

Board Committee on Operations

Referral List
May 12, 2011

Category I - Change in Date Only

May # 1

Posting of Consumer Alert of Major Misappropriation Charges on Member's Profile Page and Section 6007(c) Petitions

This initiative was originally scheduled to return to RAD and the BOG in July. Staff would like it bring it back to RAD and to the full Board earlier than originally suggested by moving up to the May meeting.

Responsible Staff: Jim Towery

Recommendation: RAD – March/~~July~~ **May**

BOG – ~~July~~ **May**

May # 2

Administrative Changes to Admissions Rules

In 2007, the Admissions Rules were revised to conform to the new organizational structure of the Rules of the State Bar. Over time and through use of the new rules, there have been several rules that require revision to ensure clarity and other areas have been identified where additional language should be added to the rules to appropriately advise applicants what the process is. This was originally slated to come back to RAD and the Board in May, but due to a technical glitch the rules were not linked to the posted notice of public comment on the State Bar's Web page. After the problem was discovered, it was fixed and the date for receipt of public comment was extended to ensure adequate time for all those who wish to comment on the rules to do so. As a result, the proposed amendments will not be ready for review by RAD and the Board until their July meetings.

Responsible Staff: Gayle Murphy

Recommendation: RAD - Jan/~~May~~ **July**

BOG-~~May~~ **July**

May # 3

Los Angeles County Bar Association Fee Arbitration Rule Changes

This item was originally scheduled to come to the board early in 2011, but the Committee on Mandatory Fee Arbitration has some follow up issues with LACBA with regard to these rules. The Committee is working to get the issues resolved and is planning to bring these back to RAD in July.

Responsible Staff: Doug Hull

Recommendation: RAD - ~~May~~ **July**

BOG-N/A

May # 4

Chief Trial Counsel Performance Evaluation

This item explains the process and development of new forms to be used this year to evaluate the Chief Trial Counsel. It is currently on the inventory, but indicates a TBD date. It should go to RAD and the full BOG in May.

Responsible Staff: Bob Hawley

Recommendation: RAD – ~~TBD~~ **May**

BOG - ~~TBD~~ **May**

May # 5

Performance Evaluation of the Chief Trial Counsel

This is the actual performance evaluation of the Chief Trial Counsel. It is currently on the inventory, but indicates a TBD date. The evaluation should be scheduled for the July meeting.

Responsible Staff: Bob Hawley

Recommendation: RAD – ~~TBD~~ **July**

BOG – ~~TBD~~ **July**

May # 6

Fee Waivers Proposed Rule Change- Return from Public Comment

Due to administrative workload, staff requires additional time to write this item and requests to bring back to the MOC and the Board at its July meeting.

Responsible Staff: Dina DiLoreto

Recommendation: MOC - ~~May~~ **July**

BOG: ~~May~~ **July**

May # 7

Proposed Rule of Court 9.6 Amendments to Permit Expungement of Mandatory Continuing Legal Education (MCLE) Involuntary Inactive Enrollment in the Limited Circumstances Prescribed by the Rule: Request for Public Comment (Dina DiLoreto)

Due to administrative workload, staff requires additional time to write this item and requests to bring back to the MOC and the Board at its July meeting.

Responsible Staff: Mary Yen/ Dina DiLoreto

Recommendation: MOC - ~~May~~ **July**

BOG: ~~May~~ **July**

May # 8

State Bar Rules Title 6 Proposed Revisions to Conform to Bagley Keene - Release for Public Comment

This was initially intended to be approved to be distributed for public comment at the Stakeholders committee meeting in March, with a scheduled return to the Committee and Board in May. But more changes were requested before it was ready to be approved for distribution for comment.

Responsible Staff: Dina Goldman

Recommendation: Stakeholders - ~~March~~/~~May~~/**July**

BOG - ~~May~~ **July**

May # 9

Legal Services of Northern California (LSNC), Annual Appointment of Attorney Members to the Board of Directors

The annual appointments to LSNC were initially scheduled for March, but the LSNC board was unable to meet in time to make the agenda deadline. Therefore, the annual appointment will be considered at the May meeting.

Responsible Staff: Mary Lavery Flynn/ Chris Zupanovich

Recommendation: VIC – ~~March~~ **May**

BOG – ~~March~~ **May**

May # 10

California Indian Legal Services (CILS), Annual Appointment of Attorney Members to the Board of Directors

The annual appointments to this board were deferred from March meeting due to lack of qualified applicants. CILS is still recruiting and has requested that the appointments be considered at the July meeting.

Responsible Staff: Mary Lavery Flynn/ Chris Zupanovich

Recommendation: VIC—~~March~~ **July**

BOG—~~March~~ **July**

Category II – Possible Committee Reassignments

None

Category III – New Matters Requiring Assignment to Appropriate Board Committee

May # 11

Schedule of Charges and Deadlines re Law Corps Fees and LLP Fees

This item will add the fees, deadlines and penalties for Law Corporations and Limited Liability Partnerships to the State Bars Schedule of Charges and Deadlines.

Responsible Staff: Mary Yen/Dina DiLoreto

Recommendation: Planning- May

BOG - May

May # 12

Online Posting of Consumer Alert of Significant Loan Misconduct Charges on Member's Profile Page

To protect the public from further harm by lawyers facing discipline charges involving loan modification misconduct, OCTC proposes that a Consumer Alert and disclaimer be prominently posted on the member's profile page of the State Bar's website pending resolution of the charges. It is requested that this change in the Bar's website policy be released for a 45 day public comment period.

Responsible Staff: Jim Towery

Recommendation: RAD - May/July

BOG – July

May # 13

Santa Monica Bar Association Rules of Procedure for Fee Arbitrations

The Santa Monica Bar Association has submitted updates to their Rules of Procedure for Fee Arbitrations. These rule updates were reviewed by the Committee on Mandatory Fee Arbitrations and were found to be in compliance with the Minimum Standards and Guidelines. This item requests RAD to approve those rule changes.

Responsible Staff: Doug Hull

Recommendation: RAD- May

BOG – N/A

May # 14

Marin County Bar Association Rules of Procedure for Fee Arbitrations

The Marin County Bar Association has submitted updates to their Rules of Procedure for Fee Arbitrations. These rule updates track the State Bar’s Model Rules of Procedure for Fee Arbitrations. These rules were reviewed by the Committee on Mandatory Fee Arbitrations and were found to be in compliance with the Minimum Standards and Guidelines. This item requests RAD to approve those rule changes.

Responsible Staff: Doug Hull

Recommendation: RAD- May

BOG – N/A

May # 15

Reporting of New Discipline Cases Filed

The Office of Chief Trial Counsel has historically filed discipline cases against approximately 300 to 400 lawyers each year based on both the results of its investigations and the receipt of reportable actions. Apart from generic statistics, however, it is difficult to get a good sense of the nature of the discipline violations for which lawyers are being prosecuted or the timeframes in which these cases are concluded. This item requests that OCTC provide to RAD at each regular meeting a report that provides more specific information regarding the attorneys, violations charged, and key dates. This item also invites discussion on publicizing such reports to lawyers and the public.

Responsible Staff : Jim Towery/ Michael Tenenbaum

Recommendation: RAD – May/July

BOG – N/A

May # 16

Imposition of Monetary Sanctions on Disciplined Lawyers in Certain Cases

Section 6086.13 of the State Bar Act provides that any order of the Supreme Court imposing suspension or disbarment of a lawyer or accepting a resignation with charges pending may include the imposition of a monetary sanction not to exceed \$5,000 for each violation. (The sanctions must be deposited in the Client Security Fund.) The statute also provides that the State Bar “shall . . . adopt rules setting forth guidelines for the imposition and collection of monetary sanctions.” Currently, lawyers who are suspended for discipline violations — whether for 30 days or 3 years — do not pay any financial penalty beyond costs and restitution. This item recommends that the Bar

consider formulating guidelines for the imposition of monetary sanctions in appropriate cases.

Responsible Staff : Jim Towery/Starr Babcock/ Michael Tenenbaum

Recommendation: RAD – May/July **BOG – TBD**

May # 17

Assistance to OCTC with Reducing Notice Open Inventory

OCTC currently has over 900 cases in its “Notice Open” inventory. Even at the office’s current pace, this reflects a “backlog” allowing these lawyers to continue practicing without any public indication of pending charges. This item is a discussion of possible staffing options that might be considered, such as using volunteers to reduce the accumulated inventory as quickly as possible without compromising the integrity of its prosecutions.

Responsible Staff : Bob Hawley/ Michael Tenenbaum

Recommendation: RAD - May **BOG -TBD**

May # 18

Publication of Opinions of the State Bar Court (Review Department) on the State Bar Website

Since the creation of the State Bar Court, the California Supreme Court has issued a limited number of opinions in lawyer discipline cases. As a result, the most authoritative source of interpretation and application of the Rules of Professional Conduct has become the Review Department of the State Bar Court, which issues several opinions per year. This item proposes that future opinions of the State Bar Court Review Department (both published and “unpublished”) be permanently made available online.

Responsible Staff: Colin Wong/Michael Tenenbaum

Recommendation: RAD – May/July **BOG – NA**

May # 19

Revision of Pamphlet on Hiring a Lawyer to Include Recommendation re Malpractice Liability Insurance

The State Bar currently publishes, both in print and online, a guide entitled “[How Can I Find and Hire the Right Lawyer](#)” that recommends a variety of issues for clients to consider in hiring a lawyer. Absent from the guide is reference to malpractice liability insurance. This item proposes that the next revision of the pamphlet include an appropriate explanation of the significant malpractice-related issues (e.g., policy limits, claims- vs. occurrence-made) a client should consider discussing with his or her prospective lawyer.

Responsible Staff : Nancy McCarthy/ Michael Tenenbaum

Recommendation: MOC – May/July **BOG – NA**

May # 20

Auditing of MCLE Compliance

Lawyers are required to certify every three years that they have completed at least 25 hours of MCLE, including 4 hours in Ethics. The State Bar specifically advises lawyers that their certifications are subject to audit to assess compliance. Staff will report on the

auditing procedures and present draft reports that could be routinely provided to the Committee.

Responsible Staff: Dina DiLoreto/ Michael Tenenbaum

Recommendation: MOC – May/July

BOG – NA

May # 21

Provision of Core Curriculum of 25 Hours of Free Online MCLE in Ethics

Staff will report regarding the feasibility of providing 25 hours of free MCLE ethics courses, fiscal impact, and proposed timeline for implementation.

Responsible Staff: Peggy Van Horn/Michael Tenenbaum

Recommendation: MOC - May/July

BOG - July

May # 22

State Bar sponsored Group Long Term Disability Insurance Program -Proposed One Month Premium Holiday

The Committee on Group Insurance Programs (COGIP) recommends a one month Premium Holiday for the State Bar's sponsored group long term disability insurance program for all policy holders. Approval of the Premium Holiday will allow the program to pay one month premium for policy holders from the contingency reserve fund. The proposed one month Premium Holiday and will take place during policy year 2011.

Responsible Staff: Dina DiLoreto

Recommendation: MOC- July

BOG - July

May # 23

Proposed approval of Long Term Care Insurance Carrier

The Committee on Group Insurance Programs (COGIP) was notified of John Hancock and Met Life's decision to cease sales in California for the existing sponsored product. In order to continue to offer this product to the membership, the managing broker, Associated Insurance and Pension Services (AI&PS) was charged with searching the available market and identifying a replacement carrier that would be comparable in product description, pricing, and terms. Two carriers were identified as fulfilling the requirements set forth by the Committee, Mutual of Omaha and Mass Mutual. The State Bar's Committee on Group Insurance Programs recommends that the Board approve the endorsement of Mutual of Omaha and Mass Mutual for the member Long Term Care Insurance Program.

Responsible Staff: Dina DiLoreto

Recommendation: MOC - July

BOG - July