2] The annual renewal cycle includes all annual reporting requirements and licensing fee payments that licensees must complete to maintain their license. The initial reporting portion of the 2026 renewal cycle will be from February 1 through March 30.

INTERIM AND PROPOSED NEW RULE 2.3

Several changes were made to proposed rule 2.3 as compared to the 2023 version.[5] These changes were made to accommodate the modifications the Supreme Court made to rule 9.7 and to make the involuntary inactive enrollment process similar to other reporting requirements, which require inactive enrollment for noncompliance. A redline version of new proposed rule 2.3 as compared to the 2023 version is provided in Attachment B.

The following changes were made to proposed new rule 2.3:

- Elimination of the difference between a "one-time civility declaration" and requirement to "annually reaffirm the civility pledge" to make proposed new rule 2.3 consistent with rule 9.7;
- Changes to the definition of "Noncompliance" to make noncompliance with this rule consistent with noncompliance with other reporting requirements (e.g., the definition includes failure to pay any assessed fees);
- Addition of a definition of "Oath" to avoid repetitious references to rule 9.7;
- Addition of the oath deadline to make the deadline for both licensees and Special Admissions Attorneys consistent with the other renewal cycle reporting obligations for State Bar licensees;
- Changes to the Return to Active Status section, including elimination of references to a "one-time civility declaration." This change is consistent with the Supreme Court's change to rule 9.7 to eliminate the requirement in proposed rule 9.7(b)(1) that all active licensees and Special Admissions Attorneys submit a declaration with the language in subparagraph (a) of rule 9.7 by a specific date and the requirement in proposed rule 9.7(c) that licensees and Special Admissions Attorneys annually reaffirm the civility pledge, which the Supreme Court retitled as an annual declaration in subparagraph (b) of the version of rule 9.7 that was adopted;
- Changes, consistent with rule 9.7, combining the requirements of licensees and Special Admissions Attorneys in former subsections (C)(1) and (C)(2) into section (D) of proposed new rule 2.3;
- Removal of the requirement of 60-day notice of Noncompliance to make this rule consistent with the noncompliance procedures of other reporting requirements (e.g., Client Trust Account reporting, Minimum Continuing Legal Education (MCLE), and attorney record verification do not require 60-day notice of Noncompliance);
- Capitalization of some words to indicate they are defined terms; and
- Clarifying that payment of any assessed fees is required for reinstatement.

[5] Proposed Interim rule 2.3 (Attachment A) is substantively the same as the proposed new rule 2.3 (Attachment C). The only difference between the interim and proposed new version, described below, is the expiration date of the interim rule.

IMPLEMENTATION OF THE SUPREME COURT'S ORDER FOLLOWING REJECTION OF PROPOSED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

As part of the Supreme Court's September 25, 2025, order, the Court also rejected proposed amendments to three Rules of Professional Conduct: rules 1.2 and 8.4 and proposed new rule 8.4.2. These rules would have incorporated civility obligations directly into the Rules of Professional Conduct.[7] The Supreme Court, while commending the State Bar's efforts to promote civility, declined these proposed rule amendments, citing vagueness and First Amendment concerns, and approved only the amendments to rule 9.7 governing the attorney oath. The Supreme Court instead encouraged the State Bar to explore codifying case law that reduces attorney fee awards based on incivility and to study the effects of the new civility-focused continuing legal education requirements.

In response to the Supreme Court's order, the Office of Professional Competence (OPC), in collaboration with the Committee on Professional Responsibility and Conduct (COPRAC), the Office of Chief Trial Counsel (OCTC), and the Office of Research and Statistics (ORS), will implement the Court's direction through rule review, education, and data analysis. The State Bar will reengage with the California Civility Task Force to review existing case law addressing incivility and attorney fee awards and to consider approaches for codifying those principles within the Rules of Professional Conduct. Concurrently, OPC will lead the development of updated civility education materials, replacing the Attorney Guidelines of Civility and Professionalism with a modernized Civility Toolkit that reflects current jurisprudence and integrates civility-focused MCLE content. In alignment with the Supreme Court's directive, ORS, OCTC, and OPC will also collaborate to explore the ability to measure the impact of the civility MCLE requirement through participation data, provider trends, and attorney feedback. Together, these efforts ensure that the State Bar advances the Supreme Court's goals of promoting civility through education, evidence-based evaluation, and measured rule development.

PREVIOUS ACTION

Proposed Rule Amendments Based on Recommendations by the California Civility Task Force (Rule of Court 9.7 and Rules of Professional Conduct 1.2, 8.4, and New Rule 8.4.2): Request to Circulate for Second Public Comment Period (May 2023)

Proposed Rule Amendments Based on Recommendations by the California Civility Task Force (Rule 9.7 and Rules of Professional Conduct 1.2, 8.4, and New Rule 8.4.2): Return from Public Comment and Request for Approval (July 2023)

[7] Specifically, the amendments to rule 1.2, comment [1] would have clarified that attorneys may agree to reasonable requests from opposing counsel or self-represented parties so long as the request does not prejudice the rights of their client and that lawyers must act with dignity, courtesy, and integrity in all professional commitments. The amendments to rule 8.4, comments [4] and [6] would have cross-referenced proposed rule 8.4.2 and clarified that significantly unprofessional conduct that is abusive or harassing may also constitute misconduct under rule 8.4(d). Proposed new rule 8.4.2 would have expressly prohibited "incivility" in the practice of law, defined as significantly unprofessional conduct that is abusive or harassing.

FISCAL/PERSONNEL IMPACT

Additional staff time will be required to provide notices of this requirement, to assess fees and transfer statuses for noncompliance and reinstatement, and for licensee support.

AMENDMENTS TO RULES

Title 2, Division 1, Rule 2.3

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – core business operations

RESOLUTIONS

Should the Board of Trustees concur, it is:

> **RESOLVED,** that the Board of Trustees, having determined pursuant to rule 1.10(C) of the State Bar Rules that an emergency justifies immediate enactment of Interim rule 2.3 of the State Bar Rules without public comment, hereby adopts Interim rule 2.3 of the State Bar Rules as set forth in Attachment A; and it is
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> **FURTHER RESOLVED,** that Interim rule 2.3 of the State Bar Rules shall expire 120 days after its adoption, unless otherwise ordered by the Board of Trustees; and it is
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> **FURTHER RESOLVED,** that the Board of Trustees authorizes staff to make available for public comment, for a period of 30 days, proposed new State Bar rule 2.3, as set forth in Attachment C.

ATTACHMENTS LIST

A. Proposed Interim Rule 2.3 of the State Bar Rules

B. Proposed Rule 2.3 of the State Bar Rules (Redline against 2023 Version)

C. Proposed Rule 2.3 of the State Bar Rules (Clean Version)

ATTACHMENT A

Proposed Interim Rule 2.3 of the State Bar Rules

Interim Rule 2.3 Noncompliance with Attorney Civility Oath Requirement

[This interim rule 2.3 is adopted by the Board of Trustees pursuant to rule 1.10(C) of the Rules of the State Bar of California and shall expire 120 days after adoption, unless otherwise ordered by the Board of Trustees.]

(A) Definitions

(1) "Noncompliance" is failure to declare adherence to the oath as required by rule 9.7 of the California Rules of Court or failure to pay any assessed fees or penalties, as set forth in the Schedule of Charges and Deadlines, for failure to abide by this rule or rule 9.7 of the California Rules of Court.

(2) "Oath" is the oath required to be taken annually by all active licensees and Special Admissions Attorneys under rule 9.7 of the California Rules of Court.

(3) "Special Admissions Attorney" is an attorney permitted to practice law in the State of California under California Rules of Court 9.41.1, 9.44, 9.45, or 9.46.

(B) Oath deadline

The annual deadline for licensees and Special Admissions Attorneys to declare adherence to the Oath is the same date as the deadline for a licensee to pay their annual license fees as set forth in rule 2.11 of these rules. Failure to timely declare adherence to the Oath will subject the licensee to a Noncompliance fee set forth in the Schedule of Charges and Deadlines.

(C) Return to active status

A licensee or Special Admissions Attorney must declare adherence to the Oath prior to being returned to active status.

(D) Enrollment as inactive for Noncompliance

A licensee or Special Admissions Attorney who is sent a notice of Noncompliance must comply with its terms or be involuntarily enrolled as inactive or have their special admissions status suspended. An inactive licensee or suspended Special Admissions Attorney is not eligible to practice law. The involuntary inactive enrollment or suspension is administrative and no hearing is required.

(E) Reinstatement following Noncompliance

(1) Enrollment as inactive for Noncompliance terminates when a licensee submits proof of compliance with this rule and rule 9.7 of the California Rules of Court and pays any assessed Noncompliance and reinstatement fees, as set forth in the Schedule of Charges and Deadlines.

(2) To be reinstated after suspension of special admissions status, a Special Admissions Attorney must demonstrate that they meet all eligibility and application requirements for the special admissions program, this rule, and rule 9.7 of the California Rules of Court and pay any assessed Noncompliance and reinstatement fees, as set forth in the Schedule of Charges and Deadlines.

Interim Rule 2.3 adopted effective November 20, 2025.