

AGENDA ITEM

JULY 54-121

**Request for
Approval of
Proposed Rules of
Procedure for Fee
Arbitrations by the
Placer County Bar
Association**

DATE: June 20, 2007

**TO: Members of the Board Committee on Regulation, Admissions and
Discipline Oversight
Members of the Board of Governors**

FROM: Jill Sperber, Director, Office of Mandatory Fee Arbitration

**SUBJECT: Request for Approval of Proposed Rules of Procedure for Fee Arbitrations
by the Placer County Bar Association**

EXECUTIVE SUMMARY

This agenda item is before the RAD Committee and the Board to approve the proposed new Rules of Procedure for Fee Arbitrations by the Placer County Bar Association in the form attached as Attachment A hereto.

The Placer County Bar Association (PCBA) has submitted new rules of procedure for fee arbitrations conducted by its mandatory fee arbitration program for Board approval. The PCBA's proposed new rules of procedure consist of materially new rules to replace its current rules of procedure last approved by the Board in 1994. The proposed new rules essentially adopt the Model Rules of Procedure circulated by the Committee on Mandatory Fee Arbitration in March 2006 with several modifications. These new rules would clarify existing procedures, amend or add new rules to comport with current law, detail new procedures, or delete outdated provisions.

At its May 11, 2007 meeting, the State Bar's Committee on Mandatory Fee Arbitration (MFA) reviewed the PCBA's proposed Rules of Procedure for Fee Arbitrations and agreed to recommend their approval, subject to several further revisions which PCBA agreed to make, to the Board Committee on Regulation, Admission and Discipline (RAD) and the Board of Governors as being in compliance with the State Bar Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs ("Minimum Standards").

I. BACKGROUND:

Pursuant to Business and Professions Code section 6200, subdivision (d), local bar associations are authorized to sponsor mandatory fee arbitration programs. To do so, the local bar rules of procedure must comply with Business and Professions Code sections 6200-6206 and the State Bar's Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs ("Minimum Standards.") Approval by the Board of Governors gives the local bar programs jurisdiction to arbitrate fee disputes submitted under the auspices of the Mandatory Fee Arbitration Program (Article 13 of the California State Bar Act) (Minimum Standards, Para.1.)

The Placer County Bar Association's (PCBA's) rules of procedure for fee arbitrations were last revised in 1994. In March 2006, the State Bar's Mandatory Fee Arbitration (MFA) Committee circulated Model Rules of Procedure for Fee Arbitrations to the local bar programs to provide them with a template of comprehensive, current rules of procedure consistent with recent developments in the law. The Board of Governors adopted the Model Rules at its November 2006 meeting. The PCBA submitted proposed new rules of procedure for fee arbitrations based on the Model Rules to the State Bar's Mandatory Fee Arbitration Committee (MFA Committee) for consideration at its May 11, 2007 meeting.

II. DISCUSSION:

The proposed new rules essentially adopt the Model Rules of Procedure with several modifications. Because the proposed new rules of procedure are so materially different from the PCBA's current rules of procedure, it was determined that a redlined version comparing the current and proposed versions of the rules is of little assistance. A copy of the proposed new rules of procedure for the PCBA is attached hereto as Attachment A.

At its May 11, 2007 meeting, although the MFA Committee found that most of the proposed rules of procedure for fee arbitrations comply with the applicable MFA statutes and are consistent with the Minimum Standards, it approved the rules subject to suggested further suggested revisions. The PCBA thereafter agreed to make those revisions. The MFA Committee recommends to the RAD Committee that the proposed Rules of Procedure for Fee Arbitrations of the PCBA be recommended to the Board of Governors for approval. Attachment A reflects the final proposal following further revisions made by the PCBA after the May 11, 2007 MFA Committee meeting which the MFA Committee approved by vote conducted by email.

III. FISCAL AND PERSONNEL IMPACT:

None.

IV. BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:

None.

V. PROPOSED RESOLUTIONS:

For the Regulation, Admissions & Discipline Committee:

RESOLVED, that, the Board Committee on Regulation, Admissions and Discipline Oversight hereby recommends that the Board of Governors resolve to approve the Rules of Procedure for

Fee Arbitrations by the Placer County Bar Association in the form attached as Attachment A hereto as being in compliance with Business and Professions Code sections 6200-6206 and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitrations.

For the Board of Governors:

RESOLVED, that, upon recommendation of the Board Committee on Regulation, Admissions and Discipline Oversight, the Board of Governors hereby approves the Rules of Procedure for Fee Arbitrations by the Placer County Bar Association in the form attached as Attachment A hereto as being in compliance with Business and Professions Code sections 6200-6206 and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitrations.