

AGENDA ITEM

JULY 126

Rules Regulating
Admission to Practice Law
in California Re
Qualification of Foreign-
Educated Applicants for
Admission to Practice Law
in California – Proposed
Amendments

DATE: July 2, 2007

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

FROM: Committee of Bar Examiners
Gayle Murphy, Senior Executive, Admissions

SUBJECT: ***Rules Regulating Admission to Practice Law in California Re
Qualification of Foreign-Educated Applicants for Admission to
Practice Law in California – Proposed Amendments and Request for
Adoption Following Public Comment***

EXECUTIVE SUMMARY

The Board of Governors previously approved proposed legislation that would have amended the statutory language relative to the qualification of foreign-educated applicants seeking admission to practice law in California. The proposed legislation remains pending. Inquiries are received daily from foreign-educated applicants seeking information about what is required of them if they wish to pursue admission in California. Currently there is nothing in the *Rules Regulating Admission to Practice Law in California (Rules)* that directly pertains to this category of applicants; there are, however, several policies that dictate how their applications will be processed. The Committee believes that it is important that these policies be incorporated into the *Rules* so the requirements are clearly understood. The proposed amendments include those provisions that were in the initial proposed legislative changes that do not conflict with the current language of the statute. In conformance with the State Bar's public comment procedures, the proposed amendments were circulated for a 90-day public comment period. Three comments were received. After review of the comments and consideration during its June 30, 2007 meeting, the Committee adopted the proposed amendments, subject to the approval to the Board of Governors.

SUBJECT/ISSUE

Whether the proposed amendments to Rule II of the *Rules Regulating Admission to Practice Law in California (Rules)* regarding the requirements for foreign-educated applicants to qualify for admission to practice law in California as proposed by the Committee of Bar Examiners should be approved.

BACKGROUND/SUMMARY OF PROPOSAL

Some time ago, the Committee of Bar Examiners (Committee) proposed and the Board of Governors approved proposed amendments to the Business and Professions Code that would have set forth the requirements for foreign-educated, not admitted, applicants. The proposed amendments were approved by the Board of Governors, but have not been included in any legislation.

Daily, inquiries are received from foreign-educated applicants seeking information about the requirements for admission and what they need to do to qualify to take the California Bar Examination and become eligible to practice law in California. A bulletin of information is provided to them, along with a form that they must file for a determination of their eligibility. The Committee believes that incorporating the current policies, as well as the provisions of the proposed legislation that are not contrary to current statutory requirements, into the *Rules Regulating Admission to Practice Law in California* will make it clear what those requirements are, and assist potential applicants in understanding the admission requirements so they don't need to call or write.

Attached are the proposed revisions to Rule II of the *Rules Regulating Admission to Practice Law in California* (Attachment A), which incorporate the requirements for foreign-educated applicants into that section of the *Rules* pertaining to "General Requirements." The Committee approved the proposed amendments in principle and sought the approval of the Board Committee on Regulation, Admissions and Discipline Oversight to circulate the proposed amendments for public comment.

After receiving approval to do so by the Board Committee on Regulation, Admissions and Discipline to do so, the proposed amendments were circulated for a 90-day public comment period. After review of the comments and consideration of the proposed amendments during its June 30, 2007 meeting, the Committee adopted the proposed amendments, subject to approval by the Board of Governors. Following approval by the Board of Governors, Guidelines will be drafted to specify what courses must be taken during the additional year of required law study. The new rule would become effective with the February 2008 California Bar Examination and the June 2008 First-Year Law Students' Examination.

REPORT OF PUBLIC COMMENT RECEIVED

Three comments were received and they are attached as Attachment B.

- Professor Claude Rowher was concerned that the additional year of legal education that must be completed by foreign-educated applicants was not more specific. (As part of the email, please see my response to his questions.)
- Dean George J. Gliudys Jr. suggests that the language mandating one more year of law study for foreign-educated law school graduates be reworded to permit study at registered (unaccredited and correspondence) law schools, in addition to the other means by which the requirement could be satisfied.
- Dean Barry Currier is concerned that foreign educated applicants will be treated more favorably than applicants receiving JD degrees relative to qualifying to take the California Bar Examination. He suggests that in order to qualify under the new rules that foreign-educated applicants must be required to complete all requirements up to taking the licensing examination, which would include internships, etc., in order to qualify to take the examination. He does not believe the one year of additional law study that is required should be limited to study only in ABA-approved and California-accredited law schools.

While the comments are appreciated, it is not recommended that the proposed amendments be modified to accommodate their concerns or requests. It is true that in some foreign countries the educational systems are quite different than in the United States. Often students will begin their law study as part of a college program, and typically there is not a high school, college, JD progression. It is also true, however, that in California, law students may receive JD degrees without having received a Bachelors degree, or in fact not had any college at all if they pass the required CLEP examinations. The more detailed scope of the required coursework will be handled through Committee policy, and it is recommended that an approved legal education program, such as mandated for and currently available at ABA approved and California-accredited law schools, be required.

EFFECTIVE DATE OF PROPOSAL

The proposed amendments, if approved by the Board of Governors, would become effective with administration of the February 2008 California Bar Examination and June 2008 First-Year Law Students' Examination.

FISCAL AND PERSONNEL IMPACT

None

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

The *Rules Regulating Admission to Practice Law in California* is an appendix to the Administrative Manual would have to be updated.

PROPOSED BOARD COMMITTEE RESOLUTION

If the Board Committee on Regulation, Admissions, and Discipline Oversight agrees with the Committee of Bar Examiners' recommendation to approve the proposed amendments, the following resolution would be appropriate:

RESOLVED, following publication for comment and consideration of comments received, and upon recommendation of the Committee of Bar Examiners, that the Board Committee on Regulation, Admissions and Discipline recommends that the Board of Governors of The State Bar of California approve the proposed amendments to Rule II, *Rules Regulating Admission to Practice Law in California* regarding the requirements for foreign-educated law students to qualify for admission to practice law in California, in the form attached, to be effective with administration of the February 2008 California Bar Examination and June 2008 First-Year Law Students' Examination.

PROPOSED BOARD RESOLUTION

Should the Board of Governors concur with the recommendation of the Board Committee on Regulation, Admissions and Discipline Oversight, adoption of the following resolution would be appropriate:

RESOLVED, following publication for comment and consideration of comments received, and upon recommendation of the Board Committee on Regulation, Admissions and Discipline, that the Board of Governors of The State Bar of California hereby approves the proposed amendments to Rule II, *Rules Regulating Admission to Practice Law in California* regarding the requirements for foreign-educated law students to qualify for admission to practice law in California,, in the in the form attached to these minutes and made a part hereof, to be effective with administration of the February 2008 California Bar Examination and June 2008 First-Year Law Students' Examination.