

AGENDA ITEM

JULY - 132

MCLE - Recommendation re Members in Non-compliance.

A list of members in compliance groups 1, 2, and 3 who if not in compliance by August 15, 2007 will be placed on "Not Eligible to Practice" status effective August 16, 2007.

DATE: June 29, 2007

TO: Members of the Board of Governors

FROM: Starr Babcock, Senior Executive, Member Services
Dina DiLoreto, Director of Administration, Member Services

SUBJECT: MCLE - Recommendation re Members in Non-compliance

ATTACHMENTS: List of members in non-compliance (available at meeting)

Executive Summary

Pursuant to California Rules of Court, rule 9.31, the Member Services Center requests permission to enroll all members of MCLE Compliance Group 1 (last names A-G) who have not complied with the MCLE requirement by August 15, 2007, as administratively inactive members and place them on "Not Eligible to Practice" status effective August 16, 2007. In addition, we would like to act on any prior Group 2 and Group 3 members who received modifications and have still not complied. Please note that unlike the procedure for suspending members for non-payment of fees, this action only requires approval by the Board of Governors or its designee. This item also authorizes staff to remove members from administrative inactive status once the member has provided proof of compliance and paid all non-compliance fees.

Questions on this item should be directed to Dina DiLoreto at (415)538-2121 or Dina.DiLoreto@calbar.ca.gov.

BACKGROUND

On June 15, 2007, Member Services (MSC) staff sent MCLE Non-Compliance 60-Day Notices to members of Compliance Group 1 (last names beginning with A-G when

assigned to the compliance group) who have not complied with their MCLE requirement. Prior to the notice sent on or June 15, 2007, members of Compliance Group 1 were contacted by mail on two separate occasions: November 15, 2006; and March 15, 2007. Those members of Compliance Group 1 who had provided the State Bar of California with an E-mail address also received reminder E-mails in January 2007 and on April 26, 2007.

Those members of Compliance Group 1 will receive a courtesy call at their telephone number of record, by MSC staff by July 13, 2007. Staff will send by Certified Mail, on or about July 23, 2007, a "Final Notice" to the members of Compliance Group 1, that have not complied with the MCLE requirement. Those members of Compliance Group 1 that have still not complied with the MCLE requirement as of August 15, 2007 will be moved to "Not Eligible" status effective August 16, 2007.

In addition, members in Compliance Groups 1, 2 and 3 who were granted modifications who have not yet sent in their attestation of completion for a prior period will be contacted again. These members have also received a "60-Day Notice" and will be mailed a "Final Notice." If they have not complied with their modified MCLE requirement by August 15, 2007, they will be moved to "Not Eligible to Practice" status effective August 16, 2007.

BOARD AUTHORITY

The Supreme Court has delegated to the Bar the authority to enroll on administrative inactive status members of the State Bar who fail to comply with the MCLE requirement. Rule 9.31, California Rules of Court, provides that "A member of the State Bar who fails to satisfy the requirements of the State Bar's minimum continuing legal education program must be enrolled as an inactive member of the State Bar under rules adopted by the Board of Governors of the State Bar."

Pursuant to Rule 9.31, the Board of Governors adopted the MCLE Rules and Regulations¹ ("MCLE Rules"), which establish the procedures for non-compliance with the MCLE requirement. Section 13.1 of the MCLE Rules provides that "A member failing to comply with the requirement after the 60-day period for compliance has expired shall be enrolled as an inactive member by the Board of Governors or an officer of the State Bar or his or her designee."

Please note that the procedure for placing members on administrative inactive status for failure to comply with the MCLE requirement is unlike the procedure for suspending members for non-payment of membership fees. For MCLE, the Supreme Court has delegated to the Bar the authority to change members' status. In the case of non-payment of membership fees, the Board submits a list to the Supreme Court for action.

The MCLE Rules define non-compliance to include failure to provide satisfactory

¹ At this meeting, the Board of Governors is also considering recommended changes to the MCLE Rules. The MCLE rule references in this item are to the current rule. Adoption of the proposed changes renumber and reword the MCLE Rules, effective January 1, 2008, and do not change the effect of non-compliance.

evidence of compliance including proof of exempt status and/or failure to pay all non-compliance fees. (Section 12.1.) As members bring themselves into compliance, staff removes them from the non-compliance list. Only members who do not bring themselves into compliance by the final deadline of August 15, 2007, will be placed on administrative inactive status. (A member placed on administrative inactive status for failure to comply with the MCLE requirement is **not eligible** to practice law while on such status.) A list of members in non-compliance with their MCLE requirement will be available upon request at the board meeting.

FISCAL AND PERSONNEL IMPACT

These actions were included in the 2007 budget and personnel planning; therefore, there will be no fiscal or personnel impact.

BOARD BOOK/ADMINISTRATIVE MANUAL

This item has no impact on the Board Book/Administrative manual.

BOARD COMMITTEE RECOMMENDATION

The Board Committee on Member Oversight considered this item at its July meeting and orally reported its recommendation to the Board. If the Board concurs with the recommendation of Board Committee on Member Oversight, adoption of the following resolution would be in order:

PROPOSED BOARD RESOLUTION

RESOLVED: pursuant to California Rule of Court 9.31 and the MCLE Rules and Regulations, and upon recommendation of the Board Committee on Member Oversight, that the Board of Governors hereby authorizes that those members of MCLE Compliance Groups 1, 2 and 3 who do not bring themselves into compliance with their MCLE requirement by August 15, 2007, shall be enrolled as inactive members of the State Bar of California and placed on "Not Eligible to Practice" status, effective August 16, 2007; and it is,

FURTHER RESOLVED: that the Board of Governors hereby authorizes staff to remove members from administrative inactive status once the member has provided proof of compliance and paid all non-compliance fees.