THE STATE BAR ACT

[PUBLISHERS NOTE: Unless otherwise indicated, statutes are effective on January 1 following enactment.]

CHAPTER 4. ATTORNEYS

ARTICLE 1
GENERAL PROVISIONS

§6000. Short Title

This chapter of the Business and Professions Code constitutes the chapter on attorneys. It may be cited as the State Bar Act. (Origin: State Bar Act, §1. Added by Stats. 1939, ch. 34.)

§6001. State Bar; Perpetual Succession; Seal; Revenue; Powers; Laws Applicable

The State Bar of California is a public corporation. It is hereinafter designated as the State Bar.

The State Bar has perpetual succession and a seal and it may sue and be sued. It may, for the purpose of carrying into effect and promoting its objectives:

(a) Make contracts.

(b) Borrow money, contract debts, issue bonds, notes and debentures and secure the payment or performance of its obligations.

(c) Own, hold, use, manage and deal in and with real and personal property.

(d) Construct, alter, maintain and repair buildings and other improvements to real property.

(e) Purchase, lease, obtain options upon, acquire by gift, bequest, devise or otherwise, any real or personal property or any interest therein.

(f) Sell, lease, exchange, convey, transfer, assign, encumber, pledge, dispose of any of its real or personal property or any interest therein, including without limitation all or any portion of its income or revenues from membership fees paid or payable by members.

(g) Do all other acts incidental to the foregoing or necessary or expedient for the administration of its affairs and the attainment of its purposes.

Pursuant to those powers enumerated in subdivisions (a) to (g), inclusive, it is recognized that the State Bar has authority to raise revenue in addition to that provided for in Section 6140 and other statutory provisions. The State Bar is empowered to raise that additional revenue by any lawful means, including, but not limited to, the creation of foundations or not-for-profit corporations.

The State Bar shall conspicuously publicize to its members in the annual dues statement and other appropriate communications, including its Web site and electronic communications, that its members have the right to limit the sale or disclosure of member information not reasonably related to regulatory purposes. In those communications the State Bar shall note the location of the State Bar's privacy policy, and shall also note the simple procedure by which a member may exercise his or her right to prohibit or restrict, at the member' s option, the sale or disclosure of member information not reasonably related to regulatory purposes. On or before May 1, 2005, the State Bar shall report to the Assembly and Senate Committees on Judiciary regarding the procedures that it has in place to ensure that members can appropriately limit the use of their member information not reasonably related to regulatory purposes, and the number of members choosing to utilize these procedures.

No law of this state restricting, or prescribing a mode of procedure for the exercise of powers of state public bodies or state agencies, or classes thereof, including, but not by way of limitation, the provisions contained in Division 3 (commencing with Section 11000), Division 4 (commencing with Section 16100), and Part 1 (commencing with Section 18000) and Part 2 (commencing with Section 18500) of Division 5, of Title 2 of the Government Code, shall be applicable to the State Bar, unless the Legislature expressly so declares. (Origin: State Bar Act, §2. Added by Stats. 1939, ch. 34. Amended by Stats. 1957, ch. 1526; Stats. 1978, ch. 380; Stats. 1988, ch. 1149; Stats. 2004, ch. 356.)

§6002. Members

The members of the State Bar are all persons admitted and licensed to practice law in this State except justices and judges of courts of record during their continuance in office. (Origin: State Bar Act, §§3, 7. Added by Stats. 1939, ch. 34.)

§6002.1 Official Membership Records

(a) A member of the State Bar shall maintain all of the following on the official membership records of the State Bar:

(1) The member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline.

(2) All specialties in which the member is certified.

(3) Any other jurisdictions in which the member is admitted and the dates of his or her admission.

(4) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction.

(5) Any other information as may be required by agreement with or by conditions of probation imposed by the agency charged with attorney discipline.

A member shall notify the membership records office of the State Bar of any change in the information required by paragraphs (1), (4), and (5) within 30 days of any change and of the change in the information required by paragraphs (2) and (3) on or before the first day of February of each year.

(b) Every former member of the State Bar who has been ordered by the Supreme Court to comply with Rule 9.20 of the California Rules of Court shall maintain on the official membership records of the State Bar the former member's current address and within 10 days after any change therein, shall file a change of address with a membership records office of the State Bar until such time as the former member is no longer subject to the order.

(c) The notice initiating a proceeding conducted under this chapter may be served upon the member or former member of the State Bar to whom it is directed by certified mail, return receipt requested, addressed to the member or former member at the latest address shown on the official membership records of the State Bar. The service is complete at the time of the mailing but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. A member of the State Bar or former member may waive the requirements of this subdivision and may, with the written consent of another member of the State Bar, designate that other member to receive service of any notice or papers in any proceeding conducted under this chapter.

(d) The State Bar shall not make available to the general public the information specified in paragraph (5) of subdivision (a) unless that information is required to be made available by a condition of probation. That information is, however, available to the State Bar, the Supreme Court, or the agency charged with attorney discipline.

(e) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation. (Added by Stats. 1985, ch. 453. Amended by Stats. 1986, ch. 475; Stats. 2007, ch. 474.)

§6003. Classes of Members

Members of the State Bar are divided into two classes:

(a) Active members.

(b) Inactive members.

(Origin: State Bar Act, §4. Added by Stats. 1939, ch. 34.)

§6004. Active Members

Every member of the State Bar is an active member until as in section 6007 of this code provided or at his request, he is enrolled as an inactive member. (Origin: State Bar Act, §§5, 6. Added by Stats. 1939, ch. 34. Amended by Stats. 1957, ch. 737; Stats. 1977, ch. 58.)

§6005. Inactive Members

Inactive members are those members who have requested that they be enrolled as inactive members or who have been enrolled as inactive members by action of the board of governors as in section 6007 of this code provided. (Origin: State Bar Act, §5. Added by Stats. 1939, ch. 34. Amended by Stats. 1957, ch. 737.)

§6006. Retirement from Practice; Privileges of Inactive Members

Active members who retire from practice shall be enrolled as inactive members at their request.

Inactive members are not entitled to hold office or vote or practice law. Those who are enrolled as inactive members at their request may, on application and payment of all fees required, become active members. Those who are or have been enrolled as inactive members at their request are members of the State Bar for purposes of Section 15 of Article VI of the California Constitution. Those who are

enrolled as inactive members pursuant to section 6007 may become active members as provided in that section. Inactive members have such other privileges, not inconsistent with this chapter, as the board of governors provides. (Origin: State Bar Act, 8. Added by Stats. 1939, ch. 34. Amended by Stats. 1957, ch. 737; Stats. 1977, ch. 58; Stats. 1989, ch. 1425.)

§6007. Involuntary Enrollment as an Inactive Member

(a) When a member requires involuntary treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of Division 5 of, or Part 2 (commencing with Section 6250) of Division 6 of the Welfare and Institutions Code, or when under an order pursuant to Section 3051, 3106.5 or 3152 of the Welfare and Institutions Code he or she has been placed in or returned to inpatient status at the California Rehabilitation Center or its branches, or when he or she has been determined insane or mentally incompetent and is confined for treatment or placed on outpatient status pursuant to the Penal Code, or on account of his or her mental condition a guardian or conservator, for his or her estate or person or both, has been appointed, the Board of Governors or an officer of the State Bar shall enroll the member as an inactive member. The clerk of any court making an order containing any of the determinations or adjudications referred to in the immediately preceding paragraph shall send a certified copy of that order to the State Bar at the same time that the order is entered. The clerk of any court with which is filed a notice of certification for intensive treatment pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Division 5 of the Welfare and Institutions Code, upon receipt of the notice, shall transmit a certified copy of it to the State Bar. The State Bar may procure a certified copy of any determination, order, adjudication, appointment, or notice when the clerk concerned has failed to transmit one or when the proceeding was had in a court other than a court of this state. In the case of an enrollment pursuant to this subdivision, the State Bar shall terminate the enrollment when the member has had the fact of his or her restoration to capacity judicially determined, upon the member's release from inpatient status at the California Rehabilitation Center or its branches pursuant to Section 3053, 3109, or 3151 of the Welfare and Institutions Code, or upon the member's unconditional release from the medical facility pursuant to Section 5304 or 5305 of the Welfare and Institutions Code; and on payment of all fees required. When a member is placed in, returned to, or released from inpatient status at the California Rehabilitation Center or its branches, or discharged from the narcotics treatment program, the Director of Corrections or his or her designee shall transmit to the State Bar a certified notice attesting to that fact.

(b) The board shall also enroll a member of the State Bar as an inactive member in each of the following cases:

(1) A member asserts a claim of insanity or mental incompetence in any pending action or proceeding, alleging his or her inability to understand the nature of the action or proceeding or inability to assist counsel in representation of the member.

(2) The court makes an order assuming jurisdiction over the member's law practice, pursuant to Section 6180.5 or 6190.3.

(3) After notice and opportunity to be heard before the board or a committee, the board finds that the member, because of mental infirmity or illness, or because of the habitual use of intoxicants or drugs, is (i) unable or habitually fails to perform his or her duties or undertakings competently, or (ii) unable to practice law without substantial threat of harm to the interests of his or her clients or the public. No proceeding pursuant to this paragraph shall be instituted unless the board or a committee finds, after preliminary investigation, or during the course of a disciplinary proceeding, that probable cause exists therefor. The determination of probable cause is administrative in character and no notice or hearing is required. In the case of an enrollment pursuant to this subdivision, the board shall terminate the enrollment upon proof that the facts found as to the member's disability no longer exist and on payment of all fees required.

(c) (1) The board may order the involuntary inactive enrollment of an attorney upon a finding that the attorney's conduct poses a substantial threat of harm to the interests of the attorney's clients or to the public or upon a finding based on all the available evidence, including affidavits, that the attorney has not complied with Section 6002.1 and cannot be located after reasonable investigation.

(2) In order to find that the attorney's conduct poses a substantial threat of harm to the interests of the attorney's clients or the public pursuant to this subdivision, each of the following factors shall be found, based on all the available evidence, including affidavits:

(A) The attorney has caused or is causing substantial harm to the attorney's clients or the public.

(B) The attorney's clients or the public are likely to suffer greater injury from the denial of the involuntary inactive enrollment than the attorney is likely to suffer if it is granted, or there is a reasonable likelihood that the harm will reoccur or continue. Where the evidence establishes a pattern of behavior, including acts likely to cause

substantial harm, the burden of proof shall shift to the attorney to show that there is no reasonable likelihood that the harm will reoccur or continue.

(C) There is a reasonable probability that the State Bar will prevail on the merits of the underlying disciplinary matter.

(3) In the case of an enrollment under this subdivision, the underlying matter shall proceed on an expedited basis.

(4) The board shall order the involuntary inactive enrollment of an attorney upon the filing of a recommendation of disbarment after hearing or default. For purposes of this section, that attorney shall be placed on involuntary inactive enrollment regardless of the membership status of the attorney at the time.

(5) The board shall formulate and adopt rules of procedure to implement this subdivision. In the case of an enrollment pursuant to this subdivision, the board shall terminate the involuntary inactive enrollment upon proof that the attorney's conduct no longer poses a substantial threat of harm to the interests of the attorney's clients or the public or where an attorney who could not be located proves compliance with Section 6002.1.

(d) (1) The board may order the involuntary inactive enrollment of an attorney for violation of probation upon the occurrence of all of the following:

(A) The attorney is under a suspension order any portion of which has been stayed during a period of probation.

(B) The board finds that probation has been violated.

(C) The board recommends to the court that the attorney receive an actual suspension on account of the probation violation or other disciplinary matter.

(2) The board shall terminate an enrollment under this subdivision upon expiration of a period equal to the period of stayed suspension in the probation matter, or until the court makes an order regarding the recommended actual suspension in the probation matter, whichever occurs first.

(3) If the court orders a period of actual suspension in the probation matter, any period of involuntary inactive enrollment pursuant to this subdivision shall be credited against the period of actual suspension ordered.

(e) (1) The board shall order the involuntary, inactive enrollment of a member whose default has been entered pursuant to the State Bar Rules of Procedure if both of the following conditions are met:

(A) The notice was duly served pursuant to subdivision (c) of Section 6002.1.

(B) The notice contained the following language at or near the beginning of the notice, in capital letters:

IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL, (1) YOUR DEFAULT SHALL BE ENTERED, (2) YOU SHALL BE ENROLLED AS AN INVOLUNTARY INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNLESS THE DEFAULT IS SET ASIDE ON MOTION TIMELY MADE UNDER THE RULES OF PROCEDURE OF THE STATE BAR, (3) YOU SHALL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOUR DEFAULT IS SET ASIDE, AND (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.

(2) The board shall terminate the involuntary inactive enrollment of a member under this subdivision when the member's default is set aside on motion timely made under the State Bar Rules of Procedure or the disciplinary proceedings are completed.

(3) The enrollment under this subdivision is administrative in character and no hearing is required.

(4) Upon the involuntary inactive enrollment of a member under this subdivision, the notice required by subdivision (b) of Section 6092.5 shall be promptly given.

(5) The board may delegate its authority under this subdivision to the presiding referee or presiding judge of the State Bar Court or his or her designee.

(f) The pendency or determination of a proceeding or investigation provided for by this section shall not abate or terminate a disciplinary investigation or proceeding except as required by the facts and law in a particular case.

(g) No membership fees shall accrue against the member during the period he or she is enrolled as an inactive member pursuant to this section.

(h) The board may order a full range of interim remedies or final discipline short of involuntary inactive enrollment, including, but not limited to, conditions of probation following final discipline, or directly ordered interim remedies, to restrict or supervise an attorney's practice of law, as well as proceedings under subdivision (a), (b), (c), or (d), or under Section 6102 or 6190. They may include restrictions as to scope of practice, monetary accounting procedures, review of performance by probation or other monitors appointed by the board, or such other measures as may be determined, after hearing, to protect present and future clients from likely substantial harm. These restrictions may be imposed upon a showing as provided in subdivision (c), except that where license restriction is proposed, the showing required of the State Bar under the factors described in subparagraph (B) of paragraph (2) of subdivision (c) need not be made. (Added by Stats. 1968, ch. 1374, operative July 1, 1969. Amended by Stats. 1969, ch. 351; Stats. 1972, ch. 489; Stats. 1975, ch. 86, effective May 17, 1975; Stats. 1977, ch. 58; Stats. 1983, ch. 254; Stats. 1985, ch. 453; Stats. 1986, ch. 1114; Stats 1988, ch. 1159; Stats. 1996, ch. 1104.)

§6008. Property; Exemption from Taxation

All property of the State Bar is hereby declared to be held for essential public and governmental purposes in the judicial branch of the government and such property is exempt from all taxes of the State or any city, city and county, district, public corporation, or other political subdivision, public body or public agency. (Added by Stats. 1957, ch. 1526.)

§6008.1 Bonds, Notes, etc.; Liability; Approval

No bond, note, debenture, evidence of indebtedness, mortgage, deed of trust, assignment, pledge, contract, lease, agreement or other contractual obligation of the State Bar shall:

(a) Create a debt or other liability of the State nor of any entity other than the State Bar (or any successor public corporation).

(b) Create any personal liability on the part of the members of the State Bar or the members of the board of governors or any person executing the same, by reason of the issuance or execution thereof.

(c) Be required to be approved or authorized under the provisions of any other law or regulation of this State. (Added by Stats. 1957, ch. 1526.)

§6008.2 Bonds, Notes, etc.; Exemption from Taxation

Bonds, notes, debentures and other evidences of indebtedness of the State Bar are hereby declared to be issued for essential public and governmental purposes in the judicial branch of the government and, together with interest thereon and income therefrom, shall be exempt from taxes. (Added by Stats. 1957, ch. 1526.)

§6008.3 Default Upon Obligations; Rights and Remedies

The State Bar may vest in any obligee or trustee the right, in the event of default upon any obligation of the State Bar, to take possession of property of the State Bar, cause the appointment of a receiver for such property, acquire title thereto through foreclosure proceedings, and exercise such other rights and remedies as may be mutually agreed upon between the State Bar and the holder or proposed holder of any such obligation. (Added by Stats. 1957, ch. 1526.)

§6008.4 Exercise of Powers by Board of Governors

All powers granted to the State Bar by sections 6001 and 6008.3 may be exercised and carried out by action of its board of governors. In any resolution, indenture, contract, agreement, or other instrument providing for, creating, or otherwise relating to, any obligation of the State Bar, the board may make, fix, and provide such terms, conditions, covenants, restrictions, and other provisions as the board deems necessary or desirable to facilitate the creation, issuance, or sale of such obligation or to provide for the payment or security of such obligation and any interest thereon, including, but not limited to, covenants and agreements relating to fixing and maintaining membership fees. (Added by Stats. 1957, ch. 1526.)

§6008.5 Pledge of Membership Fees; Prohibition Against Reduction of Maximum Fee

Whenever the board has pledged, placed a charge upon, or otherwise made available all or any portion of the income or revenue from membership fees for the payment or security of an obligation of the State Bar or any interest thereon, and so long as any such obligation or any interest thereon remains unpaid, the Legislature shall not reduce the maximum membership fee below the maximum in effect at the time such obligation is created or incurred, and the provisions of this section shall constitute a covenant to the holder or holders of any such obligation. (Added by Stats. 1957, ch. 1526.)

§6008.6 Award of Contracts—Limits, Request for Proposal Procedure

The State Bar shall award no contract for goods, services, or both , for an aggregate amount in excess of fifty thousand dollars ($50,000), except pursuant to the standards established in Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code. The State Bar shall establish a request for proposal procedure by rule, pursuant to the general standards established in Article 4 (commencing with Sections 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code. (Added by Stats. 1999, ch. 342.)

§6009. City or County Registration of Attorneys Who Qualify as Lobbyists; Lobbyist Information That May be Required to be Disclosed

(a) Notwithstanding any other provision of law, a city, county, or city and county may require attorneys who qualify as lobbyists, as defined by the local jurisdiction, to register and disclose their lobbying activities directed toward the local agencies of those jurisdictions, in the same manner and to the same extent such registration and disclosure is required of nonattorney lobbyists. Any prohibitions against specified activities by lobbyists enacted by a city, county, or city and county shall also apply to attorneys who qualify as lobbyists.

(b) For purposes of this section, information about a lobbyist that may be required to be disclosed is:

(1) The name, business address, and telephone number of the lobbyist, of any lobbying firm of which the lobbyist is a partner, owner, officer, or employee; and of any persons or lobbying firms paid to lobby by the lobbyist.

(2) The name, business address, and business telephone number of each client who pays the lobbyist to lobby; the specific matter and agency lobbied, itemized by client; and the amount of money paid to the lobbyist for lobbying and the total expenses of the lobbyist for lobbying, itemized by client.

(3) All gifts or payments made by the lobbyist to officials in the jurisdiction, itemized by the name of the official, the amount, date, and description of the gift or payment, and the names of the person making the gift or payment and the person receiving the gift or payment.

(4) All campaign contributions made, arranged, or delivered by the lobbyist to officials in the jurisdiction, specified by amount, date, and name of the official receiving the contribution. (Added Stats. 1994, ch. 526.)

§6009.3 Attorney to Inform Client in Writing Concerning Voluntary Contributions

The Legislature finds and declares that it is important to inform taxpayers that they may make voluntary contributions to certain funds or programs, as provided on the state income tax return. The Legislature further finds and declares that many taxpayers remain unaware of the voluntary contribution check-offs on the state income tax return. Therefore, it is the intent of the Legislature to encourage all persons who prepare state income tax returns, including attorneys, to inform their clients in writing, prior to the completion of any state income tax return, that they may make a contribution to any voluntary contribution check-off on the state income tax return if they so choose. (Added by Stats. 1997, ch. 337. Amended by Stats. 1998, ch. 485.)

§6009.5 Collection and Reporting of Demographic Data – Procedures and Limitations

The State Bar shall adopt procedures to facilitate reporting of mandatory and voluntary information by providing members with a centralized mechanism for reporting information online at the State Bar Internet Web site, including, but not limited to, data required to be provided pursuant to the State Bar Act, or by other statutes, rules, and case law, and demographic information. Any demographic data collected shall be used only for general purposes and shall not be identified to any individual member or his or her State Bar record. (Added by Stats. 2006, ch. 390.)

ARTICLE 2
ADMINISTRATION

§6010. Board of Governors in General

The State Bar is governed by a board known as the board of governors of the State Bar. The board has the powers and duties conferred by this chapter. (Origin: State Bar Act, §20.)

§6011. Number of Members

The board consists of 22 members and the President of the State Bar. (Amended by Stats. 1975, ch. 874; Stats 1978, ch. 995; Stats. 1985, ch. 465.)

§6012.5 Adjustment of Counties Included in State Bar Districts

Notwithstanding any other provision of law, beginning July 1, 1990, and every 10 years thereafter, the board shall adjust the counties included in the State Bar Districts as they existed on June 30, 1990, and shall provide for the election of attorney members of the board from those districts. The primary consideration to be employed when adjusting the counties included in the State Bar Districts shall be the development of an equitable distribution of attorney members to governors in each district, except for the district containing rural counties such as those contained in State Bar District No. 1 as it existed on June 30, 1990. (Added by Stats. 1989, ch. 1223.)

§6013.1 Membership from Bar Districts and Young Lawyers Association; Operative Date of Section

The attorney membership of the board is composed of:

(a) Fifteen members to be elected from the State Bar Districts created by the board pursuant to Section 6012.5.

(b) One member from the membership of the California Young Lawyers Association appointed pursuant to Section 6013.4.

This section shall become operative on July 1, 1990. (Added by Stats. 1989, ch. 1223., operative July 1, 1990.)

§6013.4 Members from Young Lawyers Association; Term; Vacancy

Notwithstanding any other provision of law, one member of the board shall be elected by the board of directors of the California Young Lawyers Association, from the membership of that association.

Such member shall serve for a term of one year, commencing at the conclusion of the annual meeting next succeeding the election and is eligible for reelection. A vacancy shall be filled by election in the manner provided herein for the unexpired term. (Added by Stats. 1978, ch. 995.)

§6013.5 Public Members; Appointment; Qualifications; Term

Notwithstanding any other provision of law, six members of the board shall be members of the public who have never been members of the State Bar or admitted to practice before any court in the United States. They shall be appointed through 1982 by the Governor, subject to the confirmation of the Senate.

Each of such members shall serve for a term of three years, commencing at the conclusion of the annual meeting next succeeding his appointment, except that for the initial term after enactment of this section, two shall serve for one year, two for two years, and the other two for three years, as determined by lot.

In 1983 one public member shall be appointed by the Senate Committee on Rules and one public member shall be appointed by the Speaker of the Assembly.

For each of the years, 1984 and 1985, two public members shall be appointed by the Governor, subject to the confirmation of the Senate.

Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office. (Added by Stats. 1975, ch. 874. Amended by Stats. 1979, ch. 1041; Stats. 1984, ch. 16.)

§6013.6 Employment by Public Agencies; Reduced Compensation; Job-Related Benefits

(a) Except as provided in subdivision (b), any full-time employee of any public agency who serves as a member of the Board of Governors of [the] State Bar of California shall not suffer any loss of rights, promotions, salary increases, retirement benefits, tenure, or other job-related benefits, which he or she would otherwise have been entitled to receive.

(b) Notwithstanding the provisions of subdivision (a), any public agency which employs a person who serves as a member of the Board of Governors of the State Bar of California may reduce the employee's salary, but no other right or job-related benefit, pro rata to the extent that the employee does not work the number of hours required by statute or written regulation to be worked by other employees of the same grade in any particular pay period and the employee does not claim available leave time. The employee shall be afforded the opportunity to perform job duties during other than regular working hours if such a work arrangement is practical and would not be a burden to the public agency.

(c) The Legislature finds that service as a member of the Board of Governors of the State Bar of California by a person employed by a public agency is in the public interest. (Added by Stats. 1990, ch. 473, effective August 8, 1990.)

§6014. Election of Members; Successive Terms

Five of the attorney members of the board are elected each year for terms of three years each.

No person shall be nominated for, or eligible to, membership on the board who has served as a member for three years next preceding the expiration of his current term, or would have so served if his current term were completed.

Within the meaning of this section, the time intervening between any two successive annual meetings is deemed to be one year. (Amended by Stats. 1975, ch. 874.)

§6015. Qualifications of Members

No person is eligible for attorney membership on the board unless he or she is an active member of the State Bar and unless he or she maintains his or her principal office for the practice of law within the State Bar district from which he or she is elected. (Amended by Stats. 1975, ch. 874; Stats. 1985, ch. 465; Stats. 1989, ch. 1223.)

§6016. Tenure of Members; Vacancies; Interim Board

The term of office of each attorney member of the board shall commence at the conclusion of the annual meeting next succeeding his or her election, and he or she shall hold office until his or her successor is elected and qualified.

Vacancies in the board of governors shall be filled by the board by special election or by appointment for the unexpired term. The board of governors may provide by rule for an interim board to act in the place and stead of the board when because of vacancies during terms of office there is less than a quorum of the board. (Added by Stats. 1939, ch. 34. Amended by Stats. 1968, ch. 545; Stats. 1975, ch. 874; Stats. 2002, ch. 415, effective September 9, 2002.)

§6017. Terms of Members from Respective State Bar Districts

Members of the board shall be elected for terms of three years as follows:

(a) In 1939, one member each shall be elected from State Bar Districts 4, 6 and 8 and two members from State Bar District 7.

(b) In 1940, one member each shall be elected from State Bar Districts 1, 3, 5, 7 and 9.

(c) In 1941, one member each shall be elected from State Bar Districts 2, 3 and 4 and two members shall be elected from State Bar District 7.

Thereafter, five members of the board shall be elected each year, each for three year terms, from the State Bar Districts in which vacancies will occur in that year by reason of the expiration of the term of office of a member theretofore elected thereto. (Origin: State Bar Act, §14.)

§6018. Nominations; Qualifications to Vote

Nominations of members of the board shall be by petition signed by at least twenty persons entitled to vote for such nominees.

Only active members of the State Bar maintaining their principal offices for the practice of the law in the respective State Bar districts shall be entitled to vote for the member or members of the board therefrom. (Origin: State Bar Act, §15.)

§6019. Elections

Each place upon the board for which a member is to be elected shall for the purposes of the election be deemed a separate office.

If only one member seeks election to an office, the member is deemed elected. If two or more members seek election to the same office, the election shall be by ballot. The ballots shall be distributed to those entitled to vote at least twenty days prior to the date of canvassing the ballots and shall be returned to a site or sites designated by the State Bar, where they shall be canvassed at least five days prior to the ensuing annual meeting. At the annual meeting, the count shall be certified and the result officially declared.

In all other respects the elections shall be as the board may by rule direct. (Origin: State Bar Act, §15. Added by Stats. 1939, ch. 34. Amended by Stats. 1981, ch. 836; Stats. 2002, ch. 415, effective September 9, 2002.)

§6020. Officers in General

The officers of the State Bar are a president, four vice presidents, a secretary and a treasurer. One of the vice presidents may also be elected to the office of treasurer. (Origin: State Bar Act, §10. Amended by Stats. 1957, ch. 551.)

§6021. Election; Time; Assumption of Duties

Within the period of 270 days next preceding the annual meeting, the board, at a meeting called for that purpose,

shall elect the president, vice presidents and treasurer for the ensuing year. The president shall be elected from among those members of the board whose terms on the board expire that year, or if no such member is able and willing to serve, then from among the board members who have completed at least one or more years of their terms.

The other officers shall be elected from among the board members who have at least one or more years to complete their respective terms.

The newly elected president, vice presidents and treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting following their election. (Origin: State Bar Act, §11. Added by Stats. 1939, ch. 34. Amended by Stats. 1943, ch. 278; Stats. 1957, ch. 551; Stats. 1970, ch. 510; Stats. 1973, ch. 17; Stats. 1985, ch. 465; Stats. 2002, ch. 415, effective September 9, 2002.)

§6022. Secretary

The secretary shall be selected annually by the board and need not be a member of the State Bar. (Origin: State Bar Act, §18. Amended by Stats. 1970, ch. 510.)

§6023. Continuance in Office

The officers of the State Bar shall continue in office until their successors are elected and qualify. (Origin: State Bar Act, §19.)

§6024. Duties of Officers

The president shall preside at all meetings of the State Bar and of the board, and in the event of his or her absence or inability to act, one of the vice-presidents shall preside.

Other duties of the president and the vice-presidents, and the duties of the secretary and the treasurer, shall be such as the board may prescribe. The president may vote only in the case of a tie vote of the other members of the board present and voting. (Origin: State Bar Act, §17. Amended by Stats. 1985, ch. 465.)

§6025. Rules and Regulations; Meetings and Quorum

Subject to the laws of this State, the board may formulate and declare rules and regulations necessary or expedient for the carrying out of this chapter.

The board shall by rule fix the time and place of the annual meeting of the State Bar, the manner of calling special meetings thereof and determine what number shall constitute a quorum of the State Bar. (Origin: State Bar Act, §27.)

§6026. Reports; Matters Considered at Annual Meeting

At the annual meeting, reports of the proceedings by the board since the last annual meeting, reports of other officers and committees and recommendations of the board shall be received.

Matters of interest pertaining to the State Bar and the administration of justice may be considered and acted upon. (Origin: State Bar Act, §40.)

§6026.5 Open/Closed Meetings of the Board

Every meeting of the board shall be open to the public except those meetings, or portions thereof, relating to:

(a) Consultation with counsel concerning pending or prospective litigation.

(b) Involuntary enrollment of active members as inactive members due to mental infirmity or illness or addiction to intoxicants or drugs.

(c) The qualifications of judicial appointees, nominees, or candidates.

(d) The appointment, employment or dismissal of an employee, consultant, or officer of the State Bar or to hear complaints or charges brought against such employee, consultant, or officer unless such person requests a public hearing.

(e) Disciplinary investigations and proceedings, including resignations with disciplinary investigations or proceedings pending, and reinstatement proceedings.

(f) Appeals to the board from decisions of the Board of Legal Specialization refusing to certify or recertify an applicant or suspending or revoking a specialist's certificate.

(g) Appointments to or removals from committees, boards, or other entities.

(h) Joint meetings with agencies provided in Article VI of the California Constitution. (Added by Stats. 1975, ch. 874.)

§6027. Special Meetings

Special meetings of the State Bar may be held at such times and places as the board provides. (Origin: State Bar Act, §41.)

§6028. Payment of Expenses; Compensation

(a) The board may make appropriations and disbursements from the funds of the State Bar to pay all necessary expenses for effectuating the purposes of this chapter.

(b) Except as provided in subdivision (c), no member of the board shall receive any other compensation than his or her necessary expenses connected with the performance of his or her duties as a member of the board.

(c) Public members of the board appointed pursuant to the provisions of Section 6013.5, and public members of the examining committee appointed pursuant to Section 6046.5 shall receive, out of funds appropriated by the board for this purpose, fifty dollars ($50) per day for each day actually spent in the discharge of official duties, but in no event shall this payment exceed five hundred dollars ($500) per month. In addition, these public members shall receive, out of funds appropriated by the board, necessary expenses connected with the performance of their duties. (Origin: State Bar Act, §28. Amended by Stats. 1977, ch. 304, effective July 8, 1977; Stats. 1982, ch. 327, effective June 30, 1982; Stats. 1985, ch. 453; Stats. 2004, ch. 529.)

§6029. Appointment of Committees, Officers and Employees; Salaries and Expenses

The board may appoint such committees, officers and employees as it deems necessary or proper, and fix and pay salaries and necessary expenses. (Origin: State Bar Act, §22.)

§6030. Executive Functions; Enforcement of Chapter; Injunction

The board shall be charged with the executive function of the State Bar and the enforcement of the provisions of this chapter. The violation or threatened violation of any provision of Articles 7 (commencing with section 6125) and 9 (commencing with section 6150) of this chapter may be enjoined in a civil action brought in the superior court by the State Bar and no undertaking shall be required of the State Bar. (Origin: State Bar Act, §21. Amended by Stats. 1961, ch. 2033.)

§6031. Functions in Aid of Jurisprudence, Justice; Evaluation of Justices

(a) The board may aid in all matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice, including, but not by way of limitation, all matters that may advance the professional interests of the members of the State Bar and such matters as concern the relations of the bar with the public.

(b) Notwithstanding this section or any other provision of law, the board shall not conduct or participate in, or authorize any committee, agency, employee, or commission of the State Bar to conduct or participate in any evaluation, review, or report on the qualifications, integrity, diligence, or judicial ability of any specific justice of a court provided for in Section 2 or 3 of Article VI of the California Constitution without prior review and statutory authorization by the Legislature.

The provisions of this subdivision shall not be construed to prohibit a member of the State Bar from conducting or participating in such an evaluation, review, or report in his or her individual capacity.

The provisions of this subdivision shall not be construed to prohibit an evaluation of potential judicial appointees or nominees as authorized by Section 12011.5 of the Government Code. (Origin: State Bar Act, §23. Amended by Stats. 1945, ch. 177; Stats. 1984, ch. 16.)

§6031.5 Conference of Delegates, State Bar Sections—Restriction on Funding, Voluntary Fees

(a) State Bar sections, as established under and pursuant to Article 13 of the Rules and Regulations of the State Bar, and their activities shall not be funded with mandatory fees collected pursuant to subdivision (a) of Section 6140.

The State Bar may provide an individual section, or two or more sections collectively, with administrative and support services, provided the State Bar shall be reimbursed for the full cost of those services out of funds collected pursuant to subdivision (b), funds raised by or through the activities of the sections, or other funds collected from voluntary sources. The financial audit specified in Section 6145 shall confirm that the amount assessed by the State Bar for providing the services reimburses the costs of providing them, and shall verify that mandatory dues are not used to fund the sections.

(b) Notwithstanding the other provisions of this section, the State Bar is expressly authorized to collect voluntary fees to fund the State Bar sections on behalf of those organizations in conjunction with the State Bar's collection of its annual membership dues. Funds collected pursuant to this subdivision, and other funds raised by or through the activities of the sections, or collected from voluntary sources, for their support or operation, shall not be subject to the expenditure limitations of subdivision (b) of Section 6140.05.

(c) Notwithstanding any other provision of law, the State Bar is expressly authorized to collect, in conjunction with the State Bar's collection of its annual membership dues, voluntary fees or donations on behalf of the Conference of

Delegates of California Bar Associations, the independent nonprofit successor entity to the former Conference of Delegates of the State Bar which has been incorporated for the purposes of aiding in matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice, and to convey any unexpended voluntary fees or donations previously made to the Conference of Delegates of the State Bar pursuant to this section to the Conference of Delegates of California Bar Associations. The Conference of Delegates of California Bar Associations shall pay for the cost of the collection. The State Bar and the Conference of Delegates of California Bar Associations may also contract for other services. The financial audit specified in Section 6145 shall confirm that the amount of any contract shall fully cover the costs of providing the services, and shall verify that mandatory dues are not used to fund any successor entity.

(d) The Conference of Delegates of California Bar Associations, which is the independent nonprofit successor entity to the former Conference of Delegates of the State Bar as referenced in subdivision (c), is a voluntary association, is not a part of the State Bar of California, and shall not be funded in any way through mandatory dues collected by the State Bar of California. Any contribution or membership option included with a State Bar of California mandatory dues billing statement shall include a statement that the Conference of Delegates of California Bar Associations is not a part of the State Bar of California and that membership in that organization is voluntary. (Added by Stats. 1999, ch. 342. Amended by Stats. 2002, ch. 415, effective September 9, 2002; Stats. 2003, ch. 334.)

§6032. California Supreme Court Historical Society; funding; fees

Notwithstanding any other provision of law, the State Bar is expressly authorized to collect, in conjunction with the State Bar' s collection of its annual membership dues, voluntary fees on behalf of and for the purpose of funding the California Supreme Court Historical Society, which advances the science of jurisprudence by preserving and disseminating to the general public the history of the Supreme Court and the Judicial Branch. (Added by Stats. 2002, ch.415, effective September 9, 2002.)

§6033. Nonprofit Organizations Providing Free Legal Services–Collection of Voluntary Financial Support; Task Force Study

(a) Notwithstanding any other provision of law, the State Bar is expressly authorized to facilitate the professional responsibilities of members by collecting, in conjunction with the State Bar's collection of its annual membership dues or otherwise, voluntary financial support for nonprofit organizations that provide free legal services to persons of limited means.

(b) To implement this section, the State Bar, in consultation with the Chief Justice of California, shall appoint a task force of key stakeholders to analyze the mechanisms and experience of bar associations that have adopted programs for the collection of financial contributions from bar members and shall propose an appropriate method for facilitating the collection and distribution of voluntary contributions that is best calculated to generate the greatest level of financial support and participation from State Bar members, taking into account such issues as the justice-gap between the legal needs of low-income people in California and the legal resources available to assist them. The method and any recommended voluntary contribution amount adopted by the Board of Governors of the State Bar of California shall be implemented for the 2008 fiscal year, and shall be reviewed and adjusted as needed after two years and, thereafter, every five years as needed, in consultation with affected service providers and other key stakeholders. (Added by Stats. 2006, ch. 165.)

ARTICLE 2.5
CONFLICTS OF INTEREST

§6035. Definitions

Unless the contrary is stated or clearly appears from the context, the definitions set forth in Chapter 2 (commencing with section 82000) of Title 9 of the Government Code shall govern the interpretation of this article. (Added by Stats. 1978, ch. 752, effective September 14, 1978.)

§6036. Disqualification of Member for Financial or Personal Conflict; Exceptions; Disclosure

(a) Any member of the board of governors must disqualify himself or herself from making, participating in the making of, or attempting to influence any decisions of the board or a committee of the board in which he or she has a financial interest, as that term is defined in Section 87103 of the Government Code, that it is reasonably foreseeable may be affected materially by the decision.

(b) Any member of the board of governors must likewise disqualify himself or herself when there exists a personal nonfinancial interest which will prevent the member from applying disinterested skill and undivided loyalty to the State Bar in making or participating in the making of decisions.

(c) Notwithstanding subdivisions (a) and (b), no member shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the action or decision to be made.

The fact that a member's vote is needed to break a tie does not make his or her participation legally required for the purposes of this section.

(d) A member required to disqualify himself or herself because of a conflict of interest shall

(1) immediately disclose the interest,

(2) withdraw from any participation in the matter,

(3) refrain from attempting to influence another member, and

(4) refrain from voting. It is sufficient for the purpose of this section that the member indicate only that he or she has a disqualifying financial or personal interest.

(e) For purposes of this article and unless otherwise specified, "member" means any appointed or elected member of the board of governors. (Added by Stats. 1978, ch. 752, effective September 14, 1978; Stats. 2005, ch. 341.)

§6037. Violations by Members; Validity of Action or Decision of Board; Termination of Member; Misdemeanor; Civil and Criminal Penalties

No action or decision of the board or committee of the board shall be invalid because of the participation therein by a member or members in violation of section 6036. However, any member who intentionally violates the provisions of subdivision (a) of section 6036 is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding five days, or by a fine not exceeding one thousand dollars ($1,000), or by both, and, if the member is an attorney member of the board, a certified copy of the record of conviction shall be transmitted to the Supreme Court for disposition as provided in sections 6101 and 6102. Upon entry of final judgment of conviction, the member's term of office on the board of governors, and duties and authority incidental thereto, shall automatically terminate. Any member who intentionally violates the provisions of subdivision (b) of section 6036 shall be liable for a civil penalty not to exceed five hundred dollars ($500) for each violation, which shall be assessed and recovered in a civil action in a court of competent jurisdiction brought in the name of the state only by a district attorney of a county in which the member resides or maintains offices and the penalty collected shall be paid to the treasurer of that county. (Added by Stats. 1978, ch. 752, effective September 14, 1978. Amended by Stats. 1981, ch. 714; Stat. 1983, ch. 1092.)

§6038. Governmental Decisions of Specified State Agencies; Applicability of Conflict of Interest Provisions to Members Thereof

Attorney members of the Judicial Council, members of the Commission on Judicial Performance who are not judges, and employees designated in the Conflict of Interest Code of the State Bar of California are subject to provisions of this article with respect to making, participating in the making, or attempting to influence, governmental decisions of their respective state agencies other than decisions of a judicial or quasi-judicial nature. (Added by Stats. 1984, ch. 727, effective July 1, 1985.)

ARTICLE 3
COMMITTEES OF THE STATE BAR

§6040. Establishment and Duties of Local Administrative Committees

The board of governors may create local administrative committees and delegate to them such of its powers and duties as seems advisable. The board may in its discretion divide any committee into units or sections with concurrent powers and duties in order to handle the work of the committee more expeditiously. The board may also prescribe the powers of the committee and the units or sections thereof. (Origin: State Bar Act, §30.)

§6041. Membership

A local administrative committee shall be composed of active members of the State Bar. (Origin: State Bar Act, §30. Amended by Stats. 1981, ch. 836.)

§6042. Tenure of Members

The members of local administrative committees, except ex-officio members of the board of governors, shall hold office at the pleasure of the board. (Origin: State Bar Act, §31.)

§6043. Functions—Investigation, Findings and Report; Action by the Board

Each local administrative committee shall:

(a) Receive and investigate complaints as to the conduct of members.

(b) Make findings, whenever ordered by the board.

(c) Make recommendations and forward its report to the board for action.

The board may:

(a) Act upon the report.

(b) Take additional evidence.

(c) Set aside the report and hear the whole case de novo.

Notwithstanding the foregoing, a local administrative committee, its chairman, or a member of the staff of the State Bar, duly authorized by the board, may, in its or his discretion, require the filing of a verified accusation by a complainant stating specific charges and specific facts, or may require specific evidence or facts in support of the complaint, before proceeding with an investigation or hearing, as may be provided in rules of procedure adopted by the board. (Origin: State Bar Act, §32. Amended by Stats. 1963, ch. 1496.)

§6043.5 Complaints; False and Malicious

(a) Every person who reports to the State Bar or causes a complaint to be filed with the State Bar that an attorney has engaged in professional misconduct, knowing the report or complaint to be false and malicious, is guilty of a misdemeanor.

(b) The State Bar may, in its discretion, notify the appropriate district attorney or city attorney that a person has filed what the State Bar believes to be a false and malicious report or complaint against an attorney and recommend prosecution of the person under subdivision (a). (Added by Stats. 1990, ch. 1639.)

§6044. Investigative Powers

The board or any committee appointed by the board, with or without the filing or presentation of any complaint, may initiate and conduct investigations of all matters affecting or relating to:

(a) The State Bar, or its affairs.

(b) The practice of the law.

(c) The discipline of the members of the State Bar.

(d) The acts or practices of a person whom the board or the committee has reason to believe has violated or is about to violate any provision of Articles 7 (commencing with section 6125) and 9 (commencing with section 6150) of this chapter.

(e) Any other matter within the jurisdiction of the State Bar. (Origin: State Bar Act, §34. Amended by Stats. 1961, ch. 2033.)

§6044.5 Disclosure of Information from Investigations or Formal Proceedings

(a) When an investigation or formal proceeding concerns alleged misconduct which may subject a member to criminal prosecution for any felony, or any lesser crime committed during the course of the practice of law, or in any manner that the client of the member was a victim, or may subject the member to disciplinary charges in another jurisdiction, the State Bar shall disclose, in confidence, information not otherwise public under this chapter to the appropriate agency responsible for criminal or disciplinary enforcement or exchange that information with that agency.

(b) The Chief Trial Counsel or designee may disclose, in confidence, information not otherwise public under this chapter as follows:

> (1) To government agencies responsible for enforcement of civil and criminal laws or for professional licensing of individuals.
>
> (2) To members of the Judicial Nominees Evaluation Commission or a review committee thereof as to matters concerning nominees in any jurisdiction. (Added by Stats. 1988, ch. 1159. Amended by Stats. 1996, ch. 1104.)

§6045. Other Duties

The local administrative committee shall perform such other duties in furtherance of the execution of the provisions of this chapter as the board may direct. (Origin: State Bar Act, §33.)

§6046. Examining Committee; Powers; Composition

The board may establish an examining committee having the power:

(a) To examine all applicants for admission to practice law.

(b) To administer the requirements for admission to practice law.

(c) To certify to the Supreme Court for admission those applicants who fulfill the requirements provided in this chapter.

The examining committee shall be comprised of 19 members, 10 of whom shall be members of the State Bar or judges of courts of record in this state and nine of whom shall be public members who have never been members of the State Bar or admitted to practice before any court in the United States. At least one of the attorney members shall have been admitted to practice law in this state within three years from the date of their appointment to the examining committee. (Origin: State Bar Act, §24. Amended by Stats. 1986, ch. 1392; Stats. 1988, ch. 1159.)

§6046.5 Examining Committee Public Member Appointments; Term; Rights and Duties

Three of the public members of the examining committee shall be appointed by the Senate Rules Committee, three of the public members shall be appointed by the Speaker of the Assembly, and three of the public members shall be appointed by the Governor. They shall serve for a term of four years, commencing at the conclusion of the annual meeting of the State Bar, except that of the initial public members so appointed, two shall serve for two years and four shall serve for four years, as shall be determined by lot. The public members appointed pursuant to the amendment of this section during the 1987-88 Regular Session of the Legislature shall serve for four years. The public members shall have the same rights, powers, and privileges as any attorney member except that such a member shall not participate in the drafting of questions submitted to applicants on the California Bar examination. (Added by Stats. 1975, ch. 874. Amended by Stats. 1986, ch. 1392; Stats. 1988, ch. 1159; Stats. 1996, ch. 866.)

§6046.6 Report to Legislature; Notice of Change in Bar Exam; Scaling

(a) The examining committee shall not alter the bar examination in a manner that requires the substantial modification of the training or preparation required for passage of the examination, except after giving two years' notice of that change. This requirement does not apply to a change in the bar examination that is applicable only at the option of the applicant.

(b) The examining committee shall communicate and cooperate with the Law School Council.

(c) Scaling may be used on the bar examination for the purpose of maintaining an examination of uniform difficulty from year to year. (Added by Stats. 1986, ch. 1392. Amended by Stats. 1996, ch. 866.)

§6046.7 Adoption of Rules for the Regulation and Oversight of Unaccredited Law Schools–Collection of Fees to Fund Regulatory Responsibilities

(a) (1) Notwithstanding any other provision of law, the Committee of Bar Examiners shall adopt rules that shall be effective on and after January 1, 2008, for the regulation and oversight of unaccredited law schools that are required to be authorized to operate as a business in California and to have an administrative office in California, including correspondence schools, that are not accredited by the American Bar Association or the Committee of Bar Examiners, with the goal of ensuring consumer protection and a legal education at an affordable cost.

(2) Notwithstanding any other provision of law, the committee shall adopt rules that shall be effective on and after January 1, 2008, for the regulation and oversight of nonlaw school legal programs leading to a juris doctor (J.D.) degree, bachelor of laws (LL.B.) degree, or other law study degree.

(b) Commencing January 1, 2008, the committee shall assess and collect a fee from unaccredited law schools and legal programs in nonlaw schools in an amount sufficient to fund the regulatory and oversight responsibilities imposed by this section. Nothing in this subdivision precludes the board of governors from using other funds or fees collected by the State Bar or by the committee to supplement the funding of the regulatory and oversight responsibilities imposed by this section with other funds, if that supplemental funding is deemed necessary and appropriate to mitigate some of the additional costs of the regulation and oversight to facilitate the provision of a legal education at an affordable cost. (Added by Stats. 2006, ch. 534.)

§6047. Rules and Regulations of Examining Committee

Subject to the approval of the board, the examining committee may adopt such reasonable rules and regulations as may be necessary or advisable for the purpose of making effective the qualifications prescribed in Article 4. (Origin: State Bar Act, §24.1.)

§6048. Committees to Take Evidence; Record of Hearing

The board may also appoint one or more committees to take evidence on behalf of the board and to forward the same to the board with a recommendation for action by the board.

A record of all hearings shall be made and preserved by the board or committee. (Origin: State Bar Act, §26.)

§6049. Power to Take Evidence, Administer Oaths, and Issue Subpoenas

(a) In the conduct of investigations and upon the trial and hearing of all matters, the board and any committee having jurisdiction, including the examining committee, may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Compel, by subpoena, the attendance of witnesses and the production of books, papers and documents pertaining to the proceeding.

(b) In the conduct of investigations, the chief trial counsel or his or her designee, may compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the investigation.

(c) In the conduct of all formal proceedings, each party may compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding. (Origin: State Bar Act, §§26, 34. Amended by Stats. 1985, ch. 453; Stats. 1988, ch. 1159.)

§6049.1 Professional Misconduct Proceeding in Another Jurisdiction; Expedited Disciplinary Proceeding

(a) In any disciplinary proceeding under this chapter, a certified copy of a final order made by any court of record or any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys, of the United States, or of any state or territory of the United States or of the District of Columbia, determining that a member of the State Bar committed professional misconduct in such other jurisdiction shall be conclusive evidence that the member is culpable of professional misconduct in this state, subject only to the exceptions set forth in subdivision (b).

(b) The board may provide by rule for procedures for the conduct of an expedited disciplinary proceeding against a member of the State Bar upon receipt by the State Bar of a certified copy of a final order determining that the member has been found culpable of professional misconduct in a proceeding in another jurisdiction conducted as specified in subdivision (a). The issues in the expedited proceeding shall be limited to the following:

(1) The degree of discipline to impose.

(2) Whether, as a matter of law, the member's culpability determined in the proceeding in the other jurisdiction would not warrant the imposition of discipline in the State of California under the laws or rules binding upon members of the State Bar at the time the member committed misconduct in such other jurisdiction, as determined by the proceedings specified in subdivision (a).

(3) Whether the proceedings of the other jurisdiction lacked fundamental constitutional protection.

The member of the State Bar subject to the proceeding under this section shall bear the burden of establishing that the issues in paragraphs (2) and (3) do not warrant the imposition of discipline in this state.

(c) In proceedings conducted under subdivision (b), the parties need not be afforded an opportunity for discovery unless the State Bar Court department or panel having jurisdiction so orders upon a showing of good cause.

(d) In any proceedings conducted under this chapter, a duly certified copy of any portion of the record of disciplinary proceedings of another jurisdiction conducted as specified in subdivision (a) may be received in evidence.

(e) This section shall not prohibit the institution of proceedings under Section 6044, 6101, or 6102, as may be appropriate, concerning any member of the State Bar based upon the member's conduct in another jurisdiction, whether or not licensed as an attorney in the other jurisdiction. (Added by Stats. 1985, ch. 453.)

§6049.2 Introduction of Transcripts of Testimony Given in Contested Civil Action or Special Proceeding

In all disciplinary proceedings pursuant to this chapter, the testimony of a witness given in a contested civil action or special proceeding to which the person complained against is a party, or in whose behalf the action or proceeding is prosecuted or defended, may be received in evidence, so far as relevant and material to the issues in the disciplinary proceedings, by means of a duly authenticated transcript of such testimony and without proof of the nonavailability of the witness; provided, the board or administrative committee may order the production of and testimony by such witness, in lieu of or in addition to receiving a transcript of his testimony and may decline to receive in evidence any such transcript of testimony, in whole or in part, when it appears that the testimony was given under circumstances that did not require or allow an opportunity for full cross-examination. (Added by Stats. 1961, ch. 2033.)

§6050. Disobedience of Subpoena as Contempt

Whenever any person subpoenaed to appear and give testimony or to produce books, papers or documents refuses to appear or testify before the subpoenaing body, or to answer any pertinent or proper questions, or to produce such books, papers or documents, he or she is in contempt of the subpoenaing body. (Origin: State Bar Act, §34. Amended by Stats. 1985, ch. 453.)

§6051. Attachment for Disobeying Subpoena; Proceedings and Punishment; Alternative Procedure; Order to Show Cause

The chairman or presiding officer of the board or the committee having jurisdiction or the chief trial counsel shall report the fact that a person under subpoena is in contempt of the subpoenaing body to the superior court in and for the county in which the proceeding, investigation or other matter is being conducted and thereupon the court may issue an attachment in the form usual in the superior court, directed to the sheriff of the county, commanding the sheriff to attach the person and immediately bring him or her before the court.

On the return of the attachment, and the production of the person attached, the superior court has jurisdiction of the matter, and the person charged may purge himself or herself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted, as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

In lieu of the procedure specified above, the court may enter an order directing the person alleged to be in contempt to appear before the court at a specified time and place and then and there show cause why he or she has not attended or testified or produced the writings as required. A copy of the order shall be served upon that person. If it appears to the court that the subpoena was regularly issued and no good cause is shown for the refusal to appear or testify or produce the writings, the court shall enter an order that the person appear, testify, or produce writings, as the case may be. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

A proceeding pursuant to this section shall be entitled "In the Matter of (state name), Alleged Contemnor re State Bar (proceeding, investigation or matter) No. (insert number)."(Origin: State Bar Act, §34. Amended by Stats. 1963, ch. 1496; Stats. 1985, ch. 453.)

§6051.1 Motion to Quash Subpoena

A motion to quash a subpoena issued pursuant to Section 6049 shall be brought in the State Bar Court. (Added by Stats. 1985, ch. 453.)

§6052. Administration of Oaths; Issuance of Subpoenas; Depositions

Any member of the board, or of any committee or unit or section thereof, having jurisdiction, or the chief trial counsel or his or her designee may administer oaths and issue any subpoena pursuant to section 6049.

Depositions may be taken and used as provided in the rules of procedure adopted by the board pursuant to this chapter. (Amended by Stats. 1961, ch. 2033; Stats. 1965, ch. 290; Stats. 1981 ch. 184; Stats. 1985, ch. 453.)

§6053. Examination of Mental or Physical Condition, Reports

Whenever in an investigation or proceeding provided for or authorized by this chapter, the mental or physical condition of the member of the State Bar is a material issue, the board or the committee having jurisdiction may order the member to be examined by one or more physicians or psychiatrists designated by it. The reports of such persons shall be made available to the member and the State Bar and may be received in evidence in such investigation or proceeding. (Added by Stats. 1968, ch. 1374, operative July 1, 1969.)

§6054. Criminal History Information; Fingerprinting

State and local law enforcement and licensing bodies and departments, officers and employees thereof, and officials and attach)s of the courts of this state shall cooperate with and give reasonable assistance and information, including the providing of state summary criminal history information and local summary criminal history information, to the State Bar of California or any authorized representative thereof, in connection with any investigation or proceeding within the jurisdiction of the State Bar of California, regarding the admission to the practice of law or discipline of attorneys or their reinstatement to the practice of law.

The State Bar of California shall require that an applicant for admission or reinstatement to the practice of law in California, or may require a member pursuant to subdivision (k) or (l) of Section 6068, be fingerprinted in order to establish the identity of the applicant and in order to determine whether the applicant or member has a record of criminal conviction in this state or in other states. The information obtained as a result of the fingerprinting of an applicant or member shall be limited to the official use of the State Bar in establishing the identity of the applicant and in determining the character and fitness of the applicant for admission or reinstatement, and in discovering prior and subsequent criminal arrests of an

applicant, member, or applicant for reinstatement. All fingerprint records of applicants who are denied admission to the State Bar shall be destroyed within one year of the decision not to admit. All fingerprint records of applicants admitted or members reinstated, or provided pursuant to subdivision (k) or (l) of Section 6068, shall be retained thereafter for the limited purpose of criminal arrest notification.

All costs of providing criminal history information to, and the processing of fingerprints for, the State Bar, except for print furnishing and encoding, as required by this section, shall be borne by the State Bar. (Added by Stats. 1986, ch. 78. Amended by Stats. 1988, ch. 1159.)

ARTICLE 4
ADMISSION TO THE PRACTICE OF LAW

§6060. Qualifications; Examination and Fee

To be certified to the Supreme Court for admission and a license to practice law, a person who has not been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency or in a foreign country shall:

(a) Be of the age of at least 18 years.

(b) Be of good moral character.

(c) Before beginning the study of law, have done either of the following:

(1) Completed at least two years of college work, which college work shall be not less than one-half of the collegiate work acceptable for a bachelor's degree granted upon the basis of a four-year period of study by a college or university approved by the examining committee.

(2) Have attained in apparent intellectual ability the equivalent of at least two years of college work by taking any examinations in such subject matters and achieving the scores thereon as are prescribed by the examining committee.

(d) Have registered with the examining committee as a law student within 90 days after beginning the study of law. The examining committee, upon good cause being shown, may permit a later registration.

(e) Have done any of the following:

(1) Had conferred upon him or her a juris doctor (J.D.) degree or a bachelor of laws (LL.B.) degree by a law school accredited by the examining committee or approved by the American Bar Association.

(2) Studied law diligently and in good faith for at least four years in any of the following manners:

(A) In a law school that is authorized or approved to confer professional degrees and requires classroom attendance of its students for a minimum of 270 hours a year.

A person who has received his or her legal education in a foreign state or country wherein the common law of England does not constitute the basis of jurisprudence shall demonstrate to the satisfaction of the examining committee that his or her education, experience, and qualifications qualify him or her to take the examination.

(B) In a law office in this state and under the personal supervision of a member of the State Bar of California who is, and for at least five years last past continuously has been, engaged in the active practice of law. It is the duty of the supervising attorney to render any periodic reports to the examining committee as the committee may require.

(C) In the chambers and under the personal supervision of a judge of a court of record of this state. It is the duty of the supervising judge to render any periodic reports to the examining committee as the committee may require.

(D) By instruction in law from a correspondence law school authorized or approved to confer professional degrees by this state, which requires 864 hours of preparation and study per year for four years.

(E) By any combination of the methods referred to in this paragraph (2) of this subdivision.

(f) Have passed any examination in professional responsibility or legal ethics as the examining committee may prescribe.

(g) Have passed the general bar examination given by the examining committee.

(h) (1) Have passed a law students' examination administered by the examining committee after completion of his or her first year of law study. Those who pass the examination within its first three administrations upon becoming eligible to take the examination shall receive credit for all law studies completed to the time the examination is passed. Those who do not pass the examination within its

first three administrations upon becoming eligible to take the examination, but who subsequently pass the examination, shall receive credit for one year of legal study only.

(2) This requirement does not apply to a student who has satisfactorily completed his or her first year of law study at a law school accredited by the examining committee and who has completed at least two years of college work prior to matriculating in the accredited law school, nor shall this requirement apply to an applicant who has passed the bar examination of a sister state or of a country in which the common law of England constitutes the basis of jurisprudence.

The law students' examination shall be administered twice a year at reasonable intervals. (Origin: State Bar Act, §24.2. Amended by Stats. 1953, ch. 1090; Stats. 1959, ch. 1084; Stats. 1970, ch. 251; Stats. 1971, ch. 1748; Stats. 1972, ch. 1285; Stats. 1973, ch. 1052; Stats. 1974, ch. 316, effective May 31, 1974; Stats. 1987, ch. 239; Stats. 1990, ch. 707, Stats. 1996, ch. 866; Stats. 2001, ch. 46.)

§6060.1 Violation of University or Law School Rules

(a) Any disciplinary action taken against an individual at a university or an accredited law school for violation of university or law school rules of conduct shall not be used as the sole basis for denying the individual admission to practice law in the State of California.

(b) This section shall not apply to university or law school violations which involve moral turpitude or that result in criminal prosecution under the laws of the State of California or any other state. (Added by Stats. 1990, ch. 1639.)

§6060.2 Confidentiality of Proceedings re Moral Character

All investigations or proceedings conducted by the State Bar concerning the moral character of an applicant shall be confidential unless the applicant, in writing, waives the confidentiality. However, the records of the proceeding may be subject to lawfully issued subpoenas. (Added by Stats. 1990, ch. 1639.)

§6060.3 Late Filing Fees; Refunds

(a) An application to take the California bar examination administered in February must be filed with the examining committee not later than the first business day of the preceding November, and an application to take the California bar examination administered in July must be filed with the examining committee not later than the first business day of the preceding April. However, an applicant who was unsuccessful on the examination last administered shall be allowed 10 business days from the date of the general announcement of results of that examination in which to timely file an application to take the next scheduled examination.

(b) The examining committee may accept applications to take the California bar examination filed after the timely deadlines specified in subdivision (a) from applicants if the application is accompanied by the timely application fee and the late filing fee fixed by the board as follows:

(1) An application to take the California bar examination filed between the first and last business days in November for the February examination or between the first and last business days of April for the July examination shall be accepted if it is accompanied by the timely filing fee and a late fee not to exceed fifty dollars ($50).

(2) An application to take the California bar examination filed between the last business day of November and January 15 for the February examination or between the last business day of April and June 15 for the July examination shall be accepted if it is accompanied by the timely filing fee and a late fee not to exceed two hundred fifty dollars ($250).

(3) An application to take the California bar examination filed after January 15 for the February examination and after June 15 for the July examination shall not be accepted.

(c) Application fees for the California bar examination, including fees for late filing, shall be refunded if the applicant does not take the California bar examination because of the death of an immediate family member or the serious illness or disabling injury of the applicant or a member of his or her immediate family. A deduction may be made from the refund for administrative costs. The board shall adopt regulations for the administration of this subdivision. This subdivision shall not be construed to prohibit the refund of fees in instances other than those specified. (Former §6060.3 added by Stats. 1986, ch. 1510 and 28, repealed by Stats. 1996, ch. 866. New §6060.3 added by Stats. 1996, ch. 866. Amended by Stats. 2001, ch. 46.)

§6060.5 Different Bar Examination for Particular Applicants

Neither the board, nor any committee authorized by it, shall require that applicants for admission to practice law in California pass different final bar examinations depending upon the manner or school in which they acquire their legal education.

This section shall not prohibit the board, or any committee authorized by it, from establishing a different bar examination for applicants who are admitted to practice before the highest court of another state or of any jurisdiction where the common law of England constitutes the basis of jurisprudence. (Original section added by Stats. 1946, ch. 65; Repealed by Stats. 1959, ch. 1268; present section added by Stats. 1971, ch. 1666.)

§6060.6 Identification Number in Lieu of Social Security Number

Notwithstanding Section 30 of this code and Section 17520 of the Family Code, the Committee of Bar Examiners may accept for registration, and the State Bar may process for an original or renewed license to practice law, an application from an individual containing a federal tax identification number, or other appropriate identification number as determined by the State Bar, in lieu of a social security number, if the individual is not eligible for a social security account number at the time of application and is not in noncompliance with a judgment or order for support pursuant to Section 17520 of the Family Code. (Added by Stats. 2005, ch. 610.)

§6060.7 Law School Law Study Degree Programs–Subject to the Approval, Regulation and Oversight of the Examining Committee

(a) From January 1, 2007, to December 31, 2007, law schools and law study degree programs shall be subject to the following:

(1) The examining committee shall be responsible for the approval, regulation, and oversight of degree-granting law schools that (A) exclusively offer bachelor's, master's, or doctorate degrees in law, such as juris doctor, and (B) do not meet the criteria set forth in Section 94750 of the Education Code. This paragraph does not apply to unaccredited law schools, which remain subject to the jurisdiction of the Bureau of Private Postsecondary Education or its successor agency.

(2) If a law school that does not meet the criteria set forth in Section 94750 of the Education Code offers educational services other than bachelor's, master's, or doctorate-degree programs in law, only the law school's degree programs in law shall be subject to the approval, regulation, and oversight of the examining committee.

(b) On and after January 1, 2008, law schools and law study degree programs shall be subject to the following:

(1) The examining committee shall be responsible for the approval, regulation, and oversight of degree-granting law schools that (A) exclusively offer bachelor's, master's, or doctorate degrees in law, such as juris doctor, and (B) do not meet the criteria set forth in Section 94750 of the Education Code.

(2) If a law school that does not meet the criteria set forth in Section 94750 of the Education Code offers educational services other than bachelor's, master's, or doctorate-degree programs in law, only the law school's degree programs in law shall be subject to the approval, regulation, and oversight of the examining committee.

(3) If a nonlaw school that does not meet the criteria set forth in Section 94750 of the Education Code offers educational programs leading to a juris doctor (J.D.) degree, bachelor of laws (LL.B.) degree, or other law study degree, those programs shall be subject to the regulation and oversight of the examining committee. The provisions of this paragraph shall not apply to paralegal programs. (Added by Stats. 2006, ch. 534.)

§6060.9 Accreditation of Law Schools; Prohibited Conditions

Approval of any agency or agencies not existing under and by virtue of the laws of this State shall not be made a condition for accreditation of any California law school. (Added by Stats. 1957, ch. 647.)

§6061. Disclosure Statements—Unaccredited Law Schools

Any law school that is not accredited by the examining committee of the State Bar shall provide every student with a disclosure statement, subsequent to the payment of any application fee but prior to the payment of any registration fee, containing all of the following information:

(a) The school is not accredited. However, in addition, if the school has been approved by other agencies, that fact may be so stated.

(b) Where the school has not been in operation for 10 years, the assets and liabilities of the school. However, if the school has had prior affiliation with another school that has been in operation more than 10 years, has been under the control of another school that has been in operation more than 10 years, or has been a successor to a school in operation more than 10 years, this subdivision is not applicable.

(c) The number and percentage of students who have taken and who have passed the first-year law student's examination and the final bar examination in the previous five years, or since the establishment of the school, whichever time is less, which shall include only those students who have been certified by the school to take the examinations.

(d) The number of legal volumes in the library. This subdivision does not apply to correspondence schools.

(e) The educational background, qualifications and experience of the faculty, and whether or not the faculty members and administrators (e.g., the dean) are members of the California State Bar.

(f) The ratio of faculty to students for the previous five years or since the establishment of the school, whichever time is less.

(g) Whether or not the school has applied for accreditation, and if so, the date of application and whether or not that application has been withdrawn, is currently pending, or has been finally denied. The school need only disclose information relating to applications made in the previous five years.

(h) That the education provided by the school may not satisfy the requirements of other states for the practice of law. Applicants should inquire regarding those requirements, if any, to the state in which they may wish to practice.

The disclosure statement required by this section shall be signed by each student, who shall receive as a receipt a copy of his or her signed disclosure statement. If any school does not comply with these requirements, it shall make a full refund of all fees paid by students. Subject to approval by the board, the examining committee may adopt reasonable rules and regulations as are necessary for the purpose of ensuring compliance with this section. . (Added by Stats. 1986, ch. 1392. Amended by Stats. 2006, ch. 534; Stats, 2007, ch. 130.)

§6061.5 Affiliation Disclosure–Unaccredited Law Schools

A law school that is not accredited by the examining committee of the State Bar may refer to itself as a university or part of a university and, if it so refers to itself, shall state whether or not the law school is associated with an undergraduate school. (Added by Stats. 2006, ch. 534.)

§6062. Out-of-State Attorneys

(a) To be certified to the Supreme Court for admission, and a license to practice law, a person who has been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency the United States may hereafter acquire shall:

(1) Be of the age of at least 18 years.

(2) Be of good moral character.

(3) Have passed the general bar examination given by the examining committee. However, if that person has been an active member in good standing of the bar of the admitting sister state or United States jurisdiction, possession, or territory for at least four years immediately preceding the first day of the examination applied for, he or she may elect to take the Attorneys' Examination rather than the general bar examination. Attorneys admitted less than four years and attorneys admitted four years or more in another jurisdiction but who have not been active members in good standing of their admitting jurisdiction for at least four years immediately proceeding the first day of the examination applied for must take the general bar examination administered to general applicants not admitted as attorneys in other jurisdictions.

(4) Have passed an examination in professional responsibility or legal ethics as the examining committee may prescribe.

(b) To be certified to the Supreme Court for admission, and a license to practice law, a person who has been admitted to practice law in a jurisdiction other than in a sister state, United States jurisdiction, possession, or territory shall:

(1) Be of the age of at least 18 years.

(2) Be of good moral character.

(3) Have passed the general bar examination given by the examining committee.

(4) Have passed an examination in professional responsibility or legal ethics as the examining committee may prescribe.

(c) The amendments to this section made at the 1997-98 Regular Session of the Legislature shall be applicable on and after January 1, 1997, and do not constitute a change in, but are declaratory of, existing law. (Origin: State Bar Act, §24.3. Amended by Stats. 1941, ch. 766; Stats. 1945, ch. 176; Stats. 1967, ch. 970; Stats. 1970, ch. 251; Stats. 1971, ch. 1748; Stats. 1972, ch. 1285; Stats. 1974, ch. 34; Stats. 1996, ch. 866; Stats. 1998, ch. 29, effective April 29, 1998; Stats. 2001, ch. 46.)

[***Publisher's Note:*** *The following paragraph concerns out-of-state attorneys and reciprocal admission to the State Bar of California. It was added by Stats. 2000, ch. 247, but not codified and is provided below for your information.*]

SECTION 1. It is the intent of the Legislature that the Supreme Court of California should adopt rules permitting the admission to the practice of law in California of an attorney who is licensed in another state and who has not passed the California State Bar examination, if the state in which the attorney is licensed to practice affords the same opportunity to licensed attorneys from California. The Legislature also recognizes that the question of reciprocal admission is a complex one, and it, therefore, requests that the Supreme Court appoint a task force to study and make recommendations regarding whether and under what circumstances, attorneys who are licensed to practice law in other states and who have not passed the California State Bar examination may be permitted to practice law in California. The task force study should consider all of the following factors:

(a) Years of practice in other states.

(b) Admission to practice law in another state.

(c) Specialization of the attorney's practice in another state.

(d) The attorney's intended scope of practice in California.

(e) The admission requirements in the state or states in which the attorney has been licensed to practice.

(f) Reciprocity with and comity with other states.

(g) Moral character requirements.

(h) Disciplinary implications.

(i) Consumer protection.

§6063. Fees

Applicants for admission to practice shall pay such reasonable fees, fixed by the board, as may be necessary to defray the expense of administering the provisions of this chapter, relating to admission to practice. These fees shall be collected by the examining committee and paid into the treasury of the State Bar. (Origin: State Bar Act, §24.4.)

§6064. Admission

Upon certification by the examining committee that the applicant has fulfilled the requirements for admission to practice law, the Supreme Court may admit such applicant as an attorney at law in all the courts of this State and may direct an order to be entered upon its records to that effect. A certificate of admission thereupon shall be given to the applicant by the clerk of the court. (Origin: State Bar Act, §24.5.)

§6064.1 Advocacy of Overthrow of Government

No person who advocates the overthrow of the Government of the United States or of this State by force, violence, or other unconstitutional means, shall be certified to the Supreme Court for admission and a license to practice law. (Added by Stats. 1951, ch. 179.)

§6065. Inspection of Papers and Grading

(a) (1) Any unsuccessful applicant for admission to practice, after he or she has taken any examination and within four months after the results thereof have been declared, has the right to inspect those of his or her examination papers that are in the actual, physical possession of the examining committee at the time the request for inspection is made. The inspection shall occur at the office of the examining committee located nearest to the place at which the applicant took the examination.

(2) The applicant also has the right to inspect the grading of the papers whether the record thereof is marked upon the examination or otherwise.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date. (Origin: State Bar Act §38. Added by Stats. 1930, ch. 34. Amended by Stats. 1974, ch. 38, effective February 27, 1974; Stats. 2002, ch. 415, effective September 9, 2002; Stats. 2003, ch. 334.)

§6065. Inspection of Papers and Grading

(a) (1) Any unsuccessful applicant for admission to practice, after he or she has taken any examination and within four months after the results thereof have been declared, has the right to inspect his or her examination papers at the office of the examining committee located nearest to the place at which the applicant took the examination.

(2) The applicant also has the right to inspect the grading of the papers whether the record thereof is marked upon the examination or otherwise.

(b) This section shall become operative on January 1, 2009. (Added by Stats. 2002, ch. 415, effective September 9, 2002; Stats. 2003, ch. 334.)

§6066. Review of Refusal of Certification

Any person refused certification to the Supreme Court for admission to practice may have the action of the board, or of any committee authorized by the board to make a determination on its behalf, pursuant to the provisions of this chapter, reviewed by the Supreme Court, in accordance with the procedure prescribed by the court. (Origin: State Bar Act, §38.)

§6067. Oath

Every person on his admission shall take an oath to support the Constitution of the United States and the Constitution of the State of California, and faithfully to discharge the duties of any attorney at law to the best of his knowledge and ability. A certificate of the oath shall be indorsed upon his license. (Origin: Code Civ. Proc., §278.)

§6068. Duties of Attorney

It is the duty of an attorney to do all of the following:

(a) To support the Constitution and laws of the United States and of this state.

(b) To maintain the respect due to the courts of justice and judicial officers.

(c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.

(d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(1) To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.

(2) Notwithstanding paragraph (1), an attorney may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes the disclosure is necessary to prevent a criminal act that the attorney reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.

(f) To advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged.

(g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.

(h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

(i) To cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against himself or herself. However, this subdivision shall not be construed to deprive an attorney of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subdivision shall not be construed to require an attorney to cooperate with a request that requires him or her to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the attorney's practice. Any exercise by an attorney of any constitutional or statutory privilege shall not be used against the attorney in a regulatory or disciplinary proceeding against him or her.

(j) To comply with the requirements of Section 6002.1.

(k) To comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney.

(l) To keep all agreements made in lieu of disciplinary prosecution with the agency charged with attorney discipline.

(m) To respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

(n) To provide copies to the client of certain documents under time limits and as prescribed in a rule of professional conduct which the board shall adopt.

(o) To report to the agency charged with attorney discipline, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars ($1,000).

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.

(6) The imposition of discipline against the attorney by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.

(8) As used in this subdivision, "against the attorney" includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.

(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

(10) This subdivision is only intended to provide that the failure to report as required herein may serve as a basis of discipline. (Origin: Code Civ. Proc., §282. Amended by Stats. 1985, ch. 453; Stats. 1986, ch. 475; Stats. 1988, ch. 1159; Stats. 1990, ch. 1639; Stats.1999, ch. 221; Stats. 1999, ch. 342; Stats. 2001, ch. 24; Stats. 2003, ch. 765, operative July 1, 2004.)

§6068.11. Attorneys: Defense of Insureds, State Bar Study

(a) The Legislature finds and declares that the opinion in State Farm Mutual Auto Insurance Company v. Federal Insurance Company (1999) 72 Cal. App. 4th 1422, raises issues concerning the relationship between an attorney and an insurer when the attorney is retained by the insurer to represent the insured. These issues involve both the Rules of Professional Conduct for attorneys and procedural issues affecting the conduct of litigation.

(b) The board in consultation with representatives of associations representing the defense bar, the plaintiffs bar, the insurance industry and the Judicial Council, shall conduct a study concerning the legal and professional responsibility issues that may arise as a result of the relationship between an attorney and an insurer when the attorney is retained by the insurer to represent an insured, and subsequently, the attorney is retained to represent a party against another party insured by the insurer. The board shall prepare a report that identifies and analyzes the issues and, if appropriate, provides recommendations for changes to the Rules of Professional Conduct and relevant statutes. The board shall submit the report to the Legislature and the Supreme Court of California on or before July 1, 2002.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date. (Added by Stats. 2000, ch. 472. Amended by Stats. 2001, ch. 438.)

§6069. Authorization for Disclosure of Financial Records; Subpoena; Notice; Review

(a) Every member of the State Bar shall be deemed by operation of this law to have irrevocably authorized the disclosure to the State Bar and the Supreme Court pursuant to section 7473 of the Government Code of any and all financial records held by financial institutions as defined in subdivisions (a) and (b) section 7465 of the Government Code pertaining to accounts which the member must maintain in accordance with the Rules of Professional Conduct; provided that no such financial records shall be disclosed to the State Bar without a subpoena therefor

having been issued pursuant to section 6049 of this code, and further provided that the board of governors shall by rule provide notice to the member similar to that notice provided for in subdivision (d) of section 7473 of the Government Code. Such notice may be sent by mail addressed to the member's current office or other address for State Bar purposes as shown on the member's registration records of the State Bar.

The State Bar shall, by mail addressed to the member's current office or other address for State Bar purposes as shown on the member's registration records of the State Bar, notify its members annually of the provisions of this subdivision (a).

(b) With regard to the examination of all financial records other than those mentioned in subdivision (a) of this section, held by financial institutions as defined in subdivisions (a) and (b) of section 7465 of the Government Code, no such financial records shall be disclosed to the State Bar without a subpoena therefor having been issued pursuant to section 6049 of this code and the board of governors shall by rule provide for service of a copy of the subpoena on the customer as defined in subdivision (d) of section 7465 of the Government Code and an opportunity for the customer to move the board or committee having jurisdiction to quash the subpoena prior to examination of the financial records. Review of the actions of the board or any committee on such motions shall be had only by the Supreme Court in accordance with the procedure prescribed by the court. Service of a copy of any subpoena issued pursuant to this subdivision (b) may be made on a member of the State Bar by mail addressed to the member's current office or other address for State Bar purposes as shown on the member's registration records of the State Bar. If the customer is other than a member, service shall be made pursuant to Chapter 4 (commencing with section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, except that service may be made by an employee of the State Bar.

(c) For purposes of this section, "member of the State Bar" or "member" means every member of the State Bar, law firm in California of which a member of the State Bar is a member, and law corporation within the meaning of Article 10 of Chapter 4 of Division 3 of this code. (Added by Stats. 1976, ch. 1320; Amended by Stats. 1978, ch. 1346.)

ARTICLE 4.5
MANDATORY CONTINUING LEGAL EDUCATION

§6070. Establishment and Administration; Adoption of Rule by Supreme Court

(a) The State Bar shall request the California Supreme Court to adopt a rule of court authorizing the State Bar to establish and administer a mandatory continuing legal education program. The rule that the State Bar requests the Supreme Court to adopt shall require that, within designated 36-month periods, all active members of the State Bar shall complete at least 25 hours of legal education activities approved by the State Bar or offered by a State Bar approved provider, with four of those hours in legal ethics. A member of the State Bar who fails to satisfy the mandatory continuing legal education requirements of the program authorized by the Supreme Court rule shall be enrolled as an inactive member pursuant to rules adopted by the Board of Governors of the State Bar.

(b) For purposes of this section, statewide associations of public agencies and incorporated, nonprofit professional associations of attorneys, shall be certified as State Bar approved providers upon completion of an appropriate application process to be established by the State Bar. The certification may be revoked only by majority vote of the board, after notice and hearing, and for good cause shown. Programs provided by the California District Attorneys Association or the California Public Defenders Association, or both, including, but not limited to, programs provided pursuant to Title 1.5 (commencing with Section 11500) of Part 4 of the Penal Code, are deemed to be legal education activities approved by the State Bar or offered by a State Bar approved provider.

(c) Notwithstanding the provisions of subdivision (a), officers and elected officials of the State of California, and full-time professors at law schools accredited by the State Bar of California, the American Bar Association, or both, shall be exempt from the provisions of this section. Full-time employees of the State of California, acting within the scope of their employment, shall be exempt from the provisions of this section. Nothing in this section shall prohibit the State of California, or any political subdivision thereof, from establishing or maintaining its own continuing education requirements for its employees.

(d) The State Bar shall provide and encourage the development of low-cost programs and materials by which members may satisfy their continuing education requirements. Special emphasis shall be placed upon the use of internet capabilities and computer technology in the development and provision of no-cost and low-cost programs and materials. Towards this purpose, the State Bar shall ensure that by July 1, 2000, any member possessing or having access to the internet or specified generally available computer technology shall be capable

of satisfying the full self-study portion of his or her MCLE requirement at a cost of fifteen dollars ($15) per hour or less. (Added by Stats. 1989, ch. 1425. Amended by Stats. 1999, ch. 342.)

[***Publisher's Note:*** *The following paragraph concerns mandatory continuing legal education and was added by Stats. 1999, ch. 342, but not codified. It is provided below for your information. See also, Appendix C for MCLE Rules and Regulations and additional information regarding MCLE requirement.*]

SEC. 10. The Legislature finds and declares that it is in the public interest to continue the mandatory continuing legal education requirements for attorneys licensed to practice law. The Legislature further finds and declares that officers and elected officials of the State of California, and their full-time employees undergo ongoing continuing legal education in their review of the implementation of current statutes and regulations, including any court interpretation of a statute or regulation, and in their consideration and analysis of proposed changes in those statutes and regulations, thereby warranting their exemption from the requirements of Section 6070 of the Business and Professions Code. The Legislature also finds and declares that full-time law professors at accredited law schools also undergo ongoing continuing legal education in their review of the statutes and regulations of this state, including any court interpretation of a statute or regulation, thereby warranting their exemption from the requirements of Section 6070 of the Business and Professions Code.

§6071. Legal Education in Remedies Available for Civil Rights Violations; Amendment of Rule by Supreme Court

(a) The State Bar shall request the California Supreme Court to amend Rule 9.31 of the California Rules of Court, relating to the mandatory continuing education program, to provide that one hour of the mandatory eight hours of legal education activities in legal ethics or law practice management, instead, may be satisfied by one hour of legal education activity in the civil and criminal remedies available for civil rights violations.

(b) This section shall not affect the requirement that all active members of the State Bar complete at least four hours of legal education activity in ethics within designated 36-month periods. (Added by Stats. 1991, ch. 607. Amended by Stats. 2007, ch. 474.)

ARTICLE 4.7
CONTRACTS FOR LEGAL SERVICES

§6072. Pro Bono Legal Services Certification; Failure to Comply, Considerations; Definitions

(a) A contract with the state for legal services that exceeds fifty thousand dollars ($50,000) shall include a certification by the contracting law firm that the firm agrees to make a good faith effort to provide, during the duration of the contract, a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of either (1) 30 multiplied by the number of full-time attorneys in the firm's offices in the state, with the number of hours prorated on an actual day basis for any contract period of less than a full year or (2) 10 percent of its contract with the state. "Ten percent of the contract" shall mean the number of hours equal to 10 percent of the contract amount divided by the average billing rate of the firm.

(b) Failure to make a good faith effort may be cause for nonrenewal of a state contract for legal services and may be taken into account when determining the award of future contracts with the state for legal services. If a firm fails to provide the hours of pro bono legal services set forth in its certification, the following factors shall be considered in determining whether the firm made a good faith effort:

(1) The actual number of hours of pro bono legal services provided by the firm during the term of the contract.

(2) The firm's efforts to obtain pro bono legal work from legal services programs, pro bono programs, and other relevant communities or groups.

(3) The firm's history of providing pro bono legal services, or other activities of the firm that evidence a good faith effort to provide pro bono legal services, such as the adoption of a pro bono policy or the creation of a pro bono committee.

(4) The types of pro bono legal services provided, including the quantity and complexity of cases as well as the nature of the relief sought.

(5) The extent to which the failure to provide the hours of pro bono legal services set forth in the certification is the result of extenuating circumstances unforseen at the time of the certification.

(c) In awarding a contract with the state for legal services that exceeds fifty thousand dollars ($50,000), the awarding department shall consider the efforts of a potential contracting law firm to provide, during the 12-month period prior to award of the contract, the minimum number of hours of pro bono legal services described in subdivision (a). Other things being equal, the awarding department shall award a contract for legal services to firms that have provided, during the 12-month period prior to award of the contract, the minimum number of hours of pro bono legal services described in subdivision (a).

(d) As used in this section, "pro bono legal services" means the provision of legal services either:

(1) Without fee or expectation of fee to either:

(A) Persons who are indigent or of limited means.

(B) Charitable, religious, civic, community, governmental, and educational organizations in matters designed primarily to address the economic, health, and social needs of persons who are indigent or of limited means.

(2) At no fee or substantially reduced fee to groups or organizations seeking to secure or protect civil rights, civil liberties, or public rights.

(e) Nothing in this section shall subject a contracting law firm that fails to provide the minimum number of hours of pro bono legal services described in subdivision (a) to civil or criminal liability, nor shall that failure be grounds for invalidating an existing contract for legal services.

(f) This article shall not apply to state contracts with, or appointments made by the judiciary of, an attorney, law firm, or organization for the purposes of providing legal representation to low- or middle-income persons, in either civil, criminal, or administrative matters.

(g) This article shall not apply to contracts entered into between the state and an attorney or law firm if the legal services contracted for are to be performed outside the State of California.

(h) The provisions of this article shall become operative on January 1, 2003. (Added by Stats. 2001, ch. 880, operative on January 1, 2003. Amended by Stats. 2002, ch. 137.)

[***Publisher's Note:*** *The following paragraphs concern pro bono legal services as a professional responsibility and were added by Stats. 2001, ch. 880, but not codified. They are provided below for your information.*]

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The provision of pro bono legal services is the professional responsibility of California attorneys as an integral part of the privilege of practicing law in this state.

(b) Each year, thousands of Californians, particularly those of limited means, must rely on pro bono legal services in order to exercise their fundamental right of access to justice in California. Without access to pro bono services, many Californians would be precluded from pursuing important legal rights and protections.

(c) In recent years, many law firms in California have been fortunate to experience a robust increase in average attorney income. However, during the same time period, there has regrettably been a decline in the average number of pro bono services being rendered by attorneys in this state.

(d) Without legislative action to bolster pro bono activities, there is a serious risk that the provision of critical pro bono legal services will continue to substantially decrease.

SEC. 2. It is the intent of the Legislature to do the following:

(a) To reaffirm the importance and integral public function of California attorneys and law firms striving to provide reasonable levels of pro bono legal services to Californians who need those services.

(b) To strengthen the state's resolve to ensure that all Californians, especially those of limited means, have an effective means to exercise their fundamental right of access to the courts.

ARTICLE 4.8
PRO BONO SERVICES

§6073. Pro Bono Services–Fulfillment of Commitment by Financial Support to Organizations Providing Free Legal Service

It has been the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer. Every lawyer authorized and privileged to practice law in California is expected to make a contribution. In some circumstances, it may not be feasible for a lawyer to directly provide pro bono services. In those circumstances, a lawyer may instead fulfill his or her individual pro bono ethical commitment, in part, by providing financial support to organizations providing free legal services to persons of limited means. In deciding to

provide that financial support, the lawyer should, at minimum, approximate the value of the hours of pro bono legal service that he or she would otherwise have provided. In some circumstances, pro bono contributions may be measured collectively, as by a firm's aggregate pro bono activities or financial contributions. Lawyers also make invaluable contributions through their other voluntary public service activities that increase access to justice or improve the law and the legal system. In view of their expertise in areas that critically affect the lives and well-being of members of the public, lawyers are uniquely situated to provide invaluable assistance to benefit those who might otherwise be unable to assert or protect their interests and to support those legal organizations that advance these goals. (Added by Stats. 2007, ch. 474.)

ARTICLE 5
DISCIPLINARY AUTHORITY OF THE BOARD OF GOVERNORS

§6075. Method as Alternative and Cumulative

In their relation to the provisions of Article 6, concerning the disciplinary authority of the courts, the provisions of this article provide a complete alternative and cumulative method of hearing and determining accusations against members of the State Bar.

§6076. Rules of Professional Conduct; Formulation

With the approval of the Supreme Court, the Board of Governors may formulate and enforce rules of professional conduct for all members of the bar in the State. (Origin: State Bar Act, §25.)

§6076.5 Initiative Measures; Changes in Rules of Professional Conduct; Procedure

(a) With the approval of the Supreme Court, the members of the State Bar may formulate by initiative, pursuant to the provisions of this section, rules of professional conduct for all members of the bar in the state.

(b) Only active members of the State Bar shall be proponents of initiative measures pursuant to this section.

(c) Prior to the circulation of any initiative petition for signatures, the proponents shall file the text of the proposed initiative measure with both the Secretary of the State Bar and the Clerk of the Supreme Court.

(d) Upon receipt of the text of a proposed initiative measure, the secretary shall prepare a summary of the chief purposes and points of the proposed initiative measure. The summary shall give a true and impartial statement of the purpose of the measure in such language that it shall not be an argument or likely to create prejudice either for or against the measure. The secretary shall provide a copy of the summary to the proponents within 30 days after receipt of the final version of the proposed measure. If during the 30-day period the proponents submit amendments, other than technical, nonsubstantive amendments, to the final version of such measure, the secretary shall provide a copy of the summary to the proponents within 30 days after receipt of such amendments.

(e) The proponents of any proposed initiative measure shall, prior to its circulation, place upon each section of the petition, above the text of the measure and across the top of each page of the petition on which signatures are to appear, in boldface type not smaller than 12-point, the summary prepared by the secretary.

(f) All such initiative petitions shall have printed across the top thereof in 12-point boldface type the following: Initiative measure to be submitted directly to the members of the State Bar of California."

(g) Any initiative petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure.

(h) The petition sections shall be designed so that each signer shall personally affix his or her:

(1) Signature;

(2) Printed name;

(3) State Bar membership number; and

(4) Principal office address for the practice of law.

Only a person who is an active member of the State Bar at the time of signing the petition is entitled to sign it.

The number of signatures attached to each section shall be at the discretion of the person soliciting the signatures.

(i) Any member of the State Bar, or employee or agent thereof, may circulate an initiative petition anywhere within the state.

Any person circulating a petition may sign the section he or she is circulating if he or she is otherwise qualified to do so.

(j) Each section shall have attached thereto the affidavit of the person soliciting the signatures stating:

(1) The qualifications of the solicitor;

(2) That the signatures affixed to the section were made in his or her presence;

(3) That to the best of his or her knowledge and belief, each signature is the genuine signature of the person whose name it purports to be;

(4) That to the best of his or her knowledge and belief, each State Bar membership number is the genuine membership number of the person whose number it purports to be; and

(5) The dates between which all signatures were obtained. The affidavit shall be verified free of charge by any officer authorized to administer oaths.

Petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing are active members of the State Bar. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of active members of the State Bar.

(k) All sections of the petition shall be filed with the Secretary of the State Bar within 180 days after the date upon which the secretary mailed or delivered to the proponents a copy of the summary specified in subdivision (d), but all sections circulated in any State Bar district shall be filed at the same time.

(l) No initiative measure shall be submitted to the members of the State Bar for a vote unless with regard to each State Bar district the petition has been signed by at least 20 percent of the number of active members whose principal office for the practice of law was within the district as of the January 1 preceding the date upon which all sections of the petition from all State Bar districts were filed with the secretary.

(m) The secretary shall promptly determine the total number of signatures from each State Bar district affixed to the petition. If the total number of signatures from any State Bar district is less than the number required by subdivision (l), the secretary shall so notify the proponents and no further action shall be taken in regard to the petition. If the total number of signatures from each and every State Bar district is equal to or greater than the number required by subdivision (l), the secretary shall verify the names and State Bar membership numbers, and may, in his discretion, verify the office addresses and signatures of the persons who signed the petition. If the total number of verified signers of the petition from any State Bar district is less than the number required by subdivision (l), the secretary shall so notify the proponents and no further action shall be taken in regard to the petition. If the total number of verified signers of the petition from each and every State Bar district is equal to or greater than the number required by subdivision (l), the secretary shall cause the initiative measure to be submitted within 90 days to all of the active members of the State Bar for mail vote pursuant to such rules and regulations as the board may from time to time prescribe.

(n) The board of governors, without petition, may also direct the secretary to cause an initiative measure embodying a rule of professional conduct formulated by the board to be submitted to all of the active members of the State Bar for mail vote in accordance with the rules and regulations prescribed by the board.

(o) If a majority of the active members of the State Bar fail to approve the initiative measure, the secretary shall so notify the proponents and the Clerk of the Supreme Court.

If a majority of the active members of the State Bar approve the initiative measure, the secretary shall cause the measure to be submitted to the Supreme Court for its consideration as a rule of professional conduct.

(p) The rules of professional conduct submitted to the Supreme Court pursuant to the provisions of this section, when approved by the Supreme Court, shall have the same force and effect as the rules of professional conduct formulated by the board of governors and approved by the Supreme Court pursuant to sections 6076 and 6077. (Added by Stats. 1977, ch. 478.)

§6077. Rules of Professional Conduct—Sanctions for their Violation

The rules of professional conduct adopted by the board, when approved by the Supreme Court, are binding upon all members of the State Bar.

For a wilful breach of any of these rules, the board has power to discipline members of the State Bar by reproval, public or private, or to recommend to the Supreme Court the suspension from practice for a period not exceeding three years of members of the State Bar. (Origin: State Bar Act, §29. Amended by Stats. 1957, ch. 1249.)

§6077.5 Attorney Collection Agencies

An attorney and his or her employees who are employed primarily to assist in the collection of a consumer debt owed to another, as defined by Section 1788.2 of the Civil Code, shall comply with all of the following:

(a) The obligations imposed on debt collectors pursuant to Article 2 (commencing with Section 1788.10) of Title 1.6C of Part 4 of Division 3 of the Civil Code.

(b) Any employee of an attorney who is not a member of the State Bar of California, when communicating with a consumer debtor or with any person other than the debtor concerning a consumer debt, shall identify himself or herself, by whom he or she is employed, and his or her title or job capacity.

(c) Without the prior consent of the debtor given directly to the attorney or his or her employee or the express permission of a court of competent jurisdiction, an attorney or his or her employee shall not communicate with a debtor in connection with the collection of any debt at any unusual time or place, or time or place known, or which should be known, to be inconvenient to the debtor. In the absence of knowledge of circumstances to the contrary, an attorney or his or her employee shall assume that the convenient time for communicating with the debtor is after 8 a.m. and before 9 p.m., local time at the consumer's location.

(d) If a debtor notifies an attorney or his or her employee in writing that the debtor refuses to pay a debt or that the debtor wishes the attorney or his or her employee to cease further communications with the debtor, the attorney or his or her employee shall not communicate further with the debtor with respect to such debt, except as follows:

(1) To advise the debtor that the attorney or his or her employee's further efforts are being terminated.

(2) To notify the debtor that the attorney or his or her employee or creditor may invoke specific remedies which are ordinarily invoked by such attorney or creditor.

(3) Where applicable, to notify the debtor that the attorney or creditor intends to invoke his or her specific remedy.

(4) Where a suit has been filed or is about to be filed and the debtor is not represented by counsel or has appeared in the action on the debt in propria persona.

For the purpose of this section, "debtor" includes the debtor's spouse, parent, or guardian, if the debtor is a minor, executor, or administrator.

(e) An attorney or his or her employee shall not take or threaten to take any nonjudicial action to effect disposition or disablement of property if (1) there is no present right to possession of the property claimed as collateral through an enforceable security interest; (2) there is no present intention to take possession of the property; or (3) the property is exempt by law from that disposition or disablement.

(f) An attorney or his or her employee shall not cause charges to be made to any person for communications, by concealment of the true purposes of the communication. The charges include, but are not limited to, collect telephone calls and telegram fees.

(g) Within five days after the initial communication with a debtor in connection with the collection of any unsecured debt, an attorney or his or her employee shall, unless the following information is contained in the initial communication or the debtor has paid the debt, send the debtor a written notice containing the following:

(1) The amount of the debt.

(2) The name of the creditor to whom the debt is owed.

(3) A statement that unless the debtor, within 30 days receipt of the notice, disputes the validity of the debt or any portion thereof, the debt will be assumed to be valid by the attorney or his or her employee.

(4) A statement that if the debtor notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the attorney or his or her employee will obtain a writing, if any exists, evidencing the debt or a copy of the judgment against the debtor and a copy of such writing or judgment will be mailed to the debtor by the attorney or his or her employee.

(5) A statement that, upon the debtor's written request within the 30-day period, the attorney or his or her employee will provide the debtor the name and address of the original creditor, if different from the current creditor.

If the debtor notifies the attorney or his or her employee in writing within the 30-day period described in this section that the debt or any portion thereof is disputed, or that the debtor requests the name and address of the original creditor, the attorney and his or her employee shall cease collection of the debt or any disputed portion thereof, except for filing suit thereon, until the attorney obtains a writing, if any exists, evidencing the debt or a copy of a judgment or the name and address of the original creditor, and a copy of such writing or judgment or the name and address of the original creditor is mailed to the debtor by the attorney or his or her employee.

(h) If any debtor owes multiple debts and makes any single payment to any attorney or his or her employee with respect to the debts, the attorney may not apply such payment to any debt which is disputed by the debtor and, where applicable, shall apply such payment in accordance with the debtor's directions.

(i) A willful breach of this section constitutes cause for the imposition of discipline of the attorney in accordance with section 6077. (Added by Stats. 1984, ch. 118.)

§6078. Power to Discipline and Reinstate

After a hearing for any of the causes set forth in the laws of the State of California warranting disbarment, suspension or other discipline, the board has the power to recommend to the Supreme Court the disbarment or suspension from practice of members or to discipline them by reproval, public or private, without such recommendation.

The board may pass upon all petitions for reinstatement. (Origin: State Bar Act, §26.)

§6079. Disciplinary Proceeding Heard By Retired Judge; Compensation

(a) As used in this section a "retired judge" means a former judge of a court of record who has a vested interest under the Judges' Retirement Law (Chapter 11 (commencing with Section 75000) of Title 8 of the Government Code). The judge may be an active or inactive member of the State Bar of California.

(b) Subject to the availability of a retired judge as provided in this section, the trial in a State Bar disciplinary proceeding shall be heard by a retired judge if the presiding referee of the State Bar Court or his or her designee determines that the matter or proceeding is complex, or that trial is likely to be in excess of one day, or the circumstances dictate that it cannot be heard by volunteer referees without a likelihood of undue delay or burden to the State Bar Court, the complainant, or the respondent. When a decision to have a retired judge has been made, the Clerk of the State Bar Court shall immediately notify the Director of the Administrative Office of the Courts of that fact and the date set for hearing. The Director of the Administrative Office of the Courts shall, on an expedited basis, provide the name of a retired judge to the Clerk of the State Bar Court who shall seek to retain the services of the retired judge to hear the matter. The name of the retired judge shall be provided by the Director of the Administrative Office of the Courts from a list of qualified retired judges, rotated sequentially, and categorized by geographical areas of the state. The Judicial Council may provide by rule for standards and the identification of priority uses of retired judges, first considering the needs of the court system.

(c) In any case in which the retired judge cannot be retained, the presiding referee of the State Bar Court or his or her designee shall assign a referee to hear the matter. The referee shall be compensated for his or her services.

(d) The retired judge or referee assigned shall hear the matter at the time fixed therefor or if good cause appears for changing the time previously fixed, he or she shall fix a time for hearing in accordance with the Rules of Procedure of the State Bar and hear the matter at the time so fixed. The retired judge or referee assigned to the case shall hear and make decisions with respect to the matter in accordance with the Rules of Procedure of the State Bar.

(e) Compensation of retired judges for services pursuant to this section shall be at a published rate, and provided by the State Bar. The compensation shall be no less than the rates for judicial arbitration services specified in subdivision (b) of Section 1141.18 of the Code of Civil Procedure. Compensation paid to a retired judge for services pursuant to this section shall be in addition to any retirement allowance paid to that retired judge.

(f) The Director of the Administrative Office of the Courts shall adopt procedures and minimum standards for the selection of retired judges applying to serve pursuant to this section. It is the intent of the Legislature that the standards shall include criteria relating to (1) expertise and experience in the discipline of professional licensees or matters relating to professional negligence, or equivalent matters; (2) familiarity with broad areas of law; (3) willingness and availability to handle disciplinary matters on a regular basis or for a minimum period; and (4) lack of a record of public disciplinary sanctions in the State of California or in other jurisdictions. (Added by Stats. 1986, ch. 1114. Repealed by Stats. 1988, ch. 1159. See §6079.1, subd. (i) for power and duties of judges and referees appointed prior to July 1, 1989.)

§6079.1 State Bar Court Hearing Judges

(a) The Supreme Court shall appoint a presiding judge of the State Bar Court. In addition, five hearing judges shall be appointed, two by the Supreme Court, one by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly, to efficiently decide any and all regulatory matters pending before the Hearing Department of the State Bar Court. The presiding judge and all other judges of that department shall be appointed for a term of six years and may be reappointed for additional six-year terms. Any judge appointed under this section shall be subject to admonition, censure, removal, or retirement by the Supreme Court upon the same grounds as provided for judges of courts of record of this state.

(b) Judges of the State Bar Court appointed under this section shall not engage in the private practice of law. The State Bar Court shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. Each judge:

(1) Shall have been a member of the State Bar for at least five years.

(2) Shall not have any record of the imposition of discipline as an attorney in California or any other jurisdiction.

(3) Shall meet any other requirements as may be established by subdivision (d) of Section 12011.5 of the Government Code.

(c) Applicants for appointment or reappointment as a State Bar Court judge shall be screened by an applicant evaluation committee as directed by the Supreme Court. The committee, appointed by the Supreme Court, shall submit evaluations and recommendations to the appointing authority and the Supreme Court as provided in Rule 9.11 of the California Rules of Court, or as otherwise directed by the Supreme Court. The committee shall submit no fewer than three recommendations for each available position.

(d) For judges appointed pursuant to this section or Section 6086.65, the board shall fix and pay reasonable compensation and expenses and provide adequate supporting staff and facilities. Hearing judges shall be paid 91.3225 percent of the salary of a superior court judge. The presiding judge shall be paid the same salary as a superior court judge.

(e) From among the members of the State Bar or retired judges, the Supreme Court or the board may appoint pro tempore judges to decide matters in the Hearing Department of the State Bar Court when a judge of the State Bar Court is unavailable to serve without undue delay to the proceeding. Subject to modification by the Supreme Court, the board may set the qualifications, terms, and conditions of service for pro tempore judges and may, in its discretion, compensate some or all of them out of funds appropriated by the board for this purpose.

(f) A judge or pro tempore judge appointed under this section shall hear every regulatory matter pending in the Hearing Department of the State Bar Court as to which the taking of testimony or offering of evidence at trial has not commenced, and when so assigned, shall sit as the sole adjudicator, except for rulings that are to be made by the presiding judge of the State Bar Court or referees of other departments of the State Bar Court.

(g) Any judge or pro tempore judge of the State Bar Court as well as any employee of the State Bar assigned to the State Bar Court shall have the same immunity that attaches to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters the immunities accorded the State Bar, its officers and employees, or any judge or referee of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not constitute a change in, but is cumulative with, existing law.

(h) Nothing in this section shall be construed to prohibit the board from appointing persons to serve without compensation to arbitrate fee disputes under Article 13 (commencing with Section 6200) or to monitor the probation of a member of the State Bar, whether those appointed under Section 6079, as added by Chapter 1114 of the Statutes of 1986, serve in the State Bar Court or otherwise. (Added by Stats. 1999, ch. 221. Amended by Stats. 2000, ch. 246; Stat. 2002, ch. 784; Stats. 2007, ch. 474.)

§6079.4 Privilege; Exercise of Not Deemed Failure to Cooperate

The exercise by an attorney of his or her privilege under the Fifth Amendment to the Constitution of the United States, or of any other constitutional or statutory privileges shall not be deemed a failure to cooperate within the meaning of subdivision (i) of Section 6068. (Added by Stats. 1990, ch. 1639.)

§6079.5 Chief Trial Counsel; Appointment; Term; Qualifications

(a) The board shall appoint a lawyer admitted to practice in California to serve as chief trial counsel. He or she shall be appointed for a term of four years and may be reappointed for additional four-year periods. He or she shall serve at the pleasure of the board. He or she shall not engage in private practice. The State Bar shall notify the Senate Rules Committee and the Senate and Assembly Judiciary Committees within seven days of the dismissal or hiring of a chief trial counsel.

The appointment of the Chief Trial Counsel is subject to confirmation by the Senate, and the time limits prescribed in Section 1774 of the Government Code for Senate confirmation and for service in office are applicable to the appointment.

He or she shall report to and serve under the Regulation, Admissions, and Discipline Oversight Committee of the Board of Governors of the State Ba or its successor committee on attorney discipline, and shall not serve under the direction of the chief executive officer.

(b) The chief trial counsel shall have the following qualifications:

(1) Be an attorney licensed to practice in the State of California, be in good standing and shall not have committed any disciplinary offenses in California or any other jurisdiction.

(2) Have a minimum of five years of experience in the practice of law, including trial experience, with law practice in broad areas of the law.

(3) Have a minimum of two years of prosecutorial experience or similar experience in administrative agency proceedings or disciplinary agencies.

(4) Have a minimum of two years of experience in an administrative role, overseeing staff functions.

The board may except an appointee from any of the above qualifications for good cause upon a determination of necessity to obtain the most qualified person.

On or after July 1, 1987, the chief trial counsel may, as prescribed by the Supreme Court, petition the court for a different disposition of a matter than the recommendations of the review department or the board to the court. (Added by Stats. 1986, ch. 1114. Amended by Stats. 2002, ch. 415, effective September 9, 2002.)

§6080. Records

The board shall keep a record of all disciplinary proceedings. In all disciplinary proceedings resulting in a recommendation to the Supreme Court for disbarment or suspension, the board shall keep a transcript of the evidence and proceedings therein and shall make findings of fact thereon. The board shall render a decision to be recorded in its minutes. In disciplinary proceedings in which no discipline has been imposed, the records thereof may be destroyed after 5 years. (Origin: State Bar Act, §26. Amended by Stats. 1965, ch. 920.)

§6081. Report to Supreme Court

Upon the making of any decision recommending the disbarment or suspension from practice of any member of the State Bar, the board shall immediately file a certified copy of the decision, together with the transcript and the findings, with the Clerk of the Supreme Court. Upon enrolling a member as an inactive member pursuant to section 6007 of this code, or upon terminating or refusing to terminate such enrollment pursuant to such section the board shall immediately give appropriate written notice to the member and to the Clerk of the Supreme Court. (Origin: State Bar Act, §26. Amended by Stats. 1957, ch. 737.)

§6081.1 Transcription of Oral Testimony

Nothing in Sections 6080 and 6081 shall require the State Bar Court to transcribe oral testimony unless ordered by the Supreme Court or requested by a party at the party's expense. (Added by Stats. 1988, ch. 1159.)

§6082. Review by Supreme Court

Any person complained against and any person whose reinstatement the board may refuse to recommend may have the action of the board, or of any committee authorized by it to make a determination on its behalf, pursuant to the provisions of this chapter, reviewed by the California Supreme Court or by a California Court of Appeal in accordance with the procedure prescribed by the California Supreme Court. (Origin: State Bar Act, §38. Amended by Stats. 1988, ch. 1217.)

§6083. Petition to Review; Burden of Proof

(a) A petition to review or to reverse or modify any decision recommending the disbarment or suspension from practice of a member of the State Bar may be filed with the Supreme Court by the member within 60 days after the filing of the decision recommending such discipline.

(b) A petition to review or to reverse or modify any decision reproving a member of the State Bar, or any action enrolling him as an inactive member pursuant to section 6007 of this code or refusing to restore him to active membership, pursuant to such section may be filed with the Supreme Court by the member within 60 days after service upon him of notice of such decision or action.

(c) Upon such review the burden is upon the petitioner to show wherein the decision or action is erroneous or unlawful. (Origin: State Bar Act, §26. Amended by Stats. 1957, ch. 737.)

§6084. Order by Supreme Court

(a) When no petition to review or to reverse or modify has been filed by either party within the time allowed therefor, or the petition has been denied, the decision or order of the State Bar Court shall be final and enforceable. In any case in which a petition to review or to reverse or modify is filed by either party within the time allowed therefor, the Supreme Court shall make such order as it may deem proper in the circumstances. Nothing in this subdivision abrogates the Supreme Court's authority, on its own motion, to review de novo the decision or order of the State Bar Court.

(b) Notice of such order shall be given to the member and to the State Bar.

(c) A petition for rehearing may be filed within the time generally provided for petitions for rehearing in civil cases.

(d) For willful failure to comply with a disciplinary order or an order of the Supreme Court, or any part thereof, a member may be held in contempt of court. The contempt

action may be brought by the State Bar in any of the following courts:

(1) In the Los Angeles or San Francisco Superior Court.

(2) In the superior court of the county of the member's address as shown on current State Bar membership records.

(3) In the superior court of the county where the act or acts occurred.

(4) In the superior court of the county in which the member's regular business address is located.

Changes of venue may be requested pursuant to the applicable provisions of Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure. (Origin: State Bar Act, §26. Amended by Stats. 1957, ch. 737; Stats. 1988, ch. 1159.)

§6085. Rights of Person Complained Against

Any person complained against shall be given fair, adequate and reasonable notice and have a fair, adequate and reasonable opportunity and right:

(a) To defend against the charge by the introduction of evidence.

(b) To receive any and all exculpatory evidence from the State Bar after the initiation of a disciplinary proceeding in State Bar Court, and thereafter when this evidence is discovered and available. This subdivision shall not require the disclosure of mitigating evidence.

(c) To be represented by counsel.

(d) To examine and cross-examine witnesses.

(e) To exercise any right guaranteed by the State Constitution or the United States Constitution, including the right against self-incrimination.

He or she shall also have the right to the issuance of subpoenas for attendance of witnesses to appear and testify or produce books and papers, as provided in this chapter. (Origin: State Bar Act, §35. Amended by Stats. 1994, ch. 190; Stats. 1999, ch. 221.)

§6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

(a) Admission of culpability.

(b) Denial of culpability.

(c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.)

§6086. Procedure

The board of governors, subject to the provisions of this chapter, may by rule provide the mode of procedure in all cases of complaints against members. (Origin: State Bar Act, §37.)

§6086.1 Disciplinary Proceeding Hearings and Records Shall be Public

(a) (1) Subject to subdivision (b), and except as otherwise provided by law, hearings and records of original disciplinary proceedings in the State Bar Court shall be public, following a notice to show cause.

(2) Subject to subdivision (b), and except as otherwise provided by law, hearings and records of the following matters shall be public:

(A) Filings for involuntary inactive enrollment or restriction under subdivision (a), (c), (d), or (e) of Section 6007.

(B) Petitions for reinstatement under Section 6078.

(C) Proceedings for suspension or disbarment under Section 6101 or 6102.

(D) Payment information from the Client Security Fund pursuant to Section 6140.5.

(E) Actions to cease a law practice or assume a law practice under Section 6180 or 6190.

(b) All disciplinary investigations are confidential until the time that formal charges are filed and all investigations of

matters identified in paragraph (2) of subdivision (a) are confidential until the formal proceeding identified in paragraph (2) of subdivision (a) is instituted. This confidentiality requirement may be waived under any of the following exceptions:

(1) The member whose conduct is being investigated may waive confidentiality.

(2) The Chief Trial Counsel or President of the State Bar may waive confidentiality, but only when warranted for protection of the public. Under those circumstances, after private notice to the member, the Chief Trial Counsel or President of the State Bar may issue, if appropriate, one or more public announcements or make information public confirming the fact of an investigation or proceeding, clarifying the procedural aspects and current status, and defending the right of the member to a fair hearing. If the Chief Trial Counsel or President of the State Bar for any reason declines to exercise the authority provided by this paragraph, or disqualifies himself or herself from acting under this paragraph, he or she shall designate someone to act in his or her behalf. Conduct of a member that is being inquired into by the State Bar but that is not the subject of a formal investigation shall not be disclosed to the public.

(3) The Chief Trial Counsel or his or her designee may waive confidentiality pursuant to Section 6044.5.

(c) Notwithstanding the confidentiality of investigations, the State Bar shall disclose to any member of the public so inquiring, any information reasonably available to it pursuant to subdivision (o) of Section 6068, and to Sections 6086.7, 6086.8, and 6101, concerning a member of the State Bar which is otherwise a matter of public record, including civil or criminal filings and dispositions. (Added by Stats. 1990, ch. 1639, Stats. 1992, ch. 1265.)

§6086.2 State Bar Records

All State Bar records pertaining to admissions, membership, and the administration of the program authorized by Article 14 of this chapter shall be available to the Office of Trial Counsel and the Office of Investigations for use in the investigation and prosecution of complaints against members of the State Bar, except to the extent that disclosure is prohibited by law. (Added by Stats. 1988, ch. 1159.)

§6086.5 State Bar Court; Establishment; Powers; Rules

The board of governors shall establish a State Bar Court, to act in its place and stead in the determination of disciplinary and reinstatement proceedings and proceedings pursuant to subdivisions (b) and (c) of Section 6007 to the extent provided by rules adopted by the board of governors pursuant to this chapter. In these proceedings the State Bar Court may exercise the powers and authority vested in the board of governors by this chapter, including those powers and that authority vested in committees of, or established by, the board, except as limited by rules of the board of governors within the scope of this chapter.

For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050, 6051, 6052, 6077 (excluding the first sentence), 6078, 6080, 6081 and 6082, "board" includes the State Bar Court.

Nothing in this section shall authorize the State Bar Court to adopt rules of professional conduct or rules of procedure.

The Executive Committee of the State Bar Court may adopt rules of practice for the conduct of all proceedings within its jurisdiction. These rules may not conflict with the rules of procedure adopted by the board, unless approved by the Supreme Court. (Added by Stats. 1965, ch. 973. Amended by Stats. 1977, ch. 58; Stats. 1985, ch. 453; Stats. 1988, ch. 1159.)

§6086.65 State Bar Court Review Department

(a) There is a Review Department of the State Bar Court, that consists of the Presiding Judge of the State Bar Court and two Review Department judges appointed by the Supreme Court. The judges of the Review Department shall be nominated, appointed, and subject to discipline as provided by subdivision (a) of Section 6079.1, shall be qualified as provided by subdivision (b) of Section 6079.1, and shall be compensated as provided for the presiding judge by subdivision (d) of Section 6079.1. However, the two Review Department judges may be appointed to, and paid as, positions occupying one-half the time and pay of the presiding judge. Candidates shall be rated and screened pursuant to Rule 9.11 of the California Rules of Court or as otherwise directed by the Supreme Court.

(b) The Presiding Judge of the State Bar Court shall appoint an Executive Committee of the State Bar Court of no fewer than seven persons, including one person who has never been a member of the State Bar or admitted to practice law before any court in the United States. The Executive Committee may adopt rules of practice for the operation of the State Bar Court as provided in Section 6086.5.

(c) Any decision or order reviewable by the Review Department and issued by a judge of the State Bar Court appointed pursuant to Section 6079.1 may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. The standard to be applied by the Review Department in reviewing a decision, order, or ruling by a hearing judge fully disposing of a proceeding is established in Rule 9.12 of the California Rules of Court, or as otherwise directed by the Supreme Court. (Added by Stats. 1999, ch. 221. Amended by Stats. 2000, ch. 246; Stats. 2007, ch. 474.)

§6086.7 Court Notification to State Bar for Misconduct, Misrepresentation, Incompetent Representation and Imposition of Sanctions

(a) A court shall notify the State Bar of any of the following:

(1) A final order of contempt imposed against an attorney that may involve grounds warranting discipline under this chapter. The court entering the final order shall transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

(2) Whenever a modification or reversal of a judgment in a judicial proceeding is based in whole or in part on the misconduct, incompetent representation, or willful misrepresentation of an attorney.

(3) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars ($1,000).

(4) The imposition of any civil penalty upon an attorney pursuant to Section 8620 of the Family Code.

(b) In the event of a notification made under subdivision (a) the court shall also notify the attorney involved that the matter has been referred to the State Bar.
(c) The State Bar shall investigate any matter reported under this section as to the appropriateness of initiating disciplinary action against the attorney. (Added by Stats. 1990, ch. 483. Amended by Stats. 2003, ch. 469.)

§6086.8 Reporting Requirements—Court, Insurers and Attorneys

(a) Within 20 days after a judgment by a court of this state that a member of the State Bar of California is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity, the court which rendered the judgment shall report that fact in writing to the State Bar of California.

(b) Every claim or action for damages against a member of the State Bar of California for fraud, misrepresentation, breach of fiduciary duty, or negligence committed in a professional capacity shall be reported to the State Bar of California within 30 days of receipt by the admitted insurer or licensed surplus brokers providing professional liability insurance to that member of the State Bar.

(c) An attorney who does not possess professional liability insurance shall send a complete written report to the State Bar as to any settlement, judgment, or arbitration award described in subdivision (b), in the manner specified in that subdivision. (Added by Stats. 1986, ch. 475. Amended by Stats. 1988, ch. 1159.)

§6086.10 Payment of Cost of Disciplinary Proceedings

(a) Any order imposing a public reproval on a member of the State Bar shall include a direction that the member shall pay costs. In any order imposing discipline, or accepting a resignation with a disciplinary matter pending, the Supreme Court shall include a direction that the member shall pay costs. An order pursuant to this subdivision is enforceable both as provided in Section 6140.7 and as a money judgment.

(b) The costs required to be imposed pursuant to this section include all of the following:

(1) The actual expense incurred by the State Bar for the original and copies of any reporter's transcript of the State Bar proceedings, and any fee paid for the services of the reporter.

(2) All expenses paid by the State Bar which would qualify as taxable costs recoverable in civil proceedings.

(3) The charges determined by the State Bar to be "reasonable costs" of investigation, hearing, and review. These amounts shall serve to defray the costs, other than fees for the services of attorneys or experts, of the State Bar in the preparation or hearing of disciplinary proceedings, and costs incurred in the administrative processing of the disciplinary proceeding and in the administration of the Client Security Fund.

(c) A member may be granted relief, in whole or in part, from an order assessing costs under this section, or may be granted an extension of time to pay these costs, in the

discretion of the State Bar, upon grounds of hardship, special circumstances, or other good cause.

(d) In the event an attorney is exonerated of all charges following a formal hearing, he or she is entitled to reimbursement from the State Bar in an amount determined by the State Bar to be the reasonable expenses, other than fees for attorneys or experts, of preparation for the hearing.

(e) In addition to other monetary sanctions as may be ordered by the Supreme Court pursuant to Section 6086.13, costs imposed pursuant to this section are penalties, payable to and for the benefit of the State Bar of California, a public corporation created pursuant to Article VI of the California Constitution, to promote rehabilitation and to protect the public. This subdivision is declaratory of existing law. (Added by Stats. 1986, ch. 662. Amended by Stats. 2003, ch. 334.)

§6086.13 Imposition of Monetary Sanction in Disciplinary Matter

(a) Any order of the Supreme Court imposing suspension or disbarment of a member of the State Bar, or accepting a resignation with a disciplinary matter pending may include an order that the member pay a monetary sanction not to exceed five thousand dollars ($5,000) for each violation, subject to a total limit of fifty thousand dollars ($50,000).

(b) Monetary sanctions collected under subdivision (a) shall be deposited into the Client Security Fund.

(c) The State Bar shall, with the approval of the Supreme Court, adopt rules setting forth guidelines for the imposition and collection of monetary sanctions under this section.

(d) The authority granted under this section is in addition to the provisions of Section 6086.10 and any other authority to impose costs or monetary sanctions.

(e) Monetary sanctions imposed under this section shall not be collected to the extent that the collection would impair the collection of criminal penalties or civil judgements arising out of transactions connected with the discipline of the attorney. In the event monetary sanctions are collected under this section and criminal penalties or civil judgements arising out of transactions connected with the discipline of the attorney are otherwise uncollectible, those penalties or judgements may be reimbursed from the Client Security Fund to the extent of the monetary sanctions collected under this section. (Added by Stats. 1992, ch. 1270. Amended by Stats. 1993, ch. 926.)

§6086.14 Alternative Dispute Resolution Discipline Mediation Program—Formulation and Administration

(a) The Board of Governors of the State Bar is authorized to formulate and adopt rules and regulations necessary to establish an alternative dispute resolution discipline mediation program to resolve complaints against attorneys that do not warrant the institution of formal investigation or prosecution. The program should identify sources of client dissatisfaction and provide a mediation process to resolve those complaints or disputes unless the client objects to mediation. The refusal of an attorney to participate in the State Bar's alternative dispute resolution discipline mediation program established pursuant to this section, or the failure of an attorney to comply with any agreement reached in the State Bar's alternative dispute resolution discipline mediation program may subject that attorney to discipline. The rules may authorize discipline mediation under this article to proceed under discipline mediation programs sponsored by local bar associations in this state. The rules shall authorize a local bar association to charge a reasonable administrative fee for the purpose of offsetting the costs of maintaining the discipline mediation programs.

(b) The board of governors shall have the authority to formulate and adopt standards and guidelines to implement the alternative dispute resolution discipline mediation program. The standards and guidelines formulated and adopted by the board, as from time to time amended, shall be effective and binding on all members, and may encompass any discipline mediation programs sponsored by local bar associations.

(c) It is the intent of the Legislature that the authorization of an alternative dispute resolution discipline mediation program not be construed as limiting or altering the powers of the Supreme Court of this state or the State Bar to disbar or discipline members of the State Bar. The records relating to the alternative dispute resolution discipline mediation program may be made available in any subsequent disciplinary action pursuant to any rule, standard, or guideline adopted by the Board of Governors of the State Bar. (Added by Stats. 1993, ch. 982. Amended by Stats. 1994, ch. 479.)

§6086.15 State Bar Annual Discipline Report to Legislature

(a) The State Bar shall issue an Annual Discipline Report by April 30 of each year describing the performance and condition of the State Bar discipline system. The report shall cover the previous calendar year and shall include accurate and complete descriptions of all of the following:

(1) The existing backlog of cases within the discipline system, including, but not limited to, the number of complaints as of December 31 of the preceding year

that were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice to show cause, and tables showing time periods beyond six months and the number in each category and a discussion of the reason for the extended periods.

(2) The number of inquiries and complaints and their disposition.

(3) The number and types of matters self-reported by members of the State Bar pursuant to subdivision (o) of Section 6068 and subdivision (c) of Section 6086.8.

(4) The number and types of matters reported by other sources pursuant to Sections 6086.7 and 6086.8.

(5) The speed of complaint handling and dispositions by type.

(6) The number and types of filed notices to show cause and formal disciplinary outcomes.

(7) The number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reprovals, admonitions, and agreements in lieu of discipline.

(8) A description of the programs of the State Bar directed at assuring honesty and competence by attorneys.

(9) A description of the programs of the State Bar directed at preventing acts warranting discipline.

(10) A description of the condition of the Client Security Fund, including an accounting of payouts.

(11) An accounting of the cost of the discipline system by function.

(b) The Annual Discipline Report shall include statistical information presented in a consistent manner for year-to-year comparison and shall compare the information required under subdivision (a) to similar information for the previous three years. The report shall include the general data and tables included in the previous reports of the State Bar Discipline Monitor where feasible.

(c) The Annual Discipline Report shall be presented to the Chief Justice of California, to the Governor, to the Speaker of the Assembly, to the President pro Tempore of the Senate, and to the Assembly and Senate Judiciary Committees, for their consideration and shall be considered a public document.. (Added by Stats. 1992, ch. 1265. Amended by Stats. 1994, ch. 146 (previously §6086.13). Amended by Stats. 1995, ch. 88; Stats. 2001, ch. 745.)

§6087. Effect of Chapter on Powers of Supreme Court

Nothing in this chapter shall be construed as limiting or altering the powers of the Supreme Court of this State to disbar or discipline members of the bar as this power existed prior to the enactment of Chapter 34 of the Statutes of 1927, relating to the State Bar of California.

Notwithstanding any other provision of law, the Supreme Court may by rule authorize the State Bar to take any action otherwise reserved to the Supreme Court in any matter arising under this chapter or initiated by the Supreme Court; provided, that any such action by the State Bar shall be reviewable by the Supreme Court pursuant to such rules as the Supreme Court may prescribe. (Origin: State Bar Act, §26. Amended by Stats. 1951, ch. 177; Stats. 1988, ch. 1159.)

§6088. Provision for Rules

The board may provide by rule that alleged facts in a proceeding are admitted upon failure to answer, failure to appear at formal hearing, or failure to deny matters specified in a request for admissions; the party in whose favor the facts are admitted shall not be required to otherwise prove any facts so admitted. However, the rules shall provide a fair opportunity for the party against whom facts are admitted to be relieved of the admission upon a satisfactory showing, made within 30 days of notice that facts are admitted, that (a) the admissions were the result of mistake or excusable neglect, and (b) the admitted facts are actually denied by the party. (Added by Stats. 1986, ch. 1114.)

ARTICLE 5.5
MISCELLANEOUS DISCIPLINARY PROVISIONS

§6090. Disciplinary Agency—Definition

As used in this article, "disciplinary agency" means the agency charged with the discipline of attorneys for professional misconduct. (Added by Stats. 1986, ch. 475.)

§6090.5 Attorney/Client Agreement Not to File Complaint—Cause for Discipline

(a) It is cause for suspension, disbarment, or other discipline for any member, whether as a party or as an attorney for a party, to agree or seek agreement, that:

(1) The professional misconduct or the terms of a settlement of a claim for professional misconduct shall not be reported to the disciplinary agency.

(2) The plaintiff shall withdraw a disciplinary complaint or shall not cooperate with the investigation or prosecution conducted by the disciplinary agency.

(3) The record of any civil action for professional misconduct shall be sealed from review by the disciplinary agency.

(b) This section applies to all settlements, whether made before or after the commencement of a civil action. (Added by Stats. 1986, ch. 475. Amended by Stats. 1996, ch 1104.)

§6090.6 State Bar Access to Nonpublic Court Records

In a disciplinary proceeding, the State Bar shall have access, on an ex parte basis, to all nonpublic court records relevant to the competence or performance of its members, provided that these records shall remain confidential. This access, for investigation and enforcement purposes, shall not be limited by any court order sealing those records, except a court order authorized by Section 851.6, 851.7, 851.8, or 851.85 of the Penal Code. The State Bar may disclose publicly the nature and content of those records, including sealed records other than those specified immediately above in this section, after notice of intention to disclose all or a part of the records has been given to the parties in the underlying action. A party to the underlying action who would be adversely affected by the disclosure may serve notice on the State Bar within 10 days of receipt of the notice of intention to disclose the records that it opposes the disclosure and will seek a hearing in the court of competent jurisdiction on an expedited basis. (Added by Stats. 1988, ch. 1159.)

§6091. Trust Fund Account—State Bar Investigation/ Audit

If a client files a complaint with the State Bar alleging that his or her trust fund is being mishandled, the State Bar shall investigate and may require an audit if it determines that circumstances warrant.

At the client's written request, the attorney shall furnish the client with a complete statement of the funds received and disbursed and any charges upon the trust account, within 10 calendar days after receipt of the request. Such requests may not be made more often than once each 30 days unless a client files a complaint with the State Bar and the State Bar determines that more statements are warranted. (Added by Stats. 1986, ch. 475.)

§6091.1 Client Trust Fund Accounts — Investigation of Overdrafts and Misappropriations

(a) The Legislature finds that overdrafts and misappropriations from attorney trust accounts are serious problems, and determines that it is in the public interest to ensure prompt detection and investigation of instances involving overdrafts and misappropriations from attorney trust accounts.

A financial institution, including any branch, which is a depository for attorney trust accounts under subdivision (a) or (b) of Section 6211, shall report to the State Bar in the event any properly payable instrument is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored.

(b) All reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument, if such a copy is normally provided to depositors.

(2) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of overdraft created thereby. These reports shall be made simultaneously with, and within the time provided by law for notice of dishonor, if any. If an instrument presented against insufficient funds is honored, then the report shall be made within five banking days of the date of presentation for payment against insufficient funds.

(c) Every attorney practicing or admitted to practice in this state shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements of this section.

(d) Nothing in this section shall preclude a financial institution from charging an attorney or law firm for the reasonable cost of producing the reports and records required by subdivisions (a) and (b). (Added by Stats. 1988, ch. 1159.)

§6091.2 Definitions Applicable to Section 6091.1

As used in Section 6091.1:

(a) "Financial institution" means a bank, savings and loan, or other financial institution serving as a depository for

attorney trust accounts under subdivision (a) or (b) of Section 6211.

(b) "Properly payable" means an instrument that, if presented in the normal course of business, is in a form requiring payment under the laws of this state.

(c) "Notice of dishonor" means the notice that a financial institution is required to give, under the laws of this state, upon presentation of an instrument that the institution dishonors. (Added by Stats. 1988, ch. 1159. Amended by Stats. 2007, ch. 422.)

§6092. Attorney Competency—Study and Report to Legislature

The disciplinary agency may engage the services of consultants and an unpaid volunteer peer review committee and undertake any other steps that may be appropriate for devising methods for determining and improving attorney competence. (Added by Stats. 1986, ch. 475. Amended by Stats. 1987, ch. 56; Stats. 2001, ch. 24.)

§6092.5 Duties of Disciplinary Agency

In addition to any other duties specified by law, the disciplinary agency shall do all of the following:

(a) Promptly notify the complainant of the disposition of each matter.

(b) Notify all of the following of a lawyer's involuntary enrollment as an inactive member and termination of that enrollment, or any suspension or disbarment, and the reinstatement to active membership of a suspended or disbarred attorney:

(1) The presiding judge of the superior court in the county where the attorney most recently maintained an office for the practice of law, with a request that the judge notify the courts and judges in the county.

(2) The local bar association, if there is one, in the county or area where the attorney most recently maintained an office for the practice of law.

(3) The appropriate disciplinary authority in any other jurisdiction where the attorney is admitted to practice.

(c) Upon receipt of the certified copy of the record of conviction of a lawyer, as provided by subdivision (c) of Section 6101, promptly forward a certified copy of the judgment of conviction to the disciplinary agency in each jurisdiction in which the lawyer is admitted.

(d) Maintain permanent records of discipline and other matters within its jurisdiction, and compile statistics to aid in the administration of the system, including, but not limited to, a single log of all complaints received, investigative files, statistical summaries of docket processing and case dispositions, transcripts of all proceedings which have been transcribed, and other records as the disciplinary agency or court require to be maintained.

(e) Expunge records of the agency as directed by the California Supreme Court.

(f) Pursuant to directions from the California Supreme Court, undertake whatever investigations are assigned to it.

(g) Provide information to prospective complainants regarding the nature and procedures of the disciplinary system, the criteria for prosecution of disciplinary complaints, the client security fund, and fee arbitration procedures.

(h) Inform the public, local bar associations and other organizations, and any other interested parties about the work of the disciplinary agency and the right of all persons to make a complaint.

(i) Make agreements with respondents in lieu of disciplinary proceedings, regarding conditions of practice, further legal education, or other matters. These agreements may be used by the disciplinary agency in any subsequent proceeding involving the lawyer. (Added by Stats. 1986, ch. 475.)

§6093. Conditions of Probation

(a) Whenever probation is imposed by the State Bar Court or by the Office of Trial Counsel with the agreement of the respondent, any conditions may be imposed which will reasonably serve the purposes of the probation.

(b) Violation of a condition of probation constitutes cause for revocation of any probation then pending, and may constitute cause for discipline.

(c) Proceedings to revoke probation shall be expedited. The standard of proof is the preponderance of the evidence. (Added by Stats. 1986, ch. 475. Amended by Stats. 1988, ch. 1159.)

§6093.5 Notify Complainant of Status of Complaint

Upon request, the disciplinary agency shall notify a complainant of the status of his or her complaint and shall provide him or her with a written summary of any response by the attorney to his or her complaint if the response was the basis for dismissal of the complaint. A complainant

shall be notified in writing of the disposition of his or her complaint, and of the reasons for the disposition.

Receipt of a written complaint shall be acknowledged by the disciplinary agency within two weeks of its receipt.

A complainant may also designate another person as his or her agent to receive copies of the information to which he or she is entitled pursuant to this section. This is in addition to any designation by a complainant of one of his or her elected representatives to receive the information. (Added by Stats. 1986, ch. 475. Amended by Stats. 1995, ch. 88.)

§6094. Communications to Disciplinary Agency Privileged

(a) Communications to the disciplinary agency relating to lawyer misconduct or disability or competence, or any communication related to an investigation or proceeding and testimony given in the proceeding are privileged, and no lawsuit predicated thereon may be instituted against any person. The disciplinary agency and officers and employees are subject to the rules governing liability of public entities, officers, and employees specified in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

Nothing in this subdivision limits or alters the privileges accorded communications to the State Bar or testimony given in investigations or proceedings conducted by it or the immunities accorded complainants, informants, witnesses, the State Bar, its officers, and employees as existed prior to the enactment of this section. This subdivision does not constitute a change in, but is cumulative with the existing law.

(b) Upon application by the disciplinary agency and notice to the appropriate prosecuting authority, the superior court may grant immunity from criminal prosecution to a witness in any disciplinary agency proceeding. (Added by Stats. 1986, ch. 475.)

§6094.5 Goals and Policy of Disciplinary Agency

(a) It shall be the goal and policy of the disciplinary agency to dismiss a complaint, admonish the attorney, or forward a completed investigation to the Office of Trial Counsel within six months after receipt of a written complaint. As to complaints designated as complicated matters by the Chief Trial Counsel, it shall be the goal and policy of the disciplinary agency to dismiss, terminate by admonition, or forward those complaints to the Office of Trial Counsel within 12 months. A notice to show cause is a public record when filed. This goal and policy is not jurisdictional and shall not serve as a bar or defense to, any disciplinary investigation or proceeding.

(b) The disciplinary agency, subject to its record retention policy, shall respond within a reasonable time to inquiries as to the status of pending disciplinary cases in which a notice to show cause has been filed, or as to public discipline that has been imposed upon an attorney in California, or to the extent known by the agency, elsewhere, and, to the extent such information is known to the agency, all criminal cases in which an indictment or information has been brought charging a felony against an attorney or an attorney has been convicted of a felony, or convicted of any misdemeanor committed in the course of the practice of law or in any manner such that a client of the attorney was the victim, or any felony or misdemeanor, a necessary element of which, as determined by the statutory or common law definition of the crime, involves improper conduct of an attorney, including interference with the administration of justice, running and capping, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, dishonesty or other moral turpitude, or an attempt of a conspiracy or solicitation of another to commit such a crime. Such information acquired from the disciplinary agency under this section shall not be used by an attorney to solicit business. The disciplinary agency shall adopt regulations to carry out the purposes of this subdivision. (Added by Stats. 1986, ch. 475; Amended by Stats. 1988, ch. 1159; Stats. 2001, ch. 745.)

§6095. Disciplinary Procedures—Public Hearings; Reports, Audits

(a) The disciplinary agency shall annually hold at least two public hearings, one in southern California and one in northern California, to hear proposals on bar disciplinary procedures, attorney competency, and admissions procedures.

(b) To the extent the information is known to the disciplinary agency, it shall report annually to the Assembly and Senate Judiciary Committees concerning the judicial or disciplinary disposition of all criminal or disciplinary proceedings involving the allegation of the commission of a felony by an attorney. (Added by Stats. 1986, ch. 475. Amended by Stats. 1995, ch. 88; Stats. 2004, ch. 193.)

§6095.1 Complaints Against Attorneys—Statistical Information; Reports to Legislative Committees; Equitable Use of Resources

(a) Beginning on April 1, 2000, and through March 31, 2001, the State Bar shall compile statistics indicating the number of complaints against attorneys, broken down to reflect the percentage of complaints brought against attorneys practicing as solo practitioners, in small law firms or partnerships, and in large law firms. The State Bar shall

also compile statistics indicating the percentage of complaints that are prosecuted, and the outcomes of those prosecutions against solo practitioners, attorneys practicing in small law firms or partnerships, and attorneys practicing in large law firms. For the purposes of the study, agreements in lieu of discipline shall not be counted as prosecutions. Practicing attorneys shall provide any information that is requested by the bar deemed necessary for the purpose of compiling the statistics. For purposes of this section, "small law firm" means a firm, partnership, association, corporation, or limited liability partnership that includes 10 or fewer attorneys.

(b) On or before June 30, 2001, the State Bar shall issue a written report to the Senate Committee on Judiciary and the Assembly Committee on Judiciary on procedures used in the disciplinary process to ensure that resources of the State Bar are used fairly and equitably in the investigation and prosecution of complaints against attorneys. In particular, the report shall focus on whether disciplinary proceedings are brought in disproportionate numbers against attorneys practicing as solo practitioners or in small law firms or partnerships, as compared to proceedings brought against attorneys practicing in large law firms. The report shall also describe any procedures in place or under consideration to correct any institutional bias and shall include a discussion of, and recommendations regarding, any additional changes to the discipline process that would make it more equitable. In particular, the State Bar shall consider disciplinary avenues other than the investigation and prosecution of complaints against attorneys. After issuing the report, the State Bar shall continue to compile and maintain statistics pursuant to subdivision (a), and shall make those statistics available to the public upon request.

(c) Procedures used in the disciplinary process shall ensure that resources of the State Bar are used fairly and equitably in the investigation and prosecution of complaints against all attorneys. Disciplinary proceedings shall not be brought in disproportionate numbers against attorneys practicing as solo practitioners or in small law firms or partnerships, as compared to proceedings brought against attorneys practicing in large law firms, unless the number of complaints against solo practitioners, or attorneys practicing in small law firms or partnerships, is commensurate with the higher number of disciplinary proceedings.

(d) The report of the State Bar prepared pursuant to this section shall not be used as a defense or mitigating factor in any disciplinary proceeding against an attorney. (Added by Stats. 1999, ch. 221.)

ARTICLE 6
DISCIPLINARY AUTHORITY OF THE COURTS

§6100. Disbarment or Suspension

For any of the causes provided in this article, arising after an attorney's admission to practice, he or she may be disbarred or suspended by the Supreme Court. Nothing in this article limits the inherent power of the Supreme Court to discipline, including to summarily disbar, any attorney. (Origin: Code of Civ. Proc., §287. Amended by Stats. 1951, ch. 177; Stats. 1985, ch. 453.)

§6101. Conviction of Crimes Involving Moral Turpitude

(a) Conviction of a felony or misdemeanor, involving moral turpitude, constitutes a cause for disbarment or suspension. In any proceeding, whether under this article or otherwise, to disbar or suspend an attorney on account of that conviction, the record of conviction shall be conclusive evidence of guilt of the crime of which he or she has been convicted.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Office of the State Bar of California of the pendency of an action against an attorney charging a felony or misdemeanor immediately upon obtaining information that the defendant is an attorney. The notice shall identify the attorney and describe the crimes charged and the alleged facts. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is an attorney, and the clerk shall record prominently in the file that the defendant is an attorney.

(c) The clerk of the court in which an attorney is convicted of a crime, shall within 48 hours after the conviction, transmit a certified copy of the record of conviction to the office of the State Bar. Within five days of receipt, the office of the State Bar shall transmit the record of any conviction which involves or may involve moral turpitude to the Supreme Court with such other records and information as may be appropriate to establish the Supreme Court's jurisdiction. The State Bar of California may procure and transmit the record of conviction to the Supreme Court when the clerk has not done so or when the conviction was had in a court other than a court of this state.

(d) The proceedings to disbar or suspend an attorney on account of such a conviction shall be undertaken by the Supreme Court, pursuant to the procedure provided in this section and Section 6102, upon the receipt of the certified copy of the record of conviction.

(e) A plea or verdict of guilty, an acceptance of a nolo contendere plea, or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of those Sections. (Origin: Code Civ. Proc., §§287(1), 288, 289. Amended by Stats. 1953, ch. 44; Stats. 1955, ch. 1190; Stats. 1984, ch. 1355; Stats. 1996, ch. 1104.)

§6102. Conviction of Crime—Suspension and Disbarment Procedure

(a) Upon the receipt of the certified copy of the record of conviction, if it appears therefrom that the crime of which the attorney was convicted involved, or that there is probable cause to believe that it involved, moral turpitude or is a felony under the laws of California, the United States, or any state or territory thereof, the Supreme Court shall suspend the attorney until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal, or has otherwise become final, and until the further order of the court. Upon its own motion or upon good cause shown, the court may decline to impose, or may set aside, the suspension when it appears to be in the interest of justice to do so, with due regard being given to maintaining the integrity of, and confidence in, the profession.

(b) For the purposes of this section, a crime is a felony under the law of California if it is declared to be so specifically or by subdivision (a) of Section 17 of the Penal Code, unless it is charged as a misdemeanor pursuant to paragraph (4) or (5) of subdivision (b) of Section 17 of the Penal Code, irrespective of whether in a particular case the crime may be considered a misdemeanor as a result of postconviction proceedings, including proceedings resulting in punishment or probation set forth in paragraph (1) or (3) of subdivision (b) of Section 17 of the Penal Code.

(c) After the judgment of conviction of an offense specified in subdivision (a) has become final or, irrespective of any subsequent order under Section 1203.4 of the Penal Code or similar statutory provision, an order granting probation has been made suspending the imposition of sentence, the Supreme Court shall summarily disbar the attorney if the offense is a felony under the laws of California, the United States, or any state or territory thereof, and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude.

(d) For purposes of this section, a conviction under the laws of another state or territory of the United States shall be deemed a felony if:

(1) The judgment or conviction was entered as a felony irrespective of any subsequent order suspending sentence or granting probation and irrespective of whether the crime may be considered a misdemeanor as a result of postconviction proceedings.

(2) The elements of the offense for which the member was convicted would constitute a felony under the laws of the State of California at the time the offense was committed.

(e) Except as provided in subdivision (c), if after adequate notice and opportunity to be heard (which hearing shall not be had until the judgment of conviction has become final or, irrespective of any subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence), the court finds that the crime of which the attorney was convicted, or the circumstances of its commission, involved moral turpitude, it shall enter an order disbarring the attorney or suspending him or her from practice for a limited time, according to the gravity of the crime and the circumstances of the case; otherwise it shall dismiss the proceedings. In determining the extent of the discipline to be imposed in a proceeding pursuant to this article, any prior discipline imposed upon the attorney may be considered.

(f) The court may refer the proceedings or any part thereof or issue therein, including the nature or extent of discipline, to the State Bar for hearing, report, and recommendation.

(g) The record of the proceedings resulting in the conviction, including a transcript of the testimony therein, may be received in evidence.

(h) The Supreme Court shall prescribe rules for the practice and procedure in proceedings conducted pursuant to this section and Section 6101.

(i) The other provisions of this article providing a procedure for the disbarment or suspension of an attorney do not apply to proceedings pursuant to this section and Section 6101, unless expressly made applicable. (Origin: Code Civ. Proc., §299. Amended by Stats. 1941, ch. 1183; Stats. 1955, ch. 1190; Stats. 1981, ch. 714; Stats. 1985, ch. 453; Stats. 1996, ch. 1104.)

§6103. Sanctions for Violation of Oath or Attorney's Duties

A wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension. (Origin: Code Civ. Proc., §287(2).)

§6103.5 Communicate Written Offer of Settlement to Client

(a) A member of the State Bar shall promptly communicate to the member's client all amounts, terms, and conditions of any written offer of settlement made by or on behalf of an opposing party. As used in this section, "client" includes any person employing the member of the State Bar who possesses the authority to accept an offer of settlement, or in a class action, who is a representative of the class.

(b) Any written offer of settlement or any required communication of a settlement offer, as described in subdivision (a), shall be discoverable by either party in any action in which the existence or communication of the offer of settlement is an issue before the trier of fact. (Added by Stats. 1986, ch. 1238. Amended by Stats. 1987, ch. 213.)

§6103.6 Violation of Probate Code Section 15687 or Part 3.5 of Division 11 of Probate Code—Grounds for Discipline

Violation of Section 15687 of the Probate Code, or of Part 3.5 (commencing with Section 21350) of Division 11 of the Probate Code, shall be grounds for discipline, if the attorney knew or should have known of the facts leading to the violation. This section shall only apply to violations that occur on or after January 1, 1994. (Added by Stats. 1993, ch. 293. Amended by Stats. 1995, ch. 730.)

§6104. Appearing for Party without Authority

Corruptly or wilfully and without authority appearing as attorney for a party to an action or proceeding constitutes a cause for disbarment or suspension. (Origin: Code Civ. Proc., §287(3).)

§6105. Permitting Misuse of Name

Lending his name to be used as attorney by another person who is not an attorney constitutes a cause for disbarment or suspension. (Origin: Code Civ. Proc., §287(4).)

§6106. Moral Turpitude, Dishonesty or Corruption Irrespective of Criminal Conviction

The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension. If the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor. (Origin: Code Civ. Proc., §287(5).)

§6106.1 Advocacy of Overthrow of Government

Advocating the overthrow of the Government of the United States or of this State by force, violence, or other unconstitutional means, constitutes a cause for disbarment or suspension. (Added by Stats. 1951, ch. 179.)

§6106.5 Insurance Claims; Fraud

It shall constitute cause for disbarment or suspension for an attorney to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code. (Added by Stats. 1978, ch. 174, effective May 31, 1978. Amended by Stats. 1988, ch. 1159; Stats. 1991, ch. 116; Stats. 2000, ch. 867.)

§6106.6 Insurance Claims; Fraud; Investigation of Licensee

The State Bar shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation. (Added by Stats. 2000, ch. 867.)

§6106.7 Professional Sports Service Contracts

It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to violate any provision of the Miller-Ayala Athlete Agents Act (Chapter 2.5 (commencing with Section 18895) of Division 8), or to violate any provision of Chapter 1 (commencing with Section 1500) of Part 6 of Division 2 of the Labor Code, prior to January 1, 1997, or to violate any provision of the law of any other state regulating athlete agents. (Added by Stats. 1985, ch. 1133. Amended by Stats. 1996, ch. 858.)

§6106.8 Sexual Involvement Between Lawyers and Clients; Rule of Professional Conduct

(a) The Legislature hereby finds and declares that there is no rule that governs propriety of sexual relationships between lawyers and clients. The Legislature further finds and declares that it is difficult to separate sound judgment from emotion or bias which may result from sexual

involvement between a lawyer and his or her client during the period that an attorney-client relationship exists, and that emotional detachment is essential to the lawyer's ability to render competent legal services. Therefore, in order to ensure that a lawyer acts in the best interest of his or her client, a rule of professional conduct governing sexual relations between attorneys and their clients shall be adopted.

(b)With the approval of the Supreme Court, the State Bar shall adopt a rule of professional conduct governing sexual relations between attorneys and their clients in cases involving, but not limited to, probate matters and domestic relations, including dissolution proceedings, child custody cases, and settlement proceedings.

(c) The State Bar shall submit the proposed rule to the Supreme Court for approval no later than January 1, 1991.

(d) Intentional violation of this rule shall constitute a cause for suspension or disbarment. (Added by Stats. 1989, ch. 1008.)

§6106.9 Sexual Relations Between Attorney and Client

(a) It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to do any of the following:

(1) Expressly or impliedly condition the performance of legal services for a current or prospective client upon the client's willingness to engage in sexual relations with the attorney.

(2) Employ coercion, intimidation, or undue influence in entering into sexual relations with a client.

(3) Continue representation of a client with whom the attorney has sexual relations if the sexual relations cause the attorney to perform legal services incompetently in violation of Rule 3-110 of the Rules of Professional Conduct of the State Bar of California, or if the sexual relations would, or would be likely to, damage or prejudice the client's case.

(b) Subdivision (a) shall not apply to sexual relations between attorneys and their spouses or persons in an equivalent domestic relationship or to ongoing consensual sexual relationships that predate the initiation of the attorney-client relationship.

(c) Where an attorney in a firm has sexual relations with a client but does not participate in the representation of that client, the attorneys in the firm shall not be subject to discipline under this section solely because of the occurrence of those sexual relations.

(d) For the purposes of this section, "sexual relations" means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, gratification, or abuse.

(e) Any complaint made to the State Bar alleging a violation of subdivision (a) shall be verified under oath by the person making the complaint. (Added by Stats. 1992, ch. 740.)

§6107. Proceedings Upon Court's Own Knowledge or Upon Information

The proceedings to disbar or suspend an attorney, on grounds other than the conviction of a felony or misdemeanor, involving moral turpitude, may be taken by the court for the matters within its knowledge, or may be taken upon the information of another. (Origin: Code Civ. Proc., §289.)

§6108. Accusation

If the proceedings are upon the information of another, the accusation shall be in writing and shall state the matters charged, and be verified by the oath of some person, to the effect that the charges therein contained are true.

The verification may be made upon information and belief when the accusation is presented by an organized bar association. (Origin: Code Civ. Proc., §§290, 291.)

§6109. Order to Appear and Answer; Service

Upon receiving the accusation, the court shall make an order requiring the accused to appear and answer it at a specified time, and shall cause a copy of the order and of the accusation to be served upon the accused at least five days before the day appointed in the order. (Origin: Code Civ. Proc., §292.)

§6110. Citation

The court or judge may direct the service of a citation to the accused, requiring him to appear and answer the accusation, to be made by publication for thirty days in a newspaper of general circulation published in the county in which the proceeding is pending, if it appears by affidavit to the satisfaction of the court or judge that the accused either:

(a) Resides out of the State.

(b) Has departed from the State.

(c) Can not, after due diligence, be found within the State.

(d) Conceals himself to avoid the service of the order to show cause.

The citation shall be:

(a) Directed to the accused.

(b) Recite the date of the filing of the accusation, the name of the accuser, and the general nature of the charges against him.

(c) Require him to appear and answer the accusation at a specified time.

On proof of the publication of the citation as herein required, the court has jurisdiction to proceed to hear the accusation and render judgment with like effect as if an order to show cause and a copy of the accusation had been personally served on the accused. (Origin: Code Civ. Proc., §292.)

§6111. Appearance; Determination Upon Default

The accused shall appear at the time appointed in the order, and answer the accusation, unless, for sufficient cause, the court assigns another day for that purpose. If he does not appear, the court may proceed and determine the accusation in his absence. (Origin: Code Civ. Proc., §293.)

§6112. Answer

The accused may answer to the accusation either by objecting to its sufficiency or by denying it.

If he objects to the sufficiency of the accusation, the objection shall be in writing, but need not be in any specific form. It is sufficient if it presents intelligibly the grounds of the objection.

If he denies the accusation, the denial may be oral and without oath, and shall be entered upon the minutes. (Origin: Code Civ. Proc., §§294, 295.)

§6113. Time for Answer After Objection

If an objection to the sufficiency of the accusation is not sustained, the accused shall answer within the time designated by the court. (Origin: Code Civ. Proc., §296.)

§6114. Judgment Upon Plea of Guilty or Failure to Answer; Trial Upon Denial of Charges

If the accused pleads guilty, or refuses to answer the accusation, the court shall proceed to judgment of disbarment or suspension.

If he denies the matters charged, the court shall, at such time as it may appoint, proceed to try the accusation. (Origin: Code Civ. Proc., §297.)

§6115. Reference to Take Depositions

The court may, in its discretion, order a reference to a committee to take depositions in the matter. (Origin: Code Civ. Proc., §298.)

§6116. Judgment

When an attorney has been found guilty of the charges made in proceedings not based upon a record of conviction, judgment shall be rendered disbarring the attorney or suspending him from practice for a limited time, according to the gravity of the offense charged. (Origin: Code Civ. Proc., §299.)

§6117. Effect of Disbarment or Suspension

During such disbarment or suspension, the attorney shall be precluded from practicing law.

When disbarred, his name shall be stricken from the roll of attorneys. (Origin: Code Civ. Proc., §299.)

ARTICLE 7
UNLAWFUL PRACTICE OF LAW

§6125. Necessity of Active Membership in State Bar

No person shall practice law in California unless the person is an active member of the State Bar. (Origin: State Bar Act, §47. Amended by Stats. 1990, ch. 1639.)

§6126. Unauthorized Practice or Advertising as a Misdemeanor

(a) Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court

rule to practice law in this state at the time of doing so, is guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to one thousand dollars ($1,000), or by both that fine and imprisonment. Upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a sentence of less than 90 days for a second or subsequent conviction under this subdivision, the court shall state the reasons for its sentencing choice on the record.

(b) Any person who has been involuntarily enrolled as an inactive member of the State Bar, or has been suspended from membership from the State Bar, or has been disbarred, or has resigned from the State Bar with charges pending, and thereafter practices or attempts to practice law, advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail. However, any person who has been involuntarily enrolled as an inactive member of the State Bar pursuant to paragraph (1) of subdivision (e) of Section 6007 and who knowingly thereafter practices or attempts to practice law, or advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail.

(c) The willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court to comply with Rule 9.20 of the California Rules of Court, constitutes a crime punishable by imprisonment in the state prison or a county jail.

(d) The penalties provided in this section are cumulative to each other and to any other remedies or penalties provided by law. (Origin: State Bar Act, §49; Pen. Code, §161a. Added by Stats. 1939, ch. 34. Amended by Stats. 1939, ch. 980; Stats. 1988, ch. 1159; Stats. 2002, ch. 394; Stats. 2007, ch. 474.)

§6126.3 Authority of Courts; Assumption of Jurisdiction Over Practices of Persons Who Advertise or Hold Themselves Out as Entitled to Practice Law but are Not Members of the State Bar or Otherwise Authorized to Practice Law

(a) In addition to any criminal penalties pursuant to Section 6126 or to any contempt proceedings pursuant to Section 6127, the courts of the state shall have the jurisdiction provided in this section when a person advertises or holds himself or herself out as practicing or entitled to practice law, or otherwise practices law, without being an active member of the State Bar or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so.

(b) The State Bar, or the superior court on its own motion, may make application to the superior court for the county where the person described in subdivision (a) maintains or more recently has maintained his or her principal office for the practice of law or where he or she resides, for assumption by the court of jurisdiction over the practice to the extent provided in this section. In any proceeding under this section, the State Bar shall be permitted to intervene and to assume primary responsibility for conducting the action.

(c) An application made pursuant to subdivision (b) shall be verified, and shall state facts showing all of the following:

(1) Probable cause to believe that the facts set forth in subdivision (a) of Section 6126 have occurred.

(2) The interest of the applicant.

(3) Probable cause to believe that the interests of a client or of an interested person or entity will be prejudiced if the proceeding is not maintained.

(d) The application shall be set for hearing, and an order to show cause shall be issued directing the person to show cause why the court should not assume jurisdiction over the practice as provided in this section. A copy of the application and order to show cause shall be served upon the person by personal delivery or, as an alternate method of service, by certified or registered mail, return receipt requested, addressed to the person either at the address at which he or she maintains, or more recently has maintained, his or her principal office or at the address where he or she resides. Service is complete at the time of mailing, but any prescribed period of notice and any right or duty to do any act or make any response within that prescribed period or on a date certain after notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the State Bar is not the applicant, copies shall also be served upon the Office of the Chief Trial Counsel of the State Bar in similar manner at the time of service on the person who is the subject of the application. The court may prescribe additional or alternative methods of service of the application and order to show cause, and may prescribe methods of notifying and serving notices and process upon other persons and entities in cases not specifically provided herein.

(e) If the court finds that the facts set forth in subdivision (a) of Section 6126 have occurred and that the interests of a client or an interested person or entity will be prejudiced if the proceeding provided herein is not maintained, the

court may make an order assuming jurisdiction over the person's practice pursuant to this section. If the person to whom the order to show cause is directed does not appear, the court may make its order upon the verified application or upon such proof as it may require. Thereupon, the court shall appoint one or more active members of the State Bar to act under its direction to mail a notice of cessation of practice, pursuant to subdivision (g), and may order those appointed attorneys to do one or more of the following:

(1) Examine the files and records of the practice and obtain information as to any pending matters that may require attention.

(2) Notify persons and entities who appear to be clients of the person of the occurrence of the event or events stated in subdivision (a) of Section 6126, and inform them that it may be in their best interest to obtain other legal counsel.

(3) Apply for an extension of time pending employment of legal counsel by the client.

(4) With the consent of the client, file notices, motions, and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.

(5) Give notice to the depositor and appropriate persons and entities who may be affected, other than clients, of the occurrence of the event or events.

(6) Arrange for the surrender or delivery of clients' papers or property.

(7) Arrange for the appointment of a receiver, where applicable, to take possession and control of any and all bank accounts relating to the affected person's practice.

(8) Do any other acts that the court may direct to carry out the purposes of this section. The court shall have jurisdiction over the files and records and over the practice of the affected person for the limited purposes of this section, and may make all orders necessary or appropriate to exercise this jurisdiction. The court shall provide a copy of any order issued pursuant to this section to the Office of the Chief Trial Counsel of the State Bar.

(f) Anyone examining the files and records of the practice of the person described in subdivision (a) shall observe any lawyer-client privilege under Sections 950 and 952 of the Evidence Code and shall make disclosure only to the extent necessary to carry out the purposes of this section. That disclosure shall be a disclosure that is reasonably necessary for the accomplishment of the purpose for which the person described in subdivision (a) was consulted. The appointment of a member of the State Bar pursuant to this section shall not affect the lawyer-client privilege, which privilege shall apply to communications by or to the appointed members to the same extent as it would have applied to communications by or to the person described in subdivision (a).

(g) The notice of cessation of law practice shall contain any information that may be required by the court, including, but not limited to, the finding by the court that the facts set forth in subdivision (a) of Section 6126 have occurred and that the court has assumed jurisdiction of the practice. The notice shall be mailed to all clients, to opposing counsel, to courts and agencies in which the person has pending matters with an identification of the matter, to the Office of the Chief Trial Counsel of the State Bar, and to any other person or entity having reason to be informed of the court's assumption of the practice.

(h) Nothing in this section shall authorize the court or an attorney appointed by it pursuant to this section to approve or disapprove of the employment of legal counsel, to fix terms of legal employment, or to supervise or in any way undertake the conduct of the practice, except to the limited extent provided by paragraphs (3) and (4) of subdivision (e).

(i) Unless court approval is first obtained, neither the attorney appointed pursuant to this section, nor his or her corporation, nor any partner or associate of the attorney shall accept employment as an attorney by any client of the affected person on any matter pending at the time of the appointment. Action taken pursuant to paragraphs (3) and (4) of subdivision (e) shall not be deemed employment for purposes of this subdivision.

(j) Upon a finding by the court that it is more likely than not that the application will be granted and that delay in making the orders described in subdivision (e) will result in substantial injury to clients or to others, the court, without notice or upon notice as it shall prescribe, may make interim orders containing any provisions that the court deems appropriate under the circumstances. Such an interim order shall be served in the manner provided in subdivision (d) and, if the application and order to show cause have not yet been served, the application and order to show cause shall be served at the time of serving the interim order.

(k) No person or entity shall incur any liability by reason of the institution or maintenance of a proceeding brought under this section. No person or entity shall incur any liability for an act done or omitted to be done pursuant to order of the court under this section. No person or entity shall be liable for failure to apply for court jurisdiction under this section. Nothing in this section shall affect any

obligation otherwise existing between the affected person and any other person or entity.

(l) An order pursuant to this section is not appealable and shall not be stayed by petition for a writ, except as ordered by the superior court or by the appellate court.

(m) A member of the State Bar appointed pursuant to this section shall serve without compensation. However, the member may be paid reasonable compensation by the State Bar in cases where the State Bar has determined that the member has devoted extraordinary time and services that were necessary to the performance of the member's duties under this article. All payments of compensation for time and services shall be at the discretion of the State Bar. Any member shall be entitled to reimbursement from the State Bar for necessary expenses incurred in the performance of the member's duties under this article. Upon court approval of expenses or compensation for time and services, the State Bar shall be entitled to reimbursement therefor from the person described in subdivision (a) or his or her estate. (Added by Stats. 2005, ch. 273. Amended by Stats. 2006, ch. 538.)

§6126.4 Authority of Courts to Assume Jurisdiction Extends to Immigration Consultants

Section 6126.3 shall apply to a person acting in the capacity of an immigration consultant pursuant to Chapter 19.5 (commencing with Section 22440) who advertises or holds himself or herself out as practicing or entitled to practice law, or otherwise practices law. (Added by Stats. 2006, ch. 605.)

§6126.5 Relief

(a) In addition to any remedies and penalties available in any enforcement action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney, acting as a public prosecutor, the court shall award relief in the enforcement action for any person who obtained services offered or provided in violation of Section 6125 or 6126 or who purchased any goods, services, or real or personal property in connection with services offered or provided in violation of Section 6125 or 6126 against the person who violated Section 6125 or 6126, or who sold goods, services, or property in connection with that violation. The court shall consider the following relief:

(1) Actual damages.

(2) Restitution of all amounts paid.

(3) The amount of penalties and tax liabilities incurred in connection with the sale or transfer of assets to pay for any goods, services, or property.

(4) Reasonable attorney's fees and costs expended to rectify errors made in the unlawful practice of law.

(5) Prejudgment interest at the legal rate from the date of loss to the date of judgment.

(6) Appropriate equitable relief, including the rescission of sales made in connection with a violation of law.

(b) The relief awarded under paragraphs (1) to (6), inclusive, of subdivision (a) shall be distributed to, or on behalf of, the person for whom it was awarded or, if it is impracticable to do so, shall be distributed as may be directed by the court pursuant to its equitable powers.

(c) The court shall also award the Attorney General, district attorney, or city attorney reasonable attorney's fees and costs and, in the court's discretion, exemplary damages as provided in Section 3294 of the Civil Code.

(d) This section shall not be construed to create, abrogate, or otherwise affect claims, rights, or remedies, if any, that may be held by a person or entity other than those law enforcement agencies described in subdivision (a). The remedies provided in this section are cumulative to each other and to the remedies and penalties provided under other laws. (Added by Stats. 2001, ch. 304.)

§6127. Contempt of Court

The following acts or omissions in respect to the practice of law are contempts of the authority of the courts:

(a) Assuming to be an officer or attorney of a court and acting as such, without authority.

(b) Advertising or holding oneself out as practicing or as entitled to practice law or otherwise practicing law in any court, without being an active member of the State Bar.

Proceedings to adjudge a person in contempt of court under this section are to be taken in accordance with the provisions of Title V of Part III of the Code of Civil Procedure. (Origin: Code Civ. Proc., §§281, 1209.)

§6127.5 Law Corporation Under Professional Corporation Act

Nothing in sections 6125, 6126 and 6127 shall be deemed to apply to the acts and practices of a law corporation duly certificated pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with section 13400) of Division 3 of Title 1 of the Corporations Code, and pursuant to Article 10 (commencing with section 6160) of Chapter 4 of Division 3 of this code, when the law corporation is in compliance with the requirements of (a) the Professional Corporation Act; (b) Article 10

(commencing with section 6160) of Chapter 4 of Division 3 of this code; and (c) all other statutes and all rules and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs. (Added by Stats. 1968, ch. 1375.)

§6128. Deceit, Collusion, Delay of Suit and Improper Receipt of Money as Misdemeanor

Every attorney is guilty of a misdemeanor who either:

(a) Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party.

(b) Willfully delays his client's suit with a view to his own gain.

(c) Willfully receives any money or allowance for or on account of any money which he has not laid out or become answerable for.

Any violation of the provisions of this section is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both. (Origin: Pen. Code §160. Amended by Stats. 1976, ch. 1125.)

§6129. Buying Claim as Misdemeanor

Every attorney who, either directly or indirectly, buys or is interested in buying any evidence of debt or thing in action, with intent to bring suit thereon, is guilty of a misdemeanor.

Any violation of the provisions of this section is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both. (Origin: Pen. Code §161. Amended by Stats. 1976, ch. 1125.)

§6130. Disbarred or Suspended Attorney Suing as Assignee

No person, who has been an attorney, shall while a judgment of disbarment or suspension is in force appear on his own behalf as plaintiff in the prosecution of any action where the subject of the action has been assigned to him subsequent to the entry of the judgment of disbarment or suspension and solely for purpose of collection. (Origin: Code Civ. Proc., §300.)

§6131. Aiding Defense Where Partner or Self has Acted as Public Prosecutor; Misdemeanor and Disbarment

Every attorney is guilty of a misdemeanor and, in addition to the punishment prescribed therefor, shall be disbarred:

(a) Who directly or indirectly advises in relation to, or aids, or promotes the defense of any action or proceeding in any court the prosecution of which is carried on, aided or promoted by any person as district attorney or other public prosecutor with whom such person is directly or indirectly connected as a partner.

(b) Who, having himself prosecuted or in any manner aided or promoted any action or proceeding in any court as district attorney or other public prosecutor, afterwards, directly or indirectly, advises in relation to or takes any part in the defense thereof, as attorney or otherwise, or who takes or receives any valuable consideration from or on behalf of any defendant in any such action upon any understanding or agreement whatever having relation to the defense thereof.

This section does not prohibit an attorney from defending himself in person, as attorney or counsel, when prosecuted, either civilly or criminally. (Origin: Pen. Code, §§162, 163.)

§6132. Law Firm Name—Removal of Name of Disciplined Attorney

Any law firm, partnership, corporation, or association which contains the name of an attorney who is disbarred, or who resigned with charges pending, in its business name shall remove the name of that attorney from its business name, and from all signs, advertisements, letterhead, and other materials containing that name, within 60 days of the disbarment or resignation. (Added by Stats. 1988, ch. 1159.)

§6133. Supervision of Disciplined Attorney Activities by Law Firms

Any attorney or any law firm, partnership, corporation, or association employing an attorney who has resigned, or who is under actual suspension from the practice of law, or is disbarred, shall not permit that attorney to practice law or so advertise or hold himself or herself out as practicing law and shall supervise him or her in any other assigned duties. A willful violation of this section constitutes a cause for discipline. (Added by Stats. 1988, ch. 1159.)

ARTICLE 8
REVENUE

§6140. Membership Fee; Time of Payment

(a) The board shall fix the annual membership fee for active members for 2008 at a sum not exceeding three hundred fifteen dollars ($315).

(b) The annual membership fee for active members is payable on or before the first day of February of each year. If the board finds it appropriate and feasible, it may provide by rule for payment of fees on an installment basis with interest, by credit card, or other means, and may charge members choosing any alternative method of payment an additional fee to defray costs incurred by that election.

(c) On or before January 10, 2008, the board shall report to the Chairs of the Senate and Assembly Committees on Judiciary, with a copy to the State Auditor, all of the following:

(1) Whether the State Bar has fully completed and implemented its strategic planning process for all of the State Bar's departments, and, if completed and implemented, the result of the 2008 budgeting process methodology using the strategic plan.

(2) A report on the status of the funds collected pursuant to Section 6140.3, as that section read on December 1, 2007, including the income paid into, and expenses paid out of, those funds for 2007, and the end-of-year balance for 2007.

(3) Whether the State Bar is in full compliance with its checklist and auditing systems and the changes it has implemented to address concerns identified by the State Auditor that will ensure complete and efficient case processing of disciplinary matters.

(4) The State Bar's plan to control Client Security Fund administrative expenses.

(5) Whether the State Bar has fully complied with its administrative and monitoring responsibilities with respect to the Legal Services Trust Fund Program, including monitoring trust account reporting compliance.

(d) This section shall remain in effect only until January 1, 2009, and, as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date. (Added by Stats. 1999, ch. 342. Amended by Stats. 2000, ch. 118; Stats. 2001, ch. 24; Stats. 2003, ch. 334; Stats. 2004, ch. 384; Stats. 2005, ch. 341; Stats. 2007, ch. 474.)

§6140.05 State Bar Lobbying Activities—Keller Deduction; Limits on Expenditures

(a) The invoice provided to members for payment of the annual membership fee shall provide each member the option of deducting five dollars ($5) from the annual fee if the member elects not to support lobbying and related activities by the State Bar outside of the parameters established by the United States Supreme Court in Keller v. State Bar of California (1990) 496 U.S. 1.

(b) For the support or defense of lobbying and related activities conducted by the State Bar on or after January 1, 2000, outside of the parameters of Keller v. State Bar of California, and in support or defense of any litigation arising therefrom, the Board of Governors of the State Bar shall not expend a sum exceeding the following: the product of the number of members paying their annual dues who did not elect the optional deduction multiplied by five dollars ($5).

Moneys collected pursuant to this section shall not be deemed voluntary fees or funds for the purpose of subdivision (c) of Section 6031.5.

(c) As used in this section, "lobbying and related activities by the State Bar" includes the consideration of measures by the Board of Governors of the State Bar that are deemed outside the parameters established in *Keller v. State Bar*, the purview determination, lobbying and the preparation for lobbying of the measures, and any litigation in support or defense of that lobbying. The determination of these costs shall include, but not be limited to, overhead and administrative costs. (Added by Stats. 1999, ch. 342.)

§6140.1 Annual Budget

The State Bar annually shall submit its proposed baseline budget for the following fiscal year to the legislature by November 15, and its proposed final budget by February 15, so that the budget can be reviewed and approved in conjunction with any bill that would authorize the imposition of membership dues. Each proposed budget shall include the estimated revenues, expenditures, and staffing levels for all of the programs and funds administered by the State Bar. Any bill that authorizes the imposition of membership dues shall be a fiscal bill and shall be referred to the appropriate fiscal committees; provided, however, that the bill may be approved by a majority vote.

The State Bar shall submit the budget documents in a form comparable to the documents prepared by state departments for inclusion in the Governor's Budget and the salaries and wages supplement. In addition, the bar shall provide supplementary schedules detailing operating

expenses and equipment, all revenue sources, any reimbursements or interfund transfers, fund balances, and other related supporting documentation. The bar shall submit budget change proposals with its final budget, explaining the need for any differences between the current and proposed budgets. (Added by Stats. 1986, ch. 2, effective February 4, 1986. Amended by Stats. 1986, ch. 1510; Stats. 1987, ch. 688; Stats. 1988, ch. 1149; Stats. 1992, ch. 1296.)

§6140.2 Goal for Timely Disposition of Complaints

The State Bar shall set as a goal the improvement of its disciplinary system so that no more than six months will elapse from the receipt of complaints to the time of dismissal, admonishment of the attorney involved, or the filing of formal charges by the State Bar Office of Trial Counsel. (Added by Stats. 1986, ch. 2, effective February 4, 1986. Amended by Stats. 2004, ch. 193.)

§6140.3 (Added by Stats. 1986, ch. 2. Repealed by Stats. 2007, ch. 474.)

§6140.35 Increase in Annual Membership Fee — Technology Upgrade

(a) The board may increase the annual membership fee fixed by Section 6140 by an additional amount not exceeding ten dollars ($10). This additional amount may be used only for the costs of upgrading the board's information technology system, including purchasing and maintenance costs and both computer hardware and software. This special assessment for information technology upgrades shall be separately listed and described in the annual membership fee invoice, which shall include notice of the repeal of this section on January 1, 2011.

(b) This section shall remain in effect only until January 1, 2011, and, as of that date, is repealed. (Added by Stats. 2007, ch. 474.)

§6140.5 Client Security Fund; Establishment; Payments; Administration; Funding

(a) The board shall establish and administer a Client Security Fund to relieve or mitigate pecuniary losses caused by the dishonest conduct of active members of the State Bar, Foreign Legal Consultants registered with the State Bar, and attorneys registered with the State Bar under the Multijurisdictional Practice Program, arising from or connected with the practice of law. Any payments from the fund shall be discretionary and shall be subject to regulation and conditions as the board shall prescribe. The board may delegate the administration of the fund to the State Bar Court, or to any board or committee created by the board of governors.

(b) Upon making a payment to a person who has applied to the fund for payment to relieve or mitigate pecuniary losses caused by the dishonest conduct of an active member of the State Bar, the State Bar is subrogated, to the extent of that payment, to the rights of the applicant against any person or persons who, or entity that, caused the pecuniary loss. The State Bar may bring an action to enforce those rights within three years from the date of payment to the applicant.

(c) Any attorney whose actions have caused the payment of funds to a claimant from the Client Security Fund shall reimburse the fund for all moneys paid out as a result of his or her conduct with interest, in addition to payment of the assessment for the procedural costs of processing the claim, as a condition of continued practice. The reimbursed amount, plus applicable interest and costs, shall be added to and become a part of the membership fee of a publicly reproved or suspended member for the next calendar year. For a member who resigns with disciplinary charges pending or a member who is suspended or disbarred, the reimbursed amount, plus applicable interest and costs, shall be paid as a condition of reinstatement of membership.

(d) Any assessment against an attorney pursuant to subdivision (c) that is part of an order imposing a public reproval on a member or is part of an order imposing discipline or accepting a resignation with a disciplinary matter pending, may also be enforced as a money judgment. This subdivision does not limit the power of the Supreme Court to alter the amount owed or to authorize the State Bar Court, in the enforcement of a judgment under this subdivision, to approve an agreement for the compromise of that judgment. (Added by Stats. 1971, ch. 1338. Amended by Stats. 1986, ch. 2, effective February 4, 1986; Stats. 1986, ch. 1510; Stats. 1988, ch. 484; Stats 1988, ch. 1159, Stats. 2003, 334; Stats. 2005, ch. 341.)

§6140.55 Increase Annual Membership Fee—Client Security Fund

The board may increase the annual membership fees fixed by it pursuant to Section 6140 by an additional amount per active member not to exceed forty dollars ($40), and the annual membership fees fixed by it pursuant to Section 6141 by an additional amount per inactive member not to exceed ten dollars ($10), in any year, the additional amount to be applied only for the purposes of the Client Security Fund and the costs of its administration, including, but not limited to, the costs of processing, determining, defending, or insuring claims against the fund. (Added by Stats. 1988, ch. 1149. Amended by Stats. 1990, ch. 1639; Stats. 2001, ch. 24; Stats. 2005, ch. 341.)

§6140.6 Costs of Disciplinary System

The board may increase the annual membership fees fixed by Sections 6140 and 6141 by an additional amount not to exceed twenty-five dollars ($25) to be applied to the costs of the disciplinary system. (Added by Stats. 1986, ch. 1510. Amended by Stats. 1990, ch. 1639; Stats. 2005, ch. 341.)

§6140.7 Disciplinary Costs Added to Membership Fee

Costs assessed against a member publicly reproved or suspended, where suspension is stayed and the member is not actually suspended, shall be added to and become a part of the membership fee of the member, for the next calendar year. Unless time for payment of discipline costs is extended pursuant to subdivision (c) of Section 6086.10, costs assessed against a member who resigns with disciplinary charges pending or by a member who is actually suspended or disbarred shall be paid as a condition of reinstatement of or return to active membership. (Added by Stats. 1986, ch. 662. Amended by Stats. 1996, ch. 1104; Stats. 2004, ch. 529.)

§6140.9 Increase Membership Fee—Discipline Monitor and Independent Monitor

Moneys for the support of the program established pursuant to Article 15 (commencing with Section 6230) and related programs approved by the committee established pursuant to Section 6231 shall be paid in whole or part by a fee of ten dollars ($10) per active member per year, and by a fee of five dollars ($5) per inactive member per year.

The board may seek alternative sources for funding the program. To the extent that funds from alternative sources are obtained and used for the support of the program, and provided that at least ten dollars ($10) per active member and five dollars ($5) per inactive member is available for support of the program each year, funds provided by the fee established by this section may be applied to the costs of State Bar general fund programs. (Added by Stats. 1988, ch. 1149. Amended by Stats. 2001, ch. 129; Stats. 2005, ch. 341.)

§6140.16 State Bar Review of Workload Standards

The State Bar shall review its workload standards to measure the effectiveness and efficiency of its disciplinary activities, including, but not limited to, the State Bar Court and the Client Security Fund, and provide guidance to the State Bar and the Legislature in allocating resources. The standards shall be used to reassess the numbers and classifications of staff required to conduct the activities of the State Bar's disciplinary activities. The review shall cover the calendar years of 1998, 1999, and 2000. The State Bar shall submit a report to the Legislature on its review of workload standards by June 30, 2001. (Added by Stats. 1990, ch. 1639. Amended by Stats. 2000, ch. 246.)

§6141. Inactive Membership Fee; Waivers

(a) Until December 31, 2006, the board shall fix the annual membership fee for inactive members at a sum not exceeding sixty-five dollars ($65). On January 1, 2007, and thereafter, the board shall fix the annual membership fee for inactive members at a sum not exceeding seventy-five dollars ($75). The annual membership fee for inactive members is payable on or before the first day of February of each year.

(b) An inactive member shall not be required to pay the annual membership fee for inactive members for any calendar year following the calendar year in which the member attains the age of 70 years. (Origin: State Bar Act, §45. Amended by Stats. 1953, ch. 352; Stats. 1964, 1st Ex. Sess., ch. 29; Stats. 1971, ch. 1338; Stats. 1975, ch. 673; Stats. 1986, ch. 1510; Stats. 2005, ch. 341.)

§6141.1 Waiver of Membership Fee

(a) The payment by any member of the annual membership fee, any portion thereof, or any penalty thereon, may be waived by the board as it may provide by rule. The board may require submission of recent federal and state income tax returns and other proof of financial condition as to those members seeking waiver of all or a portion of their fee or penalties on the ground of financial hardship.

(b) The board shall adopt a rule or rules providing that an active member who can demonstrate total gross annual individual income from all sources of less than forty thousand dollars ($40,000) shall presumptively qualify for a waiver of 25 percent of the annual membership fee.

(Added by Stats. 1941, ch. 144. Amended by Stats. 1977, ch. 58; Stats. 1988, ch. 1149; Stats. 1999, ch. 342; Stats. 2003, ch. 334; Stats. 2005, ch. 341.)

§6142. Certificate of Payment

Upon the payment of the annual membership fees, including any costs imposed pursuant to Section 6140.7, and penalties imposed pursuant to Section 6143, each member shall receive a certificate issued under the direction of the board evidencing the payment. (Origin: State Bar Act, §44. Amended by Stats. 1986, ch. 662; Stats. 1988, ch. 1149.)

§6143. Suspension for Nonpayment and Reinstatement; Penalties

Any member, active or inactive, failing to pay any fees, penalties or costs after they become due, and after two months written notice of his or her delinquency, shall be suspended from membership in the State Bar.

The member may be reinstated upon the payment of accrued fees or costs and such penalties as may be imposed by the board, not exceeding double the amount of delinquent dues, penalties or costs. (Origin: State Bar Act, §46. Amended by Stats. 1986, ch. 662; Stats. 1988, ch. 1149.)

§6143.5 Members Failure to Pay Child Support

Any member, active or inactive, failing to pay any child support after it becomes due shall be subject to Section 17520 of the Family Code. (Added by Stats. 1992, ch. 50. Amended by Stats. 2000, ch. 808.)

§6144. Disposition of Fees

All fees shall be paid into the treasury of the State Bar, and, when so paid, shall become part of its funds. (Origin: State Bar Act, §46.)

§6144.5 Annual Membership Fees Augmentation — Legislative Intent

It is the intent of the Legislature to confirm, validate, and declare effective the annual membership fees, and all augmentations, including, but not limited to, those made under Sections 6140.3 and 6140.6, fixed and collected by the board for 1990, and all other acts arising from and related thereto. (Added by Stats. 1990, ch. 1639.)

§6145. Annual Financial Statement; Bi-Annual Performance Audit

(a) The board shall engage the services of an independent national or regional public accounting firm with at least five years of experience in governmental auditing for an audit of its financial statement for each fiscal year. The financial statement shall be promptly certified under oath by the Treasurer of the State Bar, and a copy of the audit and financial statement shall be submitted within 120 days of the close of the fiscal year to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

The audit shall examine the receipts and expenditures of the State Bar and the State Bar sections, to ensure that the receipts of the sections are being applied, and their expenditures are being made, in compliance with subdivision (a) of Section 6031.5, and that the receipts of the sections are applied only to the work of the sections.

The audit also shall examine the receipts and expenditures of the State Bar to ensure that the funds collected on behalf of the Conference of Delegates of California Bar Associations as the independent successor entity to the former Conference of Delegates of the State Bar are conveyed to that entity, that the State Bar has been paid or reimbursed for the full cost of any administrative and support services provided to the successor entity, including the collection of fees or donations on its behalf, and that no mandatory dues are being used to fund the activities of the successor entity.

In selecting the accounting firm, the board shall consider the value of continuity, along with the risk that continued long-term engagements of an accounting firm may affect the independence of that firm.

(b) The board shall contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations from July 1, 2000, to December 31, 2000, inclusive. A copy of the performance audit shall be submitted by May 1, 2001, to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

Every two years thereafter, the board shall contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations for the respective fiscal year, commencing with January 1, 2002, to December 31, 2002, inclusive. A copy of the performance audit shall be submitted within 120 days of the close of the fiscal year for which the audit was performed to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

For the purposes of this subdivision, the Bureau of State Audits may contract with a third party to conduct the performance audit. This subdivision is not intended to reduce the number of audits the Bureau of State Audits may otherwise be able to conduct. (Added by Stats. 1999, ch. 342. Amended by Stats. 2002, ch. 415, effective September 9, 2002; Stats. 2003, ch. 334; Stats. 2006, ch.15; Stats. 2007, ch. 130.)

ARTICLE 8.5
FEE AGREEMENTS

§6146. Limitations; Periodic Payments; Definitions

(a) An attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with an action for injury or damage against a health care provider based upon such person's alleged professional negligence in excess of the following limits:

(1) Forty percent of the first fifty thousand dollars ($50,000) recovered.

(2) Thirty-three and one-third percent of the next fifty thousand dollars ($50,000) recovered.

(3) Twenty-five percent of the next five hundred thousand dollars ($500,000) recovered.

(4) Fifteen percent of any amount on which the recovery exceeds six hundred thousand dollars ($600,000).

The limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(b) If periodic payments are awarded to the plaintiff pursuant to section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorney's fees are calculated under this section.

(c) For purposes of this section:

(1) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges are not deductible disbursements or costs for such purpose.

(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with

Section 500) or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

(3) "Professional negligence" is a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that the services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital. (Added by Stats. 1975, 2nd Ex. Sess., ch. 1; Amended by Stats. 1975, 2nd Ex. Sess., ch. 2, effective September 24, 1975, operative December 12, 1975; Stats. 1981, ch. 714; Stats. 1987, ch. 1498.)

§6147. Contingency Fee Contract: Contents; Effect of Noncompliance; Application to Contracts for Recovery of Workers' Compensation Benefits

(a) An attorney who contracts to represent a client on a contingency fee basis shall, at the time the contract is entered into, provide a duplicate copy of the contract, signed by both the attorney and the client, or the client's guardian or representative, to the plaintiff, or to the client's guardian or representative. The contract shall be in writing and shall include, but is not limited to, all of the following:

(1) A statement of the contingency fee rate that the client and attorney have agreed upon.

(2) A statement as to how disbursements and costs incurred in connection with the prosecution or settlement of the claim will affect the contingency fee and the client's recovery.

(3) A statement as to what extent, if any, the client could be required to pay any compensation to the attorney for related matters that arise out of their relationship not covered by their contingency fee contract. This may include any amounts collected for the plaintiff by the attorney.

(4) Unless the claim is subject to the provisions of Section 6146, a statement that the fee is not set by law but is negotiable between attorney and client.

(5) If the claim is subject to the provisions of Section 6146, a statement that the rates set forth in that section are the maximum limits for the contingency fee agreement, and that the attorney and client may negotiate a lower rate.

(b) Failure to comply with any provision of this section renders the agreement voidable at the option of the plaintiff, and the attorney shall thereupon be entitled to collect a reasonable fee.

(c) This section shall not apply to contingency fee contracts for the recovery of workers' compensation benefits.

(d) This section shall become operative on January 1, 2000. (Added by Stats. 1993, ch. 982. Amended by Stats. 1994, ch. 479; Stats. 1996, ch. 1104, operative January 1, 2000.)

§6147.5 Contingency Fee Contracts; Recovery of Claims between Merchants

(a) Sections 6147 and 6148 shall not apply to contingency fee contracts for the recovery of claims between merchants as defined in Section 2104 of the Commercial Code, arising from the sale or lease of goods or services rendered, or money loaned for use, in the conduct of a business or profession if the merchant contracting for legal services employs 10 or more individuals.

(b) (1) In the instances in which no written contract for legal services exists as permitted by subdivision (a), an attorney shall not contract for or collect a contingency fee in excess of the following limits:

(A) Twenty percent (20%) of the first three hundred dollars ($300) collected.

(B) Eighteen percent (18%) of the next one thousand seven hundred dollars ($1,700) collected.

(C) Thirteen percent (13%) of sums collected in excess of two thousand dollars ($2,000).

(2) However, the following minimum charges may be charged and collected:

(A) Twenty-five dollars ($25) in collections of seventy-five dollars ($75) to one hundred twenty-five dollars ($125).

(B) Thirty-three and one-third percent of collections less than seventy-five dollars ($75). (Added by Stats. 1990, ch. 713.)

§6148. Written Fee Contract: Contents; Effect of Noncompliance

(a) In any case not coming within Section 6147 in which it is reasonably foreseeable that total expense to a client, including attorney fees, will exceed one thousand dollars ($1,000), the contract for services in the case shall be in writing. At the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client, or the client's guardian or representative, to the client or to the client's guardian or representative. The written contract shall contain all of the following:

(1) Any basis of compensation including, but not limited to, hourly rates, statutory fees or flat fees, and other standard rates, fees, and charges applicable to the case.

(2) The general nature of the legal services to be provided to the client.

(3) The respective responsibilities of the attorney and the client as to the performance of the contract.

(b) All bills rendered by an attorney to a client shall clearly state the basis thereof. Bills for the fee portion of the bill shall include the amount, rate, basis for calculation, or other method of determination of the attorney's fees and costs. Bills for the cost and expense portion of the bill shall clearly identify the costs and expenses incurred and the amount of the costs and expenses. Upon request by the client, the attorney shall provide a bill to the client no later than 10 days following the request unless the attorney has provided a bill to the client within 31 days prior to the request, in which case the attorney may provide a bill to the client no later than 31 days following the date the most recent bill was provided. The client is entitled to make similar requests at intervals of no less than 30 days following the initial request. In providing responses to client requests for billing information, the attorney may use billing data that is currently effective on the date of the request, or, if any fees or costs to that date cannot be accurately determined, they shall be described and estimated.

(c) Failure to comply with any provision of this section renders the agreement voidable at the option of the client, and the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.

(d) This section shall not apply to any of the following:

(1) Services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client or where a writing is otherwise impractical.

(2) An arrangement as to the fee implied by the fact that the attorney's services are of the same general kind as previously rendered to and paid for by the client.

(3) If the client knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required.

(4) If the client is a corporation.

(e) This section applies prospectively only to fee agreements following its operative date.

(f) This section shall become operative on January 1, 2000. (Added by Stats. 1993, ch. 982. Amended by Stats. 1994, ch. 479; Stats. 1996, ch 1104, operative January 1, 2000.)

§6149. Written Fee Contract Confidential Communication

A written fee contract shall be deemed to be a confidential communication within the meaning of subdivision (e) of Section 6068 and of Section 952 of the Evidence Code. (Added by Stats. 1986, ch. 475.)

§6149.5 Insurer Notification to Claimant of Settlement Payment Delivered to Claimant's Attorney

(a) Upon the payment of one hundred dollars ($100) or more in settlement of any third-party liability claim the insurer shall provide written notice to the claimant if both of the following apply:

(1) The claimant is a natural person.

(2) The payment is delivered to the claimant's lawyer or other representative by draft, check, or otherwise.

(b) For purposes of this section, "written notice" includes providing to the claimant a copy of the cover letter sent to the claimant's attorney or other representative that accompanied the settlement payment.

(c)This section shall not create any cause of action for any person against the insurer based upon the insurer's failure to provide the notice to a claimant required by this section. This section shall not create a defense for any party to any cause of action based upon the insurer's failure to provide this notice. (Added by Stats. 1994, ch. 479.)

ARTICLE 9
UNLAWFUL SOLICITATION

§6150. Relation of Article to Chapter

This article is a part of Chapter 4 of this division of the Business and Professions Code, but the phrase "this chapter" as used in Chapter 4 does not apply to the provisions of this article unless expressly made applicable.

§6151. Runners and Cappers—Definitions

As used in this article:

(a) A runner or capper is any person, firm, association or corporation acting for consideration in any manner or in any capacity as an agent for an attorney at law or law firm, whether the attorney or any member of the law firm is admitted in California or any other jurisdiction, in the solicitation or procurement of business for the attorney at law or law firm as provided in this article.

(b) An agent is one who represents another in dealings with one or more third persons. (Origin: Stats 1931, ch. 1043; Deering's Gen. Laws (1937), Act 592, §5. Amended by Stats. 1963, ch. 206; Stats. 1991, ch. 116.)

§6152. Prohibition of Solicitation

(a) It is unlawful for:

(1) Any person, in an individual capacity or in a capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any attorneys or to solicit any business for any attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.

(2) Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).

(b) A general release from a liability claim obtained from any person during the period of the first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a result of the injury alleged to have given rise to the claim and primarily for treatment of the injury, is presumed fraudulent if the release is executed within 15 days after the commencement of confinement or prior to release from confinement, whichever occurs first.

(c) Nothing in this section shall be construed to prevent the recommendation of professional employment where that recommendation is not prohibited by the Rules of Professional Conduct of the State Bar of California.

(d) Nothing in this section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether those persons are in custody or otherwise. (Origin: Statutes of 1931, ch. 1043. Added by Stats. 1939, ch. 34. Amended by Stats. 1963, ch. 206; Stats. 1976, ch. 1016; Stats. 1977, ch. 799, effective September 14, 1977; Stats. 1998, ch. 931; Stats. 2002, ch. 784.)

§6153. Violation as Misdemeanor; Forfeiture of Public Office or Employment

Any person, firm, partnership, association, or corporation violating subdivision (a) of Section 6152 is punishable, upon a first conviction, by imprisonment in a county jail for not more than one year or by a fine not exceeding fifteen thousand dollars ($15,000), or by both that imprisonment and fine. Upon a second or subsequent conviction, a person, firm, partnership, association, or corporation is punishable by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for two, three, or four years, or by a fine not exceeding fifteen thousand dollars ($15,000), or by both that imprisonment and fine.

Any person employed either as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating any of the provisions of this article, shall forfeit the right to his office and employment in addition to any other penalty provided in this article. (Origin: Statutes of 1931, ch. 1043. Amended by Stats. 1976, ch. 1016; Stats. 1976, ch. 1125; Stats. 1977, ch. 799, effective September 14, 1977; Stats. 1991, ch. 116, Stats. 2000, ch. 867.)

§6154. Invalidity of Contract for Services

(a) Any contract for professional services secured by any attorney at law or law firm in this state through the services of a runner or capper is void. In any action against any attorney or law firm under the Unfair Practices Act, Chapter 4 (commencing with section 17000) of Division 7, or Chapter 5 (commencing with section 17200) of Division 7, any judgment shall include an order divesting the attorney or law firm of any fees and other compensation received pursuant to any such void contract. Those fees and compensation shall be recoverable as additional civil penalties under Chapter 4 (commencing with section 17000) or Chapter 5 (commencing with section 17200) of Division 7.

(b) Notwithstanding Section 17206 or any other provision of law, any fees recovered pursuant to subdivision (a) in an action involving professional services related to the provision of workers' compensation shall be allocated as follows: if the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the State General Fund, and one-half of the penalty collected shall be paid to the Workers' Compensation Fraud Account in the Insurance Fund; if the action is brought by a district attorney, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half of the penalty collected shall be paid to the Workers' Compensation Fraud Account in the Insurance Fund; if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half of the penalty collected shall be paid to the Workers' Compensation Fraud Account in the Insurance Fund. Moneys deposited into the Workers' Compensation Fraud Account pursuant to this subdivision shall be used in the investigation and prosecution of workers' compensation fraud, as appropriated by the Legislature. (Added by Stats. 1939, ch. 34. Amended by Stats. 1991, ch. 116, Stats. 1993, ch. 120.)

§6155. Lawyer Referral Service—Ownership, Operation; Formulation and Enforcement of Rules and Regulations; Fees

(a) An individual, partnership, corporation, association, or any other entity shall not operate for the direct or indirect purpose, in whole or in part, of referring potential clients to attorneys, and no attorney shall accept a referral of such potential clients, unless all of the following requirements are met:

(1) The service is registered with the State Bar of California and (a) on July 1, 1988, is operated in conformity with minimum standards for a lawyer referral service established by the State Bar, or (b) upon approval by the Supreme Court of minimum standards for a lawyer referral service, is operated in conformity with those standards.

(2) The combined charges to the potential client by the referral service and the attorney to whom the potential client is referred do not exceed the total cost that the client would normally pay if no referral service were involved.

(b) A referral service shall not be owned or operated, in whole or in part, directly or indirectly, by those lawyers to whom, individually or collectively, more than 20 percent of referrals are made. For purposes of this subdivision, a referral service that is owned or operated by a bar association, as defined in the minimum standards, shall be deemed to be owned or operated by its governing committee so long as the governing committee is constituted and functions in the manner prescribed by the minimum standards.

(c) None of the following is a lawyer referral service:

(1) A plan of legal insurance as defined in Section 119.6 of the Insurance Code.

(2) A group or prepaid legal plan, whether operated by a union, trust, mutual benefit or aid association, public or private corporation, or other entity or person, which meets both of the following conditions:

(A) It recommends, furnishes, or pays for legal services to its members or beneficiaries.

(B) It provides telephone advice or personal consultation.

(3) A program having as its purpose the referral of clients to attorneys for representation on a pro bono basis.

(d) The following are in the public interest and do not constitute an unlawful restraint of trade or commerce:

(1) An agreement between a referral service and a participating attorney to eliminate or restrict the attorney's fee for an initial office consultation for each potential client or to provide free or reduced fee services.

(2) Requirements by a referral service that attorneys meet reasonable participation requirements, including experience, education, and training requirements.

(3) Provisions of the minimum standards as approved by the Supreme Court.

(4) Requirements that the application and renewal fees for certification as a lawyer referral service be determined, in whole or in part, by a consideration of any combination of the following factors: a referral service's gross annual revenues, number of panels, number of panel members, amount of fees charged to panel members, or for-profit or nonprofit status; provided that the application and renewal fees do not exceed ten thousand dollars ($10,000) or 1 percent of the gross annual revenues, whichever is less.

(5) Requirements that, to increase access to the justice system for all Californians, lawyer referral services establish separate ongoing activities or arrangements that serve persons of limited means.

(e) A violation or threatened violation of this section may be enjoined by any person.

(f) With the approval of the Supreme Court, the State Bar shall formulate and enforce rules and regulations for carrying out this section, including rules and regulations which do the following:

(1) Establish minimum standards for lawyer referral services. The minimum standards shall include provisions ensuring that panel membership shall be open to all attorneys practicing in the geographical area served who are qualified by virtue of suitable experience, and limiting attorney registration and membership fees to reasonable sums that do not discourage widespread attorney membership.

(2) Require that an entity seeking to qualify as a lawyer referral service register with the State Bar and obtain from the State Bar a certificate of compliance with the minimum standards for lawyer referral services.

(3) Require that the certificate may be obtained, maintained, suspended, or revoked pursuant to procedures set forth in the rules and regulations.

(4) Require the lawyer referral service to pay an application and renewal fee for the certificate in such reasonable amounts as may be determined by the State Bar. The State Bar shall adopt rules authorizing the waiver or reduction of the fees upon a demonstration of financial necessity. The State Bar may require that the application and renewal fees for certification as a lawyer referral service be determined, in whole or in part, by a consideration of any combination of the following factors: a referral service's gross annual revenues, number of panels, number of panel members, amount of fees charged to panel members, or for-profit or nonprofit status; provided that the application and renewal fees do not exceed ten thousand dollars ($10,000) or 1 percent of the gross annual revenues, whichever is less.

(5) Require that, to increase access to the justice system for all Californians, lawyer referral services establish separate ongoing activities or arrangements that serve persons of limited means.

(6) Require each lawyer who is a member of a certified lawyer referral service to comply with all applicable professional standards, rules, and regulations, and to possess a policy of errors and omissions insurance in an amount not less than one hundred thousand dollars ($100,000) for each occurrence and three hundred thousand dollars ($300,000) aggregate, per year. By rule, the State Bar may provide for alternative proof of financial responsibility to meet this requirement.

(g) Provide that cause for denial of certification or recertification or revocation of certification of a lawyer referral service shall include, but not be limited to:

(1) Noncompliance with the statutes or minimum standards governing lawyer referral services as adopted and from time to time amended.

(2) Sharing common or cross ownership, interests, or operations with any entity which engages in referrals to licensed or unlicensed health care providers.

(3) Direct or indirect consideration regarding referrals between an owner, operator, or member of a lawyer referral service and any licensed or unlicensed health care provider.

(4) Advertising on behalf of attorneys in violation of the Rules of Professional Conduct or the Business and Professions Code.

(h) This section shall not be construed to prohibit attorneys from jointly advertising their services.

(1) Permissible joint advertising, among other things, identifies by name the advertising attorneys or law firms whom the consumer of legal services may select and initiate contact with.

(2) Certifiable referral activity involves, among other things, some person or entity other than the consumer and advertising attorney or law firms which, in person, electronically, or otherwise, refers the consumer to an attorney or law firm not identified in the advertising.

(i) A lawyer referral service certified under this section and operating in full compliance with this section, and in full compliance with the minimum standards and the rules and regulations of the State Bar governing lawyer referral services, shall not be deemed to be in violation of Section 3215 of the Labor Code or Section 750 of the Insurance Code.

(j) The payment by an attorney or law firm member of a certified referral service of the normal fees of that service shall not be deemed to be in violation of Section 3215 of the Labor Code or Section 750 of the Insurance Code, provided that the attorney or law firm member is in full compliance with the minimum standards and the rules and regulations of the State Bar governing lawyer referral services.

(k) Certifications of lawyer referral services issued by the State Bar shall not be transferable. (Added by Stats. 1987, ch. 727; Amended by Stats. 1992, ch. 150; Stats 1994, ch. 711.)

§6156. Violation of Section 6155; Civil Penalty

(a) Any individual, partnership, association, corporation, or other entity, including, but not limited to, any person or entity having an ownership interest in a lawyer referral service, that engages, has engaged, or proposes to engage in violations of Section 6155, shall be liable for a civil penalty as defined in Sections 17206, 17206.1, and 17536, respectively, which shall be assessed and recovered in a civil action brought:

(1) In the manner specified in subdivision (a) of Section 17206 or Section 17536.

(2) By the State Bar of California.

(b) If the action is brought pursuant to subdivision (a), the court shall determine the reasonable expenses, if any, incurred by the State Bar in its investigation and prosecution of the action. In these cases, before any penalty collected is paid out pursuant to subdivision (b) of Section 17206 or Section 17536, the amount of the reasonable expenses incurred by the State Bar shall be paid to the State Bar and shall be deposited and used as provided in subdivision (c).

(c) If the action is brought pursuant to paragraph (2) of subdivision (a), the civil penalty shall be paid to the State Bar and shall be deposited into a special fund to be used first for the investigation and prosecution of other such cases by the State Bar, with any excess to be used for the investigation and prosecution of attorney discipline cases. (Added by Stats. 1994, ch. 711. Amended by Stats. 2006, ch. 538.)

ARTICLE 9.5
LEGAL ADVERTISING

§6157. Definitions

As used in this article, the following definitions apply:

(a) "Member" means a member in good standing of the State Bar and includes any agent of the member and any law firm or law corporation doing business in the State of California.

(b) "Lawyer" means a member of the State Bar or a person who is admitted in good standing and eligible to practice before the bar of any United States court or the highest court of the District of Columbia or any state, territory, or insular possession of the United States, or is licensed to practice law in, or is admitted in good standing and eligible to practice before the bar of the highest court of, a foreign country or any political subdivision thereof, and includes any agent of the lawyer, law firm, or law corporation doing business in the state.

(c) "Advertise" or "advertisement" means any communication, disseminated by television or radio, by any print medium, including, but not limited to, newspapers and billboards, or by means of a mailing directed generally to members of the public and not to a specific person, that solicits employment of legal services provided by a member, and is directed to the general public and is paid for by, or on the behalf of, an attorney.

(d) "Electronic medium" means television, radio, or computer networks. (Added by Stats. 1993, ch. 518. Amended by Stats. 1994, ch. 711; Stats. 2006, ch. 538.)

§6157.1 Advertisements—False, Misleading or Deceptive

No advertisement shall contain any false, misleading, or deceptive statement or omit to state any fact necessary to make the statements made, in light of circumstances under which they are made, not false, misleading, or deceptive. (Added by Stats. 1993, ch. 518.)

§6157.2 Advertisements—Guarantees, Settlements, Impersonations, Dramatizations and Contingent Fee Basis

No advertisement shall contain or refer to any of the following:

(a) Any guarantee or warranty regarding the outcome of a legal matter as a result of representation by the member

(b) Statements or symbols stating that the member featured in the advertisement can generally obtain immediate cash or quick settlements.

(c) (1) An impersonation of the name, voice, photograph, or electronic image of any person other than the lawyer, directly or implicitly purporting to be that of a lawyer.

(2) An impersonation of the name, voice, photograph, or electronic image of any person, directly or implicitly purporting to be a client of the member featured in the advertisement, or a dramatization of events, unless disclosure of the impersonation or dramatization is made in the advertisement.

(3) A spokesperson, including a celebrity spokesperson, unless there is disclosure of the spokesperson's title.

(d) A statement that a member offers representation on a contingent basis unless the statement also advises whether a client will be held responsible for any costs advanced by the member when no recovery is obtained on behalf of the client. If the client will not be held responsible for costs, no disclosure is required. (Added by Stats. 1993, ch. 518. Amended by Stats. 1994, ch. 711.)

§6157.3 Advertisements—Disclosure of Payor Other Than Member

Any advertisement made on behalf of a member, which is not paid for by the member, shall disclose any business relationship, past or present, between the member and the person paying for the advertisement. (Added by Stats. 1993, ch. 518.)

§6157.4 Lawyer Referral Service Advertisements-Necessary Disclosures

Any advertisement that is created or disseminated by a lawyer referral service shall disclose whether the attorneys on the organization's referral list, panel, or system, paid any consideration, other than a proportional share of actual cost, to be included on that list, panel, or system. (Added by Stats. 1993, ch. 518.)

§6157.5. Advertisements—Immigration or Naturalization Legal Services; Disclosures

(a) All advertisements published, distributed, or broadcasted by or on behalf of a member seeking professional employment for the member in providing services relating to immigration or naturalization shall include a statement that he or she is an active member of the State Bar, licensed to practice law in this state. If the advertisement seeks employment for a law firm or law corporation employing more than one attorney, the advertisement shall include a statement that all the services relating to immigration and naturalization provided by the firm or corporation shall be provided by an active member of the State Bar or by a person under the supervision of an active member of the State Bar. This subdivision shall not apply to classified or "yellow pages" listings in a telephone or business directory of three lines or less that state only the name, address, and telephone number of the listed entity.

(b) If the advertisement is in a language other than English, the statement required by subdivision (a) shall be in the same language as the advertisement.

(c) This section shall not apply to members employed by public agencies or by nonprofit entities registered with the Secretary of State.

(d) A violation of this section by a member shall be cause for discipline by the State Bar. (Added by Stats. 2000, ch. 674.)

§6158 Electronic Media Advertisements; Compliance with Sections 6157.1 and 6157.2; Message May Not Be False, Misleading or Deceptive; Message Must Be Factually Substantiated

In advertising by electronic media, to comply with Sections 6157.1 and 6157.2, the message as a whole may not be false, misleading, or deceptive, and the message as a whole must be factually substantiated. The message means the effect in combination of the spoken word, sound, background, action, symbols, visual image, or any other technique employed to create the message. Factually substantiated means capable of verification by a credible source. (Added by Stats. 1994, ch. 711.)

§6158.1 Rebuttable Presumptions; False, Misleading or Deceptive Message

There shall be a rebuttable presumption affecting the burden of producing evidence that the following messages are false, misleading, or deceptive within the meaning of Section 6158:

(a) A message as to the ultimate result of a specific case or cases presented out of context without adequately providing information as to the facts or law giving rise to the result.

(b) The depiction of an event through methods such as the use of displays of injuries, accident scenes, or portrayals of other injurious events which may or may not be accompanied by sound effects and which may give rise to a claim for compensation.

(c) A message referring to or implying money received by or for a client in a particular case or cases, or to potential monetary recovery for a prospective client. A reference to money or monetary recovery includes, but is not limited to, a specific dollar amount, characterization of a sum of money, monetary symbols, or the implication of wealth. (Added by Stats. 1994, ch. 711.)

§6158.2 Presumptions; Information Not False, Misleading or Deceptive

The following information shall be presumed to be in compliance with this article for purposes of advertising by electronic media, provided the message as a whole is not false, misleading, or deceptive:

(a) Name, including name of law firm, names of professional associates, addresses, telephone numbers, and the designation "lawyer," "attorney," "law firm," or the like.

(b) Fields of practice, limitation of practice, or specialization.

(c) Fees for routine legal services, subject to the requirements of subdivision (d) of Section 6157.2 and the Rules of Professional Conduct.

(d) Date and place of birth.

(e) Date and place of admission to the bar of state and federal courts.

(f) Schools attended, with dates of graduation, degrees, and other scholastic distinctions.

(g) Public or quasi-public offices.

(h) Military service.

(i) Legal authorship.

(j) Legal teaching positions.

(k) Memberships, offices, and committee assignments in bar associations.

(l) Memberships and offices in legal fraternities and legal societies.

(m) Technical and professional licenses.

(n) Memberships in scientific, technical, and professional associations and societies.

(o) Foreign language ability of the advertising lawyer or a member of lawyer's firm. (Added by Stats. 1994, ch. 711)

§6158.3 Portrayal of Result in Particular Case or Cases; Additional Disclosures

In addition to any disclosure required by Section 6157.2, Section 6157.3, and the Rules of Professional Conduct, the following disclosure shall appear in advertising by electronic media. Use of the following disclosure alone may not rebut any presumption created in Section 6158.1. If an advertisement in the electronic media conveys a message portraying a result in a particular case or cases, the advertisement must state, in either an oral or printed communication, either of the following disclosures: The advertisement must adequately disclose the factual and legal circumstances that justify the result portrayed in the message, including the basis for liability and the nature of injury or damage sustained, or the advertisement must state that the result portrayed in the advertisement was dependent on the facts of that case, and that the results will differ if based on different facts. (Added by Stats. 1994, ch. 711.)

§6158.4 Enforcement; Complaint Claiming Violation; State Bar Determination; Declaratory Relief; Civil Action for Recovery Paid into Client Security Fund; Award of Attorney's Fees; Records; Unfounded Complaints

(a) Any person claiming a violation of Section 6158, 6158.1, or 6158.3 may file a complaint with the State Bar that states the name of the advertiser, a description of the advertisement claimed to violate these sections, and that specifically identifies the alleged violation. A copy of the complaint shall be served simultaneously upon the advertiser. The advertiser shall have nine days from the date of service of the complaint to voluntarily withdraw from broadcast the advertisement that is the subject of the complaint. If the advertiser elects to withdraw the advertisement, the advertiser shall notify the State Bar of that fact, and no further action may be taken by the complainant. The advertiser shall provide a copy of the complained of advertisement to the State Bar for review within seven days of service of the complaint. Within 21 days of the delivery of the complained of advertisement, the State Bar shall determine whether substantial evidence of a violation of these sections exists. The review shall be conducted by a State Bar attorney who has expertise in the area of lawyer advertising.

(b) (1) Upon a State Bar determination that substantial evidence of a violation exists, if the member or certified lawyer referral service withdraws that advertisement from broadcast within 72 hours, no further action may be taken by the complainant.

(2) Upon a State Bar determination that substantial evidence of a violation exists, if the member or certified lawyer referral service fails to withdraw the advertisement within 72 hours, a civil enforcement action brought pursuant to subdivision (e) may be commenced within one year of the State Bar decision. If the member or certified lawyer referral service withdraws an advertisement upon a State Bar determination that substantial evidence of a violation exists and subsequently rebroadcasts the same advertisement without a finding by the trier of fact in an action brought pursuant to subdivision (c) or (e) that the advertisement does not violate Section 6158, 6158.1 or 6158.3, a civil enforcement action may be commenced within one year of the rebroadcast.

(3) Upon a determination that substantial evidence of a violation does not exist, the complainant is barred from bringing a civil enforcement action pursuant to subdivision (e), but may bring an action for declaratory relief pursuant to subdivision (c).

(c) Any member or certified lawyer referral service who was the subject of a complaint and any complainant affected by the decision of the State Bar may bring an action for declaratory relief in the superior court to obtain a judicial declaration of whether Section 6158, 6158.1, or 6158.3 has been violated, and, if applicable, may also request injunctive relief. Any defense otherwise available at law may be raised for the first time in the declaratory relief action, including any constitutional challenge. Any civil enforcement action filed pursuant to subdivision (e) shall be stayed pending the resolution of the declaratory relief action. The action shall be defended by the real party in interest. The State Bar shall not be considered a party to the action unless it elects to intervene in the action.

(1) Upon a State Bar determination that substantial evidence of a violation exists, if the complainant or the member or certified lawyer referral service brings an action for declaratory relief to obtain a judicial declaration of whether the advertisement violates Section 6158, 6158.1, or 6158.3, and the court declares that the advertisement violates one or more of the sections, a civil enforcement action pursuant to subdivision (e) may be filed or maintained if the member or certified lawyer referral service failed to withdraw the advertisement within 72 hours of the State Bar determination. The decision of the court that an advertisement violates Section 6158, 6158.1, or 6158.3 shall be binding on the issue of whether the advertisement is unlawful in any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that binding effect is supported by the doctrine of collateral estoppel or res judicata.

If, in that declaratory relief action, the court declares that the advertisement does not violate Section 6158, 6158.1, or 6158.3, the member or lawyer referral service may broadcast the advertisement. The decision of the court that an advertisement does not violate Section 6158, 6158.1, or 6158.3 shall bar any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that prohibitive effect is supported by the doctrine of collateral estoppel or res judicata.

(2) If, following a State Bar determination that does not find substantial evidence that an advertisement violates Section 6158, 6158.1, or 6158.3, the complainant or the member or certified lawyer referral service brings an action for declaratory relief to obtain a judicial declaration of whether the advertisement violates Section 6158, 6158.1, or 6158.3, and the court declares that the advertisement violates one or more of the sections, a civil enforcement action pursuant to subdivision (e) may be filed or maintained if the member or certified lawyer referral service broadcasts the same advertisement following the decision in the

declaratory relief action. The decision of the court that an advertisement violates Section 6158, 6158.1, or 6158.3 shall be binding on the issue of whether the advertisement is unlawful in any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that binding effect is supported by the doctrine of collateral estoppel or res judicata.

If, in that declaratory relief action, the court declares that the advertisement does not violate Section 6158, 6158.1, or 6158.3, the member or lawyer referral service may continue broadcast of the advertisement. The decision of the court that an advertisement does not violate Section 6158, 6158.1, or 6158.3 shall bar any pending or prospective civil enforcement action brought pursuant to subdivision (e) if that prohibitive effect is supported by the doctrine of collateral estoppel or res judicata.

(d) The State Bar review procedure shall apply only to members and certified referral services. A direct civil enforcement action for a violation of Section 6158, 6158.1, or 6158.3 may be maintained against any other advertiser after first giving 14 days' notice to the advertiser of the alleged violation. If the advertiser does not withdraw from broadcast the advertisement that is the subject of the notice within 14 days of service of the notice, a civil enforcement action pursuant to subdivision (e) may be commenced. The civil enforcement action shall be commenced within one year of the date of the last publication or broadcast of the advertisement that is the subject of the action.

(e) Subject to Section 6158.5, a violation of Section 6158, 6158.1, or 6158.3 shall be cause for a civil enforcement action brought by any person residing within the State of California for an amount up to five thousand dollars ($5,000) for each individual broadcast that violates Section 6158, 6158.1, or 6158.3. Venue shall be in a county where the advertisement was broadcast.

(f) In any civil action brought pursuant to this section, the matter shall be determined according to the law and procedure relating to the trial of civil actions, including trial by jury, if demanded.

(g) The decision of the State Bar pursuant to subdivision (a) shall be admissible in the civil enforcement action brought pursuant to subdivision (e). However, the State Bar shall not be a party or a witness in either a declaratory relief proceeding brought pursuant to subdivision (c) or the civil enforcement action brought pursuant to subdivision (e). Additionally, no direct action may be filed against the State Bar challenging the State Bar's decision pursuant to subdivision (a).

(h) Amounts recovered pursuant to this section shall be paid into the Client Security Fund maintained by the State Bar.

(i) In any civil action brought pursuant to this section, the court shall award attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure if the court finds that the action has resulted in the enforcement of an important public interest or that a significant benefit has been conferred on the public.

(j) The State Bar shall maintain records of all complainants and complaints filed pursuant to subdivision (a) for a period of seven years. If a complainant files five or more unfounded complaints within seven years, the complainant shall be considered a vexatious litigant for purposes of this section. The State Bar shall require any person deemed a vexatious litigant to post security in the minimum amount of twenty-five thousand dollars ($25,000) prior to considering any complaint filed by that person and shall refrain from taking any action until the security is posted. In any civil action arising from this section brought by a person deemed a vexatious litigant, the defendant may advise the court and trier of fact that the plaintiff is deemed to be a vexatious litigant under the provisions of this section and disclose the basis for this determination.

(k) Nothing in this section shall restrict any other right available under existing law or otherwise available to a citizen seeking redress for false, misleading, or deceptive advertisements. (Added by Stats. 1994, ch. 711.)

§6158.5 Application of Article to Lawyers, Lawyer Referral Services and Others

This article applies to all lawyers, members, law partnerships, law corporations, entities subject to regulation under Section 6155, advertising collectives, cooperatives, or other individuals, including nonlawyers, or groups advertising the availability of legal services. Subdivisions (a) to (k), inclusive, of Section 6158.4 do not apply to qualified legal services projects as defined in Article 14 (commencing with Section 6210) and nonprofit lawyer referral services certified under Section 6155. Sections 6157 to 6158.5, inclusive, do not apply to the media in which the advertising is displayed or to an advertising agency that prepares the contents of an advertisement and is not directly involved in the formation or operation of lawyer advertising collectives or cooperatives, referral services, or other groups existing primarily for the purpose of advertising the availability of legal services or making referrals to attorneys. (Added by Stats. 1994, ch. 711.)

§6158.7 Violation of Section 6158, 6158.1, or 6158.3—Cause for Discipline

A violation of Section 6158, 6158.1, or 6158.3 by a member shall be cause for discipline by the State Bar. In addition to the existing grounds for initiating a disciplinary proceeding set forth in a statute or in the Rules of Professional Conduct, the State Bar may commence an

investigation based upon a complaint filed by a person pursuant to Section 6158.4. The State Bar's decision pursuant to subdivision (a) of Section 6158.4 shall be admissible, but shall not be determinative, in any disciplinary proceeding brought as a result of that complaint. (Added by Stats. 1994, ch. 711.)

§6159. Court Reporting Requirements for Violations

The court shall report the name, address, and professional license number of any person found in violation of this article to the appropriate professional licensing agency for review and possible disciplinary action. (Added by Stats. 1993, ch. 518. Amended by Stats. 1994, ch. 711 (previously §6157.5).)

§6159.1 Retention of Advertisement

A true and correct copy of any advertisement made by a person or member shall be retained for one year by the person or member who pays for an advertisement soliciting employment of legal services. (Added by Stats. 1993, ch. 518. Amended by Stats. 1994, ch. 711 (previously §6157.6).)

§6159.2 Scope of Article—Provisions Not Exclusive

(a) Nothing in this article shall be deemed to limit or preclude enforcement of any other provision of law, or of any court rule, or of the State Bar Rules of Professional Conduct.

(b) Nothing in this article shall limit the right of advertising protected under the Constitution of the State of California, or of the United States. If any provision of this article is found to violate either Constitution, that provision is severable and the remaining provisions shall be enforceable without the severed provision. (Added by Stats. 1993, ch. 518. Amended by Stats. 1994, ch. 711 (previously §6157.7).)

ARTICLE 10
LAW CORPORATIONS

§6160. Nature

A law corporation is a corporation which is registered with the State Bar of California and has a currently effective certificate of registration from the State Bar pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, such law corporation is entitled to practice law. With respect to a law corporation the governmental agency referred to in the Professional Corporation Act is the State Bar. (Added by Stats. 1968, ch. 1375.)

§6161. Application for Registration

An applicant for registration as a law corporation shall supply to the State Bar all necessary and pertinent documents and information requested by the State Bar concerning the applicant's plan of operation, including, but not limited to, a copy of its articles of incorporation, certified by the Secretary of State, a copy of its bylaws, certified by the secretary of the corporation, the name and address of the corporation, the names and addresses of its officers, directors, shareholders, members, if any, and employees who will render professional services, the address of each office, and any fictitious name or names which the corporation intends to use. The State Bar may provide forms of application. If the Board of Governors or a committee authorized by it finds that the corporation is duly organized and existing or duly qualified for the transaction of intrastate business pursuant to the General Corporation Law, or pursuant to subdivision (b) of Section 13406 of the Corporations Code, that each officer (except as provided in Section 13403 of the Corporations Code), director, shareholder (except as provided in subdivision (b) of Section 13406 of the Corporations Code), and each employee who will render professional services is a licensed person as defined in the Professional Corporation Act, or a person licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of the State Bar, the State Bar shall upon payment of the registration fee in such amount as it may determine issue a certificate of registration. The applicant shall include with the application, for each shareholder of the corporation licensed in a foreign country but not in this state or in any other state, territory, or possession of the United States, a certificate from the authority in the foreign country currently having final jurisdiction over the practice of law, which shall verify the shareholder's admission to practice in the foreign country, the date thereof, and the fact that the shareholder is currently in good standing as an attorney or counselor at law or the equivalent. If the certificate is not in English, there shall be included with the certificate a duly authenticated English translation thereof. The application shall be signed and verified by an officer of the corporation. (Added by Stats. 1968, ch. 1375. Amended by Stats. 1993, ch. 955; Stats. 1994, ch. 479.)

§6161.1 Renewal of Registration

Each law corporation shall renew its certificate of registration annually at a time to be fixed by the State Bar and shall pay a fee therefor which shall be fixed by the State Bar in accordance with subdivision (a) of section 6163. (Added by Stats. 1985, ch. 465.)

§6162. Report of Changes of Personnel, Officers, etc.

Within such time as the State Bar may by rule provide, the law corporation shall report in writing to the State Bar any change in directors, officers, employees performing professional services and share ownership, and amendments to its articles of incorporation and bylaws. (Added by Stats. 1968, ch. 1375.)

§6163. Annual Report

(a) Each law corporation shall file with the State Bar annually and at such other times as the State Bar may require a report containing such information pertaining to qualification and compliance with the statutes, rules, and regulations referred to in section 6127.5 as the State Bar may determine. The fee for filing such a report shall be fixed by the State Bar. All reports shall be signed and verified by an officer of the corporation. The State Bar may fix a penalty for the late filing of an annual report in an amount not to exceed double the amount of the applicable filing fee and may also fix the date upon which the penalty shall attach if the report has not been filed and the fee paid prior to that date. The date upon which the penalty shall attach shall be not less than 31 days following the date fixed for filing the report. The filing of the annual report together with the filing fee and any penalty due for late filing constitutes the annual renewal of the certificate of registration. The fee fixed by the board for the filing of the annual report and any penalty due for late filing constitutes the fee required by Section 6161.1 for renewal of the certificate for the year in which the annual report is due to be filed.

(b) The certificate of registration of any law corporation failing to file the annual report, renew its certificate, and pay the fee therefor and any penalty due thereon for late filing, shall be suspended 60 days following written notice of delinquency. The written notice shall be mailed to the corporation at its current office or other address for State Bar purposes, as shown on the law corporation records of the State Bar. The suspension shall be ordered by the chief executive officer of the State Bar or his or her designee.

(c) A certificate of registration suspended pursuant to subdivision (b) may be reinstated upon the filing by the law corporation of all delinquent annual reports and payment of all accrued fees and penalties required by this section and Section 6161.1 which are due on the date of the suspension, and any such fees and penalties which become due on or before the date of the reinstatement. (Added by Stats. 1968, ch. 1375. Amended by Stats. 1985, ch. 465.)

§6165. Licensed Personnel

Except as provided in Section 13403 and 13406 of the Corporations Code, each director, shareholder, and each officer of a law corporation shall be a licensed person as defined in the Professional Corporation Act, or a person licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. (Added by Stats. 1968, ch. 1375. Amended by Stats. 1993, ch. 955.)

§6166. Disqualified Shareholder; Income

The income of a law corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Professional Corporation Act) shall not in any manner accrue to the benefit of such shareholder or his shares in the law corporation. (Added by Stats. 1968, ch. 1375.)

§6167. Misconduct

A law corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute a cause for discipline of a member of the State Bar, under any statute, rule or regulation now or hereafter in effect. In the conduct of its business, it shall observe and be bound by such statutes, rules and regulations to the same extent as if specifically designated therein as a member of the State Bar. (Added by Stats. 1968, ch. 1375.)

§6168. Investigation of Conduct; Powers

The State Bar may conduct an investigation of the conduct of the business of a law corporation.

Upon such investigation, the board of governors, or a committee authorized by it, shall have power to issue subpoenas, administer oaths, examine witnesses and compel the production of records, in the same manner as upon an investigation or formal hearing in a disciplinary matter under the State Bar Act. Such investigation shall be private and confidential, except to the extent that disclosure of facts and information may be required if a cease and desist order is thereafter issued and subsequent proceedings are had. (Added by Stats. 1968, ch. 1375.)

§6169. Notice to Show Cause; Hearing; Findings and Recommendations; Review

(a) When there is reason to believe that a law corporation has violated or is about to violate any of the provisions of this article or the Professional Corporation Act or of any other pertinent statute, rule or regulation, the State Bar may issue a notice directing the corporation to show cause why it should not be ordered to cease and desist from specified acts or conduct or its certificate of registration should not be suspended or revoked. A copy of the notice shall be served upon the corporation in the manner provided for service of summons upon a California corporation.

(b) A hearing upon the notice to show cause shall be held before a standing or special committee appointed by the board of governors. Upon the hearing, the State Bar and hearing, the State Bar and the corporation shall be entitled to the issue of subpoenas, to be represented by counsel, to present evidence, and examine and cross-examine witnesses.

(c) The hearing committee shall make findings in writing and shall either recommend that the proceeding be dismissed or that a cease and desist order be issued or that the certificate of registration of the corporation be suspended or revoked. The determination may be reviewed by the board of governors or by a committee authorized by the board of governors to act in its stead, upon written petition for review, filed with the State Bar by the corporation or the State Bar within 20 days after service of the findings and recommendation. Upon review, the board of governors or the committee may take additional evidence, may adopt new or amended findings, and make such order as may be just, as to the notice to show cause.

(d) Subdivisions (a), (b), and (c) shall not apply to the suspension or revocation of the certificate of registration of a corporation in either of the following cases:

(1) The death of a sole shareholder, as provided in Section 6171.1.

(2) Failure to file the annual report and renew the certificate of registration, as provided in Sections 6161.1 and 6163. (Added by Stats. 1968, ch. 1375. Amended by Stats. 1985, ch. 465.)

§6170. Judicial Review

Any action of the State Bar or the board of governors or a committee of the State Bar, or the chief executive officer of the State Bar or the designee of the chief executive officer, provided for in this article, may be reviewed by the Supreme Court by petition for review pursuant to rules prescribed by the Supreme Court. (Added by Stats. 1968, ch. 1375. Amended by Stats. 1985, ch. 465.)

§6171. Formation of Rules and Regulations

With the approval of the Supreme Court, the State Bar may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring all of the following:

(a) That the articles of incorporation or bylaws of a law corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in the Professional Corporation Act) or a deceased person shall be sold to the corporation or to the remaining shareholders of the corporation within such time as the rules and regulations may provide.

(b) That a law corporation, as a condition of obtaining a certificate pursuant to the Professional Corporation Act and this article, shall provide and maintain security by insurance or otherwise for claims against it by its clients for errors and omissions arising out of the rendering of professional services.

(c) That the name of the law corporation and any name or names under which it renders legal services shall be in compliance with the rules and regulations.

(d) That the law corporation shall obtain from the State Bar, and maintain current, a fictitious name permit when required by the rules and regulations; that the permit may be obtained, maintained, suspended, and revoked pursuant to procedures set forth in the rules and regulations; and that the law corporation shall pay an application and renewal fee for the permit in such amounts as may be determined by the State Bar.

(e) This section shall become operative January 1, 1996. (Added by Stats. 1993, ch. 955.)

§6171.1 Death of Sole Shareholder

Six months and one day following the death of a sole shareholder of a law corporation, the certificate of registration of the law corporation shall be deemed canceled by operation of this section. However, the certificate may be sooner canceled by receipt in the State Bar office of a written request for the cancellation from the personal representative or sole heir of the deceased shareholder or the person to whom the shares passed by will or operation of law following the death of the sole shareholder. (Added by Stats. 1985, ch. 465.)

§6172. Disciplinary Powers of Supreme Court

Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or of the State Bar in respect of conduct of

members of the State Bar nor modifying the statutes and rules governing such conduct, except as expressly provided in this article and except that members of the State Bar may properly render legal services as officers or employees of a law corporation and may participate as shareholders, officers and directors thereof, under the terms and conditions provided by this article and the Professional Corporation Act. (Added by Stats. 1968, ch. 1375.)

ARTICLE 10.5
PROVISION OF FINANCIAL SERVICES BY LAWYERS

§6175. Definitions

As used in this article, the following definitions apply:

(a) "Lawyer" means a member of the State Bar or a person who is admitted and in good standing and eligible to practice before the bar of any United States court or the highest court of the District of Columbia or any state, territory, or insular possession of the United States, or licensed to practice law in, or is admitted in good standing and eligible to practice before the bar of the highest court of, a foreign country or any political subdivision thereof, and includes any agent of the lawyer or law firm or law corporation doing business in the state.

(b) "Client" means a person who has, within the three years preceding the sale of financial products by a lawyer to that person, employed that lawyer for legal services. The settlor and trustee of a trust shall be considered one person.

(c) "Elder" and "dependent elder" shall have the meaning as defined in Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) "Financial products" means long-term care insurance, life insurance, and annuities governed by the Insurance Code, or its successors.

(e) "Sell" means to act as a broker for a commission. (Added by Stats. 1999, ch. 454.)

§6175.3 Selling Financial Products to Clients — Disclosure Requirements

A lawyer, while acting as a fiduciary, may sell financial products to a client who is an elder or dependent adult with whom the lawyer has or has had, within the preceding three years, an attorney-client relationship, if the transaction or acquisition and its terms are fair and reasonable to the client, and if the lawyer provides that client with a disclosure that satisfies all of the following conditions:

(a) The disclosure is in writing and is clear and conspicuous. The disclosure shall be a separate document, appropriately entitled, in 12-point print with one inch of space on all borders.

(b) The disclosure, in a manner that should reasonably have been understood by that client, is signed by the client, or the client's conservator, guardian, or agent under a valid durable power of attorney.

(c) The disclosure states that the lawyer shall receive a commission and sets forth the amount of the commission and the actual percentage rate of the commission, if any. If the actual amount of the commission cannot be ascertained at the outset of the transaction, the disclosure shall include the actual percentage rate of the commission or the alternate basis upon which the commission will be computed, including an example of how the commission would be calculated.

(d) The disclosure identifies the source of the commission and the relationship between the source of the commission and the person receiving the commission.

(e) The disclosure is presented to the client at or prior to the time the recommendation of the financial product is made.

(f) The disclosure advises the client that he or she may obtain independent advice regarding the purchase of the financial product and will be given a reasonable opportunity to seek that advice.

(g) The disclosure contains a statement that the financial product may be returned to the issuing company within 30 days of receipt by the client for a refund as set forth in Section 10127.10 of the Insurance Code.

(h) The disclosure contains a statement that if the purchase of the financial product is for the purposes of Medi-Cal planning, the client has been advised of other appropriate alternatives, including spend-down strategies, and of the possibility of obtaining a fair hearing or obtaining a court order. (Added by Stats. 1999, ch. 454.)

§6175.4 Remedies for Damages

(a) A client who suffers any damage as the result of a violation of this article by any lawyer may bring an action against that person to recover or obtain one or more of the following remedies:

(1) Actual damages, but in no case shall the total award of damages in a class action be less than five thousand dollars ($5,000).

(2) An order enjoining the violation.

(3) Restitution of property.

(4) Punitive damages.

(5) Any other relief that the court deems proper.

(b) A client may seek and be awarded, in addition to the remedies specified in subdivision (a), an amount not to exceed ten thousand dollars ($10,000) where the trier of fact (1) finds that the client has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, (2) makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345 of the Civil Code, and (3) finds that an additional award is appropriate. Judgment in a class action may award each class member the additional award where the trier of fact has made the foregoing findings. (Added by Stats. 1999, ch. 454.)

§6175.5 Violation—Cause for Discipline

A violation of this article by a member shall be cause for discipline by the State Bar. (Added by Stats. 1999, ch. 454.)

§6175.6 Court Reporting Requirements for Violations

The court shall report the name, address, and professional license number of any person found in violation of this article to the appropriate professional licensing agencies for review and possible disciplinary action. (Added by Stats. 1999, ch. 454.)

§6176. Scope of Article—Provisions Not Exclusive

Nothing in this article shall be deemed to limit, reduce , or preclude enforcement of any obligation, statute, State Bar Rule of Professional Conduct, or court rule, including, but not limited to, those relating to the lawyer's fiduciary duties, that are otherwise applicable to any transaction in which a lawyer is involved. (Added by Stats. 1999, ch. 454.)

§6177. State Bar Report to the Legislature—Complaints Filed; Disciplinary Action Taken

The State Bar by December 31 of each year shall report to the Legislature on the number of complaints filed against California attorneys alleging a violation of this article. The report shall also include the type of charges made in each complaint, the number of resulting investigations initiated, and the number and nature of any disciplinary actions take by the State Bar for violations of this article. (Added by Stats. 2000, ch. 442.)

ARTICLE 11
CESSATION OF LAW PRACTICE—JURISDICTION OF COURTS

§6180. Notice of Cessation; Jurisdiction of Courts

When an attorney engaged in law practice in this state dies, resigns, becomes an inactive member of the State Bar, is disbarred, or is suspended from the active practice of law and is required by the order of suspension to give notice of the suspension, notice of cessation of law practice shall be given and the courts of this state shall have jurisdiction, as provided in this article. (Added by Stats. 1974, ch. 589. Amended by Stats. 1985, ch. 453.)

§6180.1 Notice; Form and Contents; Persons Notified

The notice shall contain any information that may be required by any order of disbarment, suspension, or of acceptance of the attorneys' resignation, by any rule of the Supreme Court, Judicial Council, or the State Bar, and by any order of a court of the state having jurisdiction pursuant to this article or Article 12 (commencing with Section 6190) of this chapter. It shall be mailed to all persons who are then clients, to opposing counsel, to courts and agencies in which the attorney then had pending matters with an identification of the matter, to any errors and omissions insurer, to the Office of the Chief Trial Counsel of the State Bar and to any other person or entity having reason to be informed of the death, change of status or discontinuance or interruption of law practice. In the event of the death or incompetency of the attorney, the notice shall be given by the personal representative or guardian or conservator of the attorney or, if none, by the person having custody or control of the files and records of the attorney. In other cases, the notice shall be given by the attorney or a person authorized by the attorney or by the person having custody and control of the files and records. (Added by Stats. 1974, ch. 589. Amended by Stats. 1975, ch. 387; Stats. 1989, ch. 582, effective September 21, 1989; Stats. 1992, ch. 156.)

§6180.2 Application for Assumption of Jurisdiction Over Law Practice; Venue

Notwithstanding the giving of notice pursuant to Section 6180.1, the superior court on its own motion, or a client of the attorney, the State Bar, or an interested person or entity may make application to the superior court for the county where the attorney maintains or more recently has maintained his or her principal office for the practice of law or where he or she resides, for assumption by the court of jurisdiction over the law practice to the extent provided in this article. In any proceeding under this article, the State Bar shall be permitted to intervene and to assume primary responsibility for conducting the action. (Added by Stats. 1974, ch. 589. Amended by Stats. 1985, ch. 453; Stats. 1989, ch. 582, effective September 21, 1989.)

§6180.3 Contents and Verification of Application

The application shall be verified, and shall state facts supporting the occurrence of one or more of the events stated in section 6180 and either of the following:

(a) Belief that supervision of the court is warranted because the attorney has left an unfinished client matter for which no other active member of the State Bar has, with the consent of the client, agreed to assume responsibility.

(b) Belief that the interests of one or more clients of the attorney or of one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained. (Added by Stats. 1974, ch. 589. Amended by Stats. 1975, ch. 387; Stats. 1985, ch. 453.)

§6180.4 Hearing on Application; Issuance of Order to Show Cause; Service

The application shall be set for hearing and an order to show cause shall be issued, directing the attorney, or his or her personal representative, or, if none, the person having custody and control of the files and records, to show cause why the court should not assume jurisdiction over the law practice as provided in the article. A copy of the application and order to show cause shall be served upon the person to whom it is directed by personal delivery or, as an alternate method of service, by certified or registered mail, return receipt requested, addressed to the attorney at the latest address shown on the official membership records of the State Bar or to the personal representative at the latest address shown in the probate proceeding. Service is complete at the time of mailing, but any prescribed period of notice and any right or duty to do any act or make any response within that prescribed period or on a date certain after notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the attorney has a guardian or conservator, copies shall also be served upon such fiduciary in similar manner. If the State Bar is not the applicant, copies shall also be served upon the Office of the Chief Trial Counsel of the State Bar in similar manner at the time of service on the attorney. The court may prescribe additional or alternative methods of service of the application and order to show cause, and may prescribe methods of notifying and serving notices and process upon other persons and entities in cases not specifically provided for herein. (Added by Stats. 1974, ch. 589. Amended by Stats. 1988, ch. 1159; Stats. 1989, ch. 582, effective September 21, 1989.)

§6180.5 Court Order Assuming Jurisdiction; Appointment and Duties of Attorneys

If the court finds that one or more of the events stated in Section 6180 has occurred, and that supervision of the courts is warranted because the affected attorney has left an unfinished client matter for which no other active member of the State Bar has with consent of the client agreed to assume responsibility, or that the interest of one or more of the clients of the attorney or one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained, it may make an order assuming jurisdiction over the attorney's practice pursuant to this article. If the person to whom the order to show cause is directed does not appear the court may make its order upon the verified application or such proof as it may require. Thereupon the court shall appoint one or more active members of the State Bar to act under its direction to mail a notice of cessation of law practice pursuant to Section 6180.1 and may order such appointed attorneys to do one or more of the following:

(a) Examine the files and records of the law practice, and obtain information as to any pending matters which may require attention.

(b) Notify persons and entities who appear to be clients of the attorney of the occurrence of the event or events stated in Section 6180 and inform them that it may be to their best interest to obtain other legal counsel.

(c) Apply for an extension of time pending employment of such other counsel by the client.

(d) With the consent of the client, file notices, motions and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.

(e) Give notice to the depositor and appropriate persons and entities who may be affected, other than clients, of the occurrence of such event or events.

(f) Arrange for the surrender or delivery of clients' papers or property.

(g) Arrange for the appointment of a receiver, where applicable, to take possession and control of any and all bank accounts relating to the affected attorney's practice of law, including the general or office account and the clients' trust account.

(h) Do such other acts as the court may direct to carry out the purposes of this article.

The court shall have jurisdiction over the files and records and law practice of the affected attorney for the limited purposes of this section, and may make all orders necessary or appropriate to exercise this jurisdiction. The court shall provide a copy of any order issued pursuant to this article to the Office of the Chief Trial Counsel of the State Bar. (Added by Stats. 1974, ch. 589. Amended by Stats. 1975, ch. 387; Stats. 1985, ch. 453; Stats. 1988, ch. 1159; Stats. 1989, ch. 582, effective September 21, 1989; Stats. 1992, ch. 156.)

§6180.6 Limitation on Conduct of Supervised Law Practice

Nothing in this article shall authorize the court or an attorney appointed by it pursuant to this article to approve or disapprove of the employment of legal counsel, fix terms of legal employment, fix the compensation which may have been earned by the affected attorney, or supervise or in any way to undertake to conduct the law practice except to the limited extent provided by subdivisions (c) and (d) of Section 6180.5. (Added by Stats. 1974, ch. 589. Amended by Stats. 1988, ch. 1159; Stats. 1992, ch. 156.)

§6180.7 Employment of Appointed Attorney or Associates by Client of Affected Attorney

Unless court approval is first obtained, neither the attorney appointed pursuant to this article nor his corporation nor any partners or associates of the attorney shall accept employment as an attorney by any client of the affected attorney on any matter pending at the time of the appointment. Action taken pursuant to subdivisions (c) and (d) of Section 6180.5 shall not be deemed such employment. (Added by Stats. 1974, ch. 589; Stats. 1992, ch. 156.)

§6180.8 Interim Orders; Service

Upon a finding by the court that it is more likely than not that the application will be granted and that delay in making the orders described in section 6180.5 will result in substantial injury to clients, or to others, the court, without notice or upon such notice as it shall prescribe, may make interim orders containing such provisions as the court deems appropriate under the circumstances. Such order shall be served in the manner provided in section 6180.4, and if the application and order to show cause have not yet been served, they shall be served at the time of serving the order made pursuant to this section. (Added by Stats. 1974, ch. 589.)

§6180.9 Pending Proceedings in Probate, Guardianship, or Conservatorship; Subjection of Legal Representative to Orders of Court

If there is a pending proceeding in probate, guardianship, or conservatorship relating to the affected attorney, the court having jurisdiction pursuant to this article may inquire into acts done by the legal representative of the attorney concerning the law practice. Upon reasonable notice to the legal representative, the court may determine that the acts of the legal representative relating to such law practice shall be subject to its orders pursuant to this article. (Added by Stats. 1974, ch. 589.)

§6180.10 Application of Lawyer-Client Privilege to Appointed Attorney; Disclosures

Persons examining the files and records of the law practice of the affected attorney pursuant to this article shall observe the lawyer-client privilege and shall make disclosure only to the extent necessary to carry out the purposes of this article. Such disclosure is a disclosure which is reasonably necessary for the accomplishment of the purpose for which the affected attorney was consulted. The appointment of such member of the State Bar shall not affect the lawyer-client privilege which privilege shall apply to communications by or to the appointed lawyers to the same extent as it would have applied to communications by or to the affected attorney. (Added by Stats. 1974, ch. 589.)

§6180.11 Liabilities of Persons and Entities

No person or entity shall incur any liability by reason of the institution or maintenance of the proceeding. No person shall incur any liability for any act done or omitted to be done pursuant to order of the court under this article. No person or entity shall be liable for failure to apply for court jurisdiction under this article. Nothing in this section shall affect any obligation otherwise existing between the affected attorney and any other person or entity. (Added by Stats. 1974, ch. 589. Amended by Stats. 1985, ch. 453.)

§6180.12 Appointed Attorneys; Compensation; Reimbursement for Necessary Expenses

A member of the State Bar appointed pursuant to section 6180.5 shall serve without compensation. However, the member may be paid reasonable compensation by the State Bar in cases where the State Bar has determined that the member has devoted extraordinary time and services which were necessary to the performance of the member's duties under this article. All payments of compensation for time and services shall be at the discretion of the State Bar. Any member shall be entitled to reimbursement from the State Bar for necessary expenses incurred in the performance of the member's duties under this article. Upon court approval of expenses or compensation for time and services, the State Bar shall be entitled to reimbursement therefor from the affected attorney or his or her estate. (Added by Stats. 1974, ch. 589. Amended by Stats. 1983, ch. 254.)

§6180.13 Stay or Appeal of Order

An order made pursuant to this article is nonappealable, and shall not be stayed by petition for a writ except as ordered by the superior court or the appellate court. (Added by Stats. 1974, ch. 589.)

§6180.14 Attorney and Law Practice Defined

As used in this article, "attorney" means a member or former member of the State Bar; "law practice" means (a) a law practice conducted by an individual; (b) a law practice conducted by a partnership, if Section 6180 applies to all partners; and (c) a law practice conducted by a law corporation, if Section 6180 applies to all shareholders of the corporation or if the corporation is described in subdivision (b) of Section 13406 of the Corporations Code. This article does not apply to legal services rendered as an employee, or under a contract which does not create the relationship of lawyer and client. (Added by Stats. 1974, ch. 589. Amended by Stats. 1981, ch. 714, Stats. 1993, ch. 955.)

§6185. Power of Practice Administrator to Control Practice of Deceased or Disabled Member's Practice

(a) Upon appointment by the superior court pursuant to Section 2468, 9764, or paragraph (22) or (23) of subdivision (b) of Section 17200 of the Probate Code, a practice administrator, who is an active member of the State Bar, may be granted, by order of the court appointing this person, one or more of the following powers to take control of the practice of a deceased or disabled member of the State Bar of California:

(1) Take control of all operating and client trust accounts, business assets, equipment, client directories, and premises that were used in the conduct of the deceased or disabled member's practice.

(2) Take control and review all client files of the deceased or disabled member.

(3) Contact each client of the deceased or disabled member who can be reasonably ascertained and located to inform the client of the condition of the member and of the appointment of a practice administrator. The practice administrator may discuss various options for the selection of successor counsel with the client.

(4) In each case that is pending before any court or administrative body, notify the appropriate court or administrative body and contact opposing counsel in the cases under the control of the deceased or disabled member and obtain additional time for new counsel to appear for the affected client.

(5) Determine the liabilities of the practice and pay them for (*sic*-from) the assets of the practice. If the assets of the practice are insufficient to pay these obligations or for the expenses incurred by the practice administrator to carry out the powers ordered pursuant to this section, the practice administrator shall apply to the personal representative to obtain the additional funds that may be required. If the personal representative and the practice administrator are unable to agree on the amount that is necessary for the practice administrator to undertake the duties ordered pursuant to this paragraph, either party may apply to the court having jurisdiction over the estate of the deceased or disabled member for an order requesting funds from the estate.

(6) Employ any person, including but not limited to the employees of the deceased or disabled member, who may be necessary to assist the practice administrator in the management, winding up, and disposal of the practice.

(7) Create a plan for disposition of the practice of the deceased or disabled member to protect its value as an asset of the estate of the member. Subject to the approval of the personal representative of the estate, agree to the sale of the practice and its goodwill.

(8) Subject to the approval of the personal representative of the estate, reach agreements with successor counsel for division of fees for work in process on the cases of the deceased or disabled member.

(9) Subject to the prohibitions against soliciting cases, the practice administrator may act as successor counsel for a client of the deceased or disabled member.

(b) If the practice administrator is uncertain as to how to proceed with the powers granted pursuant to this section, he or she may apply to the Superior Court that has jurisdiction over the estate of the deceased or disabled member for instructions. (Added by Stats. 1998, ch. 682.)

ARTICLE 12
INCAPACITY TO ATTEND TO LAW PRACTICE-JURISDICTION OF COURTS

§6190. Authority of Courts; Attorney Incapable of Practice; Protection of Clients

The courts of the state shall have the jurisdiction as provided in this article when an attorney engaged in the practice of law in this state has, for any reason, including but not limited to excessive use of alcohol or drugs, physical or mental illness, or other infirmity or other cause, become incapable of devoting the time and attention to, and providing the quality of service for, his or her law practice which is necessary to protect the interest of a client if there is an unfinished client matter for which no other active member of the State Bar, with the consent of the client, has agreed to assume responsibility. (Added by Stats. 1975, ch. 387.)

§6190.1 Application for Assumption by Court of Jurisdiction; Consent by Attorney

(a) An application for assumption by the court of jurisdiction under this article shall be made to the superior court for the county where the attorney maintains or most recently has maintained his or her principal office for the practice of law or where such attorney resides. The court may assume jurisdiction over the law practice of an attorney to the extent provided in Article 11 (commencing with section 6180) of Chapter 4 of Division 3.

(b) Where an attorney consents to the assumption by the court of jurisdiction under the article, the State Bar, a client, or an interested person or entity may apply to the court for assumption of jurisdiction over the law practice of the attorney. In any proceeding under this subdivision, the State Bar shall be permitted to intervene and to assume primary responsibility for conducting the action.

(c) Where an attorney does not consent to the assumption by the court of jurisdiction under this article, only the State Bar may apply to the court for the assumption of jurisdiction over the law practice of the attorney.

(d) The chief trial counsel may appoint, pursuant to rules adopted by the board of governors, an examiner or co-examiner from among the members of the State Bar in an investigation or formal proceeding under this article. (Added by Stats. 1975, ch. 387. Amended by Stats. 1989, ch. 582, effective September 21, 1989.)

§6190.2 Verification and Contents of Application

The application shall be verified and shall state facts showing each of the following:

(a) Probable cause to believe that the facts set forth in Section 6190 have occurred.

(b) The interest of the applicant.

(c) Probable cause to believe that the interests of the client or of an interested person or entity will be prejudiced if the proceeding herein provided is not maintained. (Added by Stats. 1975, ch. 387. Amended by Stats. 1989, ch. 582, effective September 21, 1989.)

§6190.3 Hearing; Notice; Service of Copies of Application

The application shall be set for hearing. A copy of the application and notice of the hearing shall be served upon the attorney by personal delivery or, as an alternate method of service, by certified or registered mail, return receipt requested, addressed to the attorney at the latest address shown on the official membership records of the State Bar. Service is complete at the time of mailing, but any prescribed period of notice and any right or duty to do any act or make any response within that prescribed period or on a date certain after notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the attorney has a guardian or conservator, copies shall also be served upon such fiduciary in similar manner. If the State Bar is not an applicant, copies shall also be served upon the Office of the Chief Trial Counsel of the State Bar in similar manner at the time of service on the attorney. The court may prescribe additional or alternative methods of service of the application and notice, and may prescribe methods of notifying and serving notices and process upon other persons and entities in cases not specifically provided for herein. (Added by Stats. 1989, ch. 582, effective September 21, 1989.)

§6190.34 Findings; Orders

If the court finds that (a) the facts set forth in Section 6190 have occurred and, (b) that the interests of the client, or an interested person or entity will be prejudiced if the proceeding provided herein is not maintained, the court shall order the applicant to mail a notice of cessation of law practice pursuant to Section 6180.1 and may make all orders provided for by the provisions of Article 11 (commencing with Section 6180) of Chapter 4 of Division 3. The court shall provide a copy of any order issued pursuant to this article to the Office of the Chief Trial Counsel of the State Bar. (Formerly 6190.3, added by Stats. 1975, ch. 387. Renumbered 6190.34 and amended by Stats. 1989, ch. 582, effective September 21, 1989; Stats. 1992, ch. 156.)

§6190.4 Law Governing

The provisions of Article 11 (commencing with section 6180) of Chapter 4 of Division 3 of this code shall apply to the proceeding, whenever possible. (Added by Stats. 1975, ch. 387.)

§6190.5 Concurrent Proceedings

The proceeding may be maintained concurrently with a disciplinary investigation or proceeding provided for by this chapter. (Added by Stats. 1975, ch. 387.)

§6190.6 Termination of Proceedings

Upon motion duly made by any interested party, the court may terminate the proceedings. (Added by Stats. 1975, ch. 387.)

ARTICLE 13
ARBITRATION OF ATTORNEYS' FEES

§6200. Establishment of System and Procedure; Jurisdiction; Local Bar Association Rules

(a) The board of governors shall, by rule, establish, maintain, and administer a system and procedure for the arbitration, and may establish, maintain, and administer a system and procedure for mediation of disputes concerning fees, costs, or both, charged for professional services by members of the State Bar or by members of the bar of other jurisdictions. The rules may include provision for a filing fee in such amount as the board may, from time to time, determine.

(b) This article shall not apply to any of the following:

(1) Disputes where a member of the State Bar of California is also admitted to practice in another jurisdiction or where an attorney is only admitted to practice in another jurisdiction, and he or she maintains no office in the State of California, and no material portion of the services were rendered in the State of California.

(2) Claims for affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct, except as provided in subdivision (a) of Section 6203.

(3) Disputes where the fee or cost to be paid by the client or on his or her behalf has been determined pursuant to statute or court order.

(c) Unless the client has agreed in writing to arbitration under this article of all disputes concerning fees, costs, or both, arbitration under this article shall be voluntary for a client and shall be mandatory for an attorney if commenced by a client. Mediation under this article shall be voluntary for an attorney and a client.

(d) The board of governors shall adopt rules to allow arbitration and mediation of attorney fee and cost disputes under this article to proceed under arbitration and mediation systems sponsored by local bar associations in this state. Rules of procedure promulgated by local bar associations are subject to review by the board to insure that they provide for a fair, impartial, and speedy hearing and award.

(e) In adopting or reviewing rules of arbitration under this section the board shall provide that the panel shall include one attorney member whose area of practice is either, at the option of the client, civil law, if the attorney's representation involved civil law, or criminal law, if the attorney's representation involved criminal law, as follows:

(1) If the panel is composed of three members the panel shall include one attorney member whose area of practice is either, at the option of the client, civil or criminal law, and shall include one lay member.

(2) If the panel is composed of one member, that member shall be an attorney whose area of practice is either, at the option of the client, civil or criminal law.

(f) In any arbitration or mediation conducted pursuant to this article by the State Bar or by a local bar association, pursuant to rules of procedure approved by the board of governors, an arbitrator or mediator, as well as the arbitrating association and its directors, officers, and employees, shall have the same immunity which attaches in judicial proceedings.

(g) In the conduct of arbitrations under this article the arbitrator or arbitrators may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

(h) Participation in mediation is a voluntary consensual process, based on direct negotiations between the attorney and his or her client, and is an extension of the negotiated settlement process. All discussions and offers of settlement are confidential and may not be disclosed in any subsequent arbitration or other proceedings. (Added by Stats. 1978, ch. 719. Amended by Stats. 1984, ch. 825; Stats. 1989, ch. 1416; Stats. 1990, ch. 483; Stats. 1990, ch. 1020; Stats. 1993, ch. 1262; Stats. 1994, ch. 479; Stats. 1996, ch. 1104.)

§6201. Notice to Client; Request for Arbitration; Client's Waiver of Right to Arbitration

(a) The rules adopted by the board of governors shall provide that an attorney shall forward a written notice to the client prior to or at the time of service of summons or claim in an action against the client, or prior to or at the commencement of any other proceeding against the client under a contract between attorney and client which provides for an alternative to arbitration under this article, for recovery of fees, costs, or both. The written notice shall be in the form that the board of governors prescribes, and shall include a statement of the client's right to arbitration

under this article. Failure to give this notice shall be a ground for the dismissal of the action or other proceeding. The notice shall not be required, however, prior to initiating mediation of the dispute. The rules adopted by the board of governors shall provide that the client's failure to request arbitration within 30 days after receipt of notice from the attorney shall be deemed a waiver of the client's right to arbitration under the provisions of this article.

(b) If an attorney, or the attorney's assignee, commences an action in any court or any other proceeding and the client is entitled to maintain arbitration under this article, and the dispute is not one to which subdivision (b) of Section 6200 applies, the client may stay the action or other proceeding by serving and filing a request for arbitration in accordance with the rules established by the board of governors pursuant to subdivision (a) of Section 6200. The request for arbitration shall be served and filed prior to the filing of an answer in the action or equivalent response in the other proceeding; failure to so request arbitration prior to the filing of an answer or equivalent response shall be deemed a waiver of the client's right to arbitration under the provisions of this article if notice of the client's right to arbitration was given pursuant to subdivision (a).

(c) Upon filing and service of the request for arbitration, the action or other proceeding shall be automatically stayed until the award of the arbitrators is issued or the arbitration is otherwise terminated. The stay may be vacated in whole or in part, after a hearing duly noticed by any party or the court, if and to the extent the court finds that the matter is not appropriate for arbitration under the provisions of this article. The action or other proceeding may thereafter proceed subject to the provisions of Section 6204.

(d) A client's right to request or maintain arbitration under the provisions of this article is waived by the client commencing an action or filing any pleading seeking either of the following:

(1) Judicial resolution of a fee dispute to which this article applies.

(2) Affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.

(e) If the client waives the right to arbitration under this article, the parties may stipulate to set aside the waiver and to proceed with arbitration. (Added by Stats. 1978, ch. 719. Amended by Stats. 1979, ch. 878; Stats. 1982, ch. 979; Stats. 1984, ch. 825; Stats. 1989, ch. 1416; Stats. 1990, ch. 483; Stats. 1993, ch. 1262; Stats. 1994, ch. 479; Stats. 1996, ch. 1104.)

§6202. Disclosure of Attorney-Client Communication and Work Product; Limitation

The provisions of Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code shall not prohibit the disclosure of any relevant communication, nor shall the provisions of Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure be construed to prohibit the disclosure of any relevant work product of the attorney in connection with: (a) an arbitration hearing or mediation pursuant to this article; (b) a trial after arbitration; or (c) judicial confirmation, correction, or vacation of an arbitration award. In no event shall such disclosure be deemed a waiver of the confidential character of such matters for any other purpose. (Added by Stats. 1978, ch. 719. Amended by Stats. 1982, ch. 979; Stats. 1984, ch. 825; Stats. 1996, ch. 1104; Stats. 2004, ch. 182.)

§6203. Award; Contents; Finality; Petition to Court; Award of Fees and Costs

(a) The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy. The award shall not include any award to either party for costs or attorney's fees incurred in preparation for or in the course of the fee arbitration proceeding, notwithstanding any contract between the parties providing for such an award or costs attorney's fees. However, the filing fee paid may be allocated between the parties by the arbitrators. This section shall not preclude an award of costs or attorney's fees to either party by a court pursuant to subdivision (c) of this section or of subdivision (d) of Section 6204. The State Bar, or the local bar association delegated by the State Bar to conduct the arbitration, shall deliver to each of the parties with the award, an original declaration of service of the award. Evidence relating to claims of malpractice and professional misconduct, shall be admissible only to the extent that those claims bear upon the fees, costs, or both, to which the attorney is entitled. The arbitrators shall not award affirmative relief, in the form of damages or offset or otherwise, for injuries underlying any such claim. Nothing in this section shall be construed to prevent the arbitrators from awarding the client a refund of unearned fees, costs, or both previously paid to the attorney.

(b) Even if the parties to the arbitration have not agreed in writing to be bound, the arbitration award shall become binding upon the passage of 30 days after mailing of notice of the award, unless a party has, within the 30 days, sought a trial after arbitration pursuant to Section 6204. If an action has previously been filed in any court, any petition to confirm, correct, or vacate the award shall be to the court in which the action is pending, and may be served by

mail on any party who has appeared, as provided in Chapter 4 (commencing with Section 1003) of Title 14 of Part 2 of the Code of Civil Procedure; otherwise it shall be in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure. If no action is pending in any court, the award may be confirmed, corrected, or vacated by petition to the court having jurisdiction over the amount of the arbitration award, but otherwise in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

(c) Neither party to the arbitration may recover costs or attorney's fees incurred in preparation for or in the course of the fee arbitration proceeding with the exception of the filing fee paid pursuant to subdivision (a) of this section. However, a court confirming, correcting, or vacating an award under this section may award to the prevailing party reasonable fees and costs incurred in obtaining confirmation, correcting, or vacation of the award including, if applicable, fees and costs on appeal. The party obtaining judgment confirming, correcting, or vacating the award shall be the prevailing party except that, without regard to consideration of who the prevailing party may be, if a party did not appear at the arbitration hearing in the manner provided by the rules adopted by the board of governors, that party shall not be entitled to attorney's fees or costs upon confirmation, correction, or vacation of the award.

(d) (1) In any matter arbitrated under this article in which the award is binding or has become binding by operation of law or has become a judgment either after confirmation under subdivision (c) or after a trial after arbitration under Section 6204, or in any matter mediated under this article if: (A) the award, judgment, or agreement reached after mediation includes a refund of fees or costs or both, to the client and (B) the attorney has not complied with that award, judgment, or agreement the State Bar shall enforce the award, judgment, or agreement by placing the attorney on involuntary inactive status until the refund has been paid.

(2) The State Bar shall provide for an administrative procedure to determine whether an award, judgment, or agreement should be enforced pursuant to this subdivision. An award, judgment, or agreement shall be so enforced if:

(A) The State Bar shows that the attorney has failed to comply with a binding fee arbitration award, judgment, or agreement rendered pursuant to this article.

(B) The attorney has not proposed a payment plan acceptable to the client or the State Bar. However, the award, judgment, or agreement shall not be so enforced if the attorney has demonstrated that he or she (i) is not personally responsible for making or ensuring payment of the refund, or (ii) is unable to pay the refund.

(3) An attorney who has failed to comply with a binding award, judgment, or agreement shall pay administrative penalties or reasonable costs, or both, as directed by the State Bar. Penalties imposed shall not exceed 20 percent of the amount to be refunded to the client or one thousand dollars ($1,000), whichever is greater. Any penalties or costs, or both, that are not paid shall be added to the membership fee of the attorney for the next calendar year.

(4) The board shall terminate the inactive enrollment upon proof that the attorney has complied with the award, judgment or agreement and upon payment of any costs or penalties, or both, assessed as a result of the attorney's failure to comply.

(5) A request for enforcement under this subdivision shall be made within four years from the date (A) the arbitration award was mailed, (B) the judgment was entered, or (C) the date the agreement was signed. In an arbitrated matter, however, in no event shall a request be made prior to 100 days from the date of the service of a signed copy of the award. In cases where the award is appealed, a request shall not be made prior to 100 days from the date the award has become final as set forth in this section. (Added by Stats. 1978, ch. 719. Amended by Stats. 1982, ch. 979; Stats. 1984, ch. 825; Stats. 1989, ch. 1416; Stats. 1990, ch. 483; Stats. 1992, ch. 1265; Stats. 1993, ch. 1262, Stats. 1996. ch. 1104.)

§6204. Agreement to be Bound by Award of Arbitrator; Trial After Arbitration in Absence of Agreement; Prevailing Party; Effect of Award and Determination

(a) The parties may agree in writing to be bound by the award of arbitrators appointed pursuant to this article at any time after the dispute over fees, costs, or both, has arisen. In the absence of such an agreement, either party shall be entitled to a trial after arbitration if sought within 30 days, pursuant to subdivisions (b) and (c), except that if either party willfully fails to appear at the arbitration hearing in the manner provided by the rules adopted by the board of governors, that party shall not be entitled to a trial after arbitration. The determination of willfulness shall be made by the court. The party who failed to appear at the arbitration shall have the burden of proving that the failure to appear was not willful. In making its determination, the court may consider any findings made by the arbitrators on the subject of a party's failure to appear.

(b) If there is an action pending, the trial after arbitration shall be initiated by filing a rejection of arbitration award and request for trial after arbitration in that action within 30 days after mailing of notice of the award. If the rejection of arbitration award has been filed by the plaintiff in the pending action, all defendants shall file a responsive pleading within 30 days following service upon the defendant of the rejection of arbitration award and request for trial after arbitration. If the rejection of arbitration award has been filed by the defendant in the pending action, all defendants shall file a responsive pleading within 30 days after the filing of the rejection of arbitration award and request for trial after arbitration. Service may be made by mail on any party who has appeared; otherwise service shall be made in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure. Upon service and filing of the rejection of arbitration award, any stay entered pursuant to Section 6201 shall be vacated, without the necessity of a court order.

(c) If no action is pending, the trial after arbitration shall be initiated by the commencement of an action in the court having jurisdiction over the amount of money in controversy within 30 days after mailing of notice of the award. After the filing of such an action, the action shall proceed in accordance with the provisions of Part 2 (commencing with Section 307) of the Code of Civil Procedure, concerning civil actions generally.

(d) The party seeking a trial after arbitration shall be the prevailing party if that party obtains a judgment more favorable than that provided by the arbitration award, and in all other cases the other party shall be the prevailing party. The prevailing party may, in the discretion of the court, be entitled to an allowance for reasonable attorneys' fees and costs incurred in the trial after arbitration, which allowance shall be fixed by the court. In fixing the attorneys' fees, the court shall consider the award and determinations of the arbitrators, in addition to any other relevant evidence.

(e) Except as provided in this section, the award and determinations of the arbitrators shall not be admissible nor operate as collateral estoppel or res judicata in any action or proceeding. (Added by Stats. 1978, ch. 719. Amended by Stats. 1979, ch. 878; Stats. 1982, ch. 979; Stats. 1984, ch. 825; Stats. 1992, ch. 1265; Stats. 1996. ch. 1104; Stats. 1998, ch. 798.)

§6204.5 Disqualification of Arbitrators; Post-arbitration Notice

(a) The State Bar shall provide by rule for an appropriate procedure to disqualify an arbitrator or mediator upon request of either party.

(b) The State Bar, or the local bar association delegated by the State Bar to conduct the arbitration, shall deliver a notice to the parties advising them of their rights to judicial relief subsequent to the arbitration proceeding. (Added by Stats. 1986, ch. 475; Stats. 1996, ch. 1104.)

§6206. Arbitration Barred if Time for Commencing Civil Action Barred; Exception

The time for filing a civil action seeking judicial resolution of a dispute subject to arbitration under this article shall be tolled from the time an arbitration is initiated in accordance with the rules adopted by the board of governors until (a) 30 days after receipt of notice of the award of the arbitrators, or (b) receipt of notice that the arbitration is otherwise terminated, whichever comes first. Arbitration may not be commenced under this article if a civil action requesting the same relief would be barred by any provision of Title 2 (commencing with section 312) of Part 2 of the Code of Civil Procedure; provided that this limitation shall not apply to a request for arbitration by a client, pursuant to the provisions of subdivision (b) of section 6201, following the filing of a civil action by the attorney. (Added by Stats. 1978, ch. 719. Amended by Stats. 1984, ch. 825.)

ARTICLE 14
FUNDS FOR THE PROVISION OF LEGAL SERVICES TO INDIGENT PERSONS

§6210. Legislative Findings; Purpose of Program

The Legislature finds that, due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons, especially underserved client groups, such as the elderly, the disabled, juveniles, and non-English-speaking persons, do not adequately meet the needs of these persons. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons, and to initiate new programs that will provide services to them. The Legislature finds that the use of funds collected by the State Bar pursuant to this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government. The Legislature further finds that the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and the improvement of the administration of justice. (Added by Stats. 1981, ch. 789.)

§6211. Definition of Funds to be Deposited in Interest Bearing Demand Trust Account; Interest Earned Paid to State Bar; Other Accounts or Trust Investments; Rules of Professional Conduct; Disciplinary Authority of Supreme Court or State Bar

(a) An attorney or law firm that, in the course of the practice of law receives or disburses trust funds shall establish and maintain an IOLTA account in which the attorney or law firm shall deposit or invest all client deposits or funds that are nominal in amount or are on deposit or invested for a short period of time. All such client funds may be deposited or invested in a single unsegregated account. The interest and dividends earned on all those accounts shall be paid to the State Bar of California to be used for the purposes set forth in this article.

(b) Nothing in this article shall be construed to prohibit an attorney or law firm from establishing one or more interest bearing bank trust deposit accounts or dividend-paying trust investment accounts as may be permitted by the Supreme Court, with the interest or dividends earned on the accounts payable to clients for trust funds not deposited or invested in accordance with subdivision (a).

(c) With the approval of the Supreme Court, the State Bar may formulate and enforce rules of professional conduct pertaining to the use by attorneys or law firms of an IOLTA account for unsegregated client funds pursuant to this article.

(d) Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or of the State Bar or as modifying the statutes and rules governing the conduct of members of the State Bar. (Added by Stats. 1981, ch. 789. Amended by Stats. 2007, ch. 422.)

§6212. Requirements in Establishing Client Trust Accounts; Amount of Interest; Remittance to State Bar; Statements and Reports

An attorney who, or a law firm that, establishes an IOLTA account pursuant to subdivision (a) of Section 6211 shall comply with all of the following provisions:

(a) The IOLTA account shall be established and maintained with an eligible institution offering or making available an IOLTA account that meets the requirements of this article. The IOLTA account shall be established and maintained consistent with the attorney or law firm's duties of professional responsibility. An eligible financial institution shall have no responsibility for selecting the deposit or investment product chosen for the IOLTA account.

(b) Except as provided in subdivision (e), the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to nonattorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. In determining the interest rate or dividend payable on any IOLTA account, an eligible institution may consider, in addition to the balance in the IOLTA account, risk or other factors customarily considered by the eligible institution when setting the interest rate or dividends for its non-IOLTA accounts, provided that the factors do not discriminate between IOLTA customers and non-IOLTA customers and that these factors do not include the fact that the account is an IOLTA account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers. Nothing in this article shall preclude an eligible institution from paying a higher interest rate or dividend on an IOLTA account or from electing to waive any fees and service charges on an IOLTA account.

(c) Reasonable fees may be deducted from the interest or dividends remitted on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No other fees or service charges may be deducted from the interest or dividends earned on an IOLTA account. Unless and until the State Bar enacts regulations exempting from compliance with subdivision (a) of Section 6211 those accounts for which maintenance fees exceed the interest or dividends paid, an eligible institution may deduct the fees and service charges in excess of the interest or dividends paid on an IOLTA account from the aggregate interest and dividends remitted to the State Bar. Any fees and service charges other than reasonable fees shall be the sole responsibility of, and may only be charged to, the lawyer or law firm maintaining the IOLTA account. No fees or charges may be assessed against or deducted from the principal of any IOLTA account. It is the intent of the Legislature that the State Bar develop policies so that eligible institutions not incur uncompensated administrative costs in adapting their systems to comply with the provisions of Assembly Bill 1723 of the 2007-08 Regular Session or in making investment products available to IOLTA members.

(d) The eligible institution shall be directed to do all of the following:

(1) To remit interest or dividends on the IOLTA account, less reasonable fees, to the State Bar, at least quarterly.

(2) To transmit to the State Bar with each remittance a statement showing the name of the attorney or law firm for whom the remittance is sent, for each account the

rate of interest applied or dividend paid, the amount and type of fees deducted, if any, and the average balance for each account for each month of the period for which the report is made.

(3) To transmit to the attorney or law firm customer at the same time a report showing the amount paid to the State Bar for that period, the rate of interest or dividend applied, the amount of fees and service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.

(e) An eligible institution has no affirmative duty to offer or make investment products available to IOLTA customers. However, if an eligible institution offers or makes investment products available to non-IOLTA customers, in order to remain an IOLTA eligible institution, it shall make those products available to IOLTA customers or pay an interest rate on the IOLTA deposit account that is comparable to the rate of return or the dividends generally paid on that investment product for similar customers meeting the same minimum balance and other requirements applicable to the investment product. If the eligible institution elects to pay that higher interest rate, the eligible institution may subject the IOLTA deposit account to equivalent fees and charges assessable against the investment product. [See Appendix A for Supreme Court order pursuant to Statutes 1981, Chapter 789.] (Added by Stats. 1981, ch. 789. Amended by Stats. 2007, ch. 422.)

§6213. Definitions

As used in this article:

(a) "Qualified legal services project" means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons and which has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California which meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars ($20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center, which has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.

(d) "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project which provides free services of attorneys in private practice without compensation, "indigent person" also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) "Fee generating case" means any case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, (Public Law 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (Public Law 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act of 1975, as amended (Public Law 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

(1) An interest-bearing checking account.

(2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money-market fund.

(3) Any other investment product authorized by California Supreme Court rule or order. A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money-market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money-market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at that time of the investment, shall have total assets of at least two hundred fifty million dollars ($250,000,000).

(k) "Eligible institution" means a bank or any other type of financial institution authorized by the Supreme Court. (Added by Stats. 1981, ch. 789. Amended by Stats. 1984, ch. 784; Stats. 2007, ch. 422.)

§6214. Qualified Legal Service Projects

(a) Projects meeting the requirements of subdivision (a) of section 6213 which are funded either in whole or part by the Legal Services Corporation or with Older Americans Act funds shall be presumed qualified legal services projects for the purpose of this article.

(b) Projects meeting the requirements of subdivision (a) of section 6213 but not qualifying under the presumption specified in subdivision (a) shall qualify for funds under this article if they meet all of the following additional criteria:

(1) They receive cash funds from other sources in the amount of at least twenty thousand dollars ($20,000) per year to support free legal representation to indigent persons.

(2) They have demonstrated community support for the operation of a viable ongoing program.

(3) They provide one or both of the following special services:

(A) The coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects in California.

(B) The provision of legal representation, training, or technical assistance on matters concerning special client groups, including the elderly, the disabled, juveniles, and non-English-speaking groups, or on matters of specialized substantive law important to the special client groups. (Added by Stats. 1981, ch. 789.)

§6214.5 Law School Program—Date of Eligibility for Funding

A law school program that meets the definition of a "qualified legal services project" as defined in paragraph (2) of subdivision (a) of Section 6213, and that applied to the State Bar for funding under this article not later than February 17, 1984, shall be deemed eligible for all distributions of funds made under Section 6216. (Added by Stats. 1984, ch. 784.)

§6215. Qualified Support Centers

(a) Support centers satisfying the qualifications specified in subdivisions (b) of section 6213 which were operating an office and providing services in California on December 31, 1980, shall be presumed to be qualified support centers for the purposes of this article.

(b) Support centers not qualifying under the presumption specified in subdivision (a) may qualify as a support center by meeting both of the following additional criteria:

(1) Meeting quality control standards established by the State Bar.

(2) Being deemed to be of special need by a majority of the qualified legal services projects. (Added by Stats. 1981, ch. 789.)

§6216. Distribution of Funds

The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:

(a) To pay the actual administrative costs of the program, including any costs incurred after the adoption of this article and a reasonable reserve therefore.

(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.

(1) (A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.

(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of section 6214 as their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.

(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.

(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the

provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources. (Added by Stats. 1981, ch. 789. Amended by Stats. 1984, ch. 784.)

§6217. Maintenance of Quality Services, Professional Standards, Attorney-Client Privilege; Funds to be Expended in Accordance with Article; Interference with Attorney Prohibited

With respect to the provision of legal assistance under this article, each recipient shall ensure all of the following:

(a) The maintenance of quality service and professional standards.

(b) The expenditure of funds received in accordance with the provisions of this article.

(c) The preservation of the attorney-client privilege in any case, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to indigent persons.

(d) That no one shall interfere with any attorney funded in whole or in part by this article in carrying out his or her professional responsibility to his or her client as established by the rules of professional responsibility and this chapter. (Added by Stats. 1981, ch. 789.)

§6218. Eligibility for Services; Establishment of Guidelines; Funds to be Expended in Accordance with Article

All legal services projects and support centers receiving funds pursuant to this article shall adopt financial eligibility guidelines for indigent persons.

(a) Qualified legal services programs shall ensure that funds appropriated pursuant to this article shall be used solely to defray the costs of providing legal services to indigent persons or for such other purposes as set forth in this article.

(b) Funds received pursuant to this article by support centers shall only be used to provide services to qualified legal services projects as defined in subdivision (a) of section 6213 which are used pursuant to a plan as required by subdivision (c) of section 6216, or as permitted by section 6219. (Added by Stats. 1981, ch. 789.)

§6219. Provisions of Work Opportunities and Scholarships for Disadvantaged Law Students

Qualified legal services projects and support centers may use funds provided under this article to provide work opportunities with pay, and where feasible, scholarships for disadvantaged law students to help defray their law school expenses. (Added by Stats. 1981, ch. 789.)

§6220. Private Attorneys Providing Legal Services Without Charge; Support Center Services

Attorneys in private practice who are providing legal services without charge to indigent persons shall not be disqualified from receiving the services of the qualified support centers. (Added by Stats. 1981, ch. 789.)

§6221. Services for Indigent Members of Disadvantaged and Underserved Groups

Qualified legal services projects shall make significant efforts to utilize 20 percent of the funds allocated under this article for increasing the availability of services to the elderly, the disabled, juveniles, or other indigent persons who are members of disadvantaged and underserved groups within their service area. (Added by Stats. 1981, ch. 789.)

§6222. Financial Statements; Submission to State Bar; State Bar Report

A recipient of funds allocated pursuant to this article annually shall submit a financial statement to the State Bar, including an audit of the funds by a certified public accountant or a fiscal review approved by the State Bar, a report demonstrating the programs on which they were expended, a report on the recipient's compliance with the requirements of section 6217, and progress in meeting the service expansion requirements of section 6221.

The Board of Governors of the State Bar shall include a report of receipts of funds under this article, expenditures for administrative costs, and disbursements of the funds, on a county-by-county basis, in the annual report of State Bar receipts and expenditures required pursuant to section 6145. (Added by Stats. 1981, ch. 789.)

§6223. Expenditure of Funds; Prohibitions

No funds allocated by the State Bar pursuant to this article shall be used for any of the following purposes:

(a) The provision of legal assistance with respect to any fee generating case, except in accordance with guidelines which shall be promulgated by the State Bar.

(b) The provision of legal assistance with respect to any criminal proceeding.

(c) The provision of legal assistance, except to indigent persons or except to provide support services to qualified legal services projects as defined by this article. (Added by Stats. 1981, ch. 789.)

§6224. State Bar; Powers; Determination of Qualifications to Receive Funds; Denial of Funds; Termination; Procedures

The State Bar shall have the power to determine that an applicant for funding is not qualified to receive funding, to deny future funding, or to terminate existing funding because the recipient is not operating in compliance with the requirements or restrictions of this article.

A denial of an application for funding or for future funding or an action by the State Bar to terminate an existing grant of funds under this article shall not become final until the applicant or recipient has been afforded reasonable notice and an opportunity for a timely and fair hearing. Pending final determination of any hearing held with reference to termination of funding, financial assistance shall be continued at its existing level on a month-to-month basis. Hearings for denial shall be conducted by an impartial hearing officer whose decisions shall be final. The hearing officer shall render a decision no later than 30 days after the conclusion of the hearing. Specific procedures governing the conduct of the hearings of this section shall be determined by the State Bar pursuant to section 6225. (Added by Stats. 1981, ch. 789.)

§6225. Implementation of Article; Adoption of Rules and Regulations; Procedures

The Board of Governors of the State Bar shall adopt the regulations and procedures necessary to implement this article and to ensure that the funds allocated herein are utilized to provide civil legal services to indigent persons, especially underserved client groups such as but not limited to the elderly, the disabled, juveniles, and non-English-speaking persons.

In adopting the regulations the Board of Governors shall comply with the following procedures:

(a) The board shall publish a preliminary draft of the regulations and procedures, which shall be distributed, together with notice of the hearings required by subdivision (b), to commercial banking institutions, to members of the State Bar, and to potential recipients of funds.

(b) The board shall hold at least two public hearings, one in southern California and one in northern California where affected and interested parties shall be afforded an opportunity to present oral and written testimony regarding the proposed regulations and procedures. (Added by Stats. 1981, ch. 789.)

§6226. Implementation of Article; Resolution

The program authorized by this article shall become operative only upon the adoption of a resolution by the Board of Governors of the State Bar stating that regulations have been adopted pursuant to section 6225 which conform the program to all applicable tax and banking statutes, regulations, and rulings. (Added by Stats. 1981, ch. 789.)

§6227. Credit of State Not Pledged

Nothing in this article shall create an obligation or pledge of the credit of the State of California or of the State Bar of California. Claims arising by reason of acts done pursuant to this article shall be limited to the moneys generated hereunder. (Added by Stats. 1981, ch. 789.)

§6228. Severability

If any provision of this article or the application thereof to any group or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable. (Added by Stats. 1981, ch. 789.)

ARTICLE 15
ATTORNEY DIVERSION AND ASSISTANCE ACT

§6230. Legislative Intent

It is the intent of the Legislature that the State Bar of California seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety. (Added by Stats. 2001, ch. 129.)

§6231. Administration; Oversight; Terms

(a) The board shall establish and administer an Attorney Diversion and Assistance Program, and shall establish a committee to oversee the operation of the program. The committee shall be comprised of 12 members who shall be appointed as follows:

(1) Six members appointed by the Board of Governors, including the following:

(A) Two members who are licensed mental health professionals with knowledge and expertise in the identification and treatment of substance abuse and mental illness.

(B) One member who is a physician with knowledge and expertise in the identification and treatment of alcoholism and substance abuse.

(C) One member of the board of directors of a statewide nonprofit organization established for the purpose of assisting lawyers with alcohol or substance abuse problems, which has been in continuous operation for a minimum of five years.

(D) Two members who are attorneys, at least one of which is in recovery and has at least five years of continuous sobriety.

(2) Four members appointed by the Governor, including the following:

(A) Two members who are attorneys.

(B) Two members of the public.

(3) One member of the public appointed by the Speaker of the Assembly.

(4) One member of the public appointed by the Senate Rules Committee.

(b) Committee members shall serve terms of four years, and may be reappointed as many times as desired. The board shall stagger the terms of the initial members appointed.

(c) Subject to the approval of the board, the committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the program. (Added by Stats. 2001, ch. 129.)

§6232. Practices and Procedures; Program Admission; Obligations

(a) The committee shall establish practices and procedures for the acceptance, denial, completion, or termination of attorneys in the Attorney Diversion and Assistance Program, and may recommend rehabilitative criteria for adoption by the board for acceptance, denial, completion of, or termination from, the program.

(b) An attorney currently under investigation by the State Bar may enter the program in the following ways:

(1) By referral of the Office of the Chief Trial Counsel.

(2) By referral of the State Bar Court following the initiation of a disciplinary proceeding.

(3) Voluntarily, and in accordance with terms and conditions agreed upon by the attorney participant with the Office of the Chief Trial Counsel or upon approval by the State Bar Court, as long as the investigation is based primarily on the self-administration of drugs or alcohol or the illegal possession, prescription, or nonviolent procurement of drugs for self-administration, or on mental illness, and does not involve actual harm to the public or his or her clients. An attorney seeking entry under this paragraph may be required to execute an agreement that violations of this chapter, or other statutes that would otherwise be the basis for discipline, may nevertheless be prosecuted if the attorney is terminated from the program for failure to comply with program requirements.

(c) Neither acceptance into nor participation in the Attorney Diversion and Assistance Program shall relieve the attorney of any lawful duties and obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

(d) An attorney who is not the subject of a current investigation may voluntarily enter, whether by self-referral or referral by a third party, the diversion and assistance program on a confidential basis. Confidentiality pursuant to this subdivision shall be absolute unless waived by the attorney. (Added by Stats. 2001, ch. 129.)

§6233. Restrictions; Reinstatement

An attorney entering the diversion and assistance program pursuant to subdivision (b) of Section 6232 may be enrolled as an inactive member of the State Bar and not be entitled to practice law, or may be required to agree to various practice restrictions, including, where appropriate, restrictions on scope of practice and monetary accounting procedures. Upon the successful completion of the program, attorney participants who were placed on inactive status by the State Bar Court as a condition of program participation and who have complied with any and all conditions of probation may receive credit for the period of inactive enrollment towards any period of actual suspension imposed by the Supreme Court, and shall be eligible for reinstatement to active status and a dismissal of the underlying allegations or a reduction in the recommended discipline. Those attorneys who participated in the program with practice restrictions shall be eligible to

have those restrictions removed and to a dismissal of the underlying allegations or a reduction in the recommended discipline. (Added by Stats. 2001, ch. 129. Amended by Stats. 2005, ch. 273.)

§6234. Information Provided to or Obtained by Program; Limitations on Disclosure, Admissibility and Confidentiality

Any information provided to or obtained by the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, shall be as follows:

(a) Confidential and this confidentiality shall be absolute unless waived by the attorney.

(b) Exempt from the provisions of Section 6086.1.

(c) Not discoverable or admissible in any civil proceeding without the written consent of the attorney to whom the information pertains.

(d) Not discoverable or admissible in any disciplinary proceeding without the written consent of the attorney to whom the information pertains.

(e) Except with respect to the provisions of subdivision (d) of Section 6232, the limitations on the disclosure and admissibility of information in this section shall not apply to information relating to an attorney's noncooperation with, or unsuccessful completion of, the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, or to information otherwise obtained by the Office of the Chief Trial Counsel, by independent means, or from any other lawful source. (Added by Stats. 2001, ch. 129. Amended by Stats. 2003, ch. 334.)

§6235. Expenses and Fees; Financial Assistance Program

(a) Participants in the Attorney Diversion and Assistance Program shall be responsible for all expenses relating to treatment and recovery. In addition, the State Bar may charge a reasonable administrative fee to participants for the purpose of offsetting the costs of maintaining the program.

(b) Notwithstanding subdivision (a), the State Bar shall establish a financial assistance program to ensure that no member is denied acceptance into the program solely due to the lack of ability to pay. (Added by Stats. 2001, ch. 129.)

§6236. Outreach Activities

The State Bar shall actively engage in outreach activities to make members, the legal community, and the general public aware of the existence and availability of the Attorney Diversion and Assistance Program. Outreach shall include, but not be limited to, the development and certification of minimum continuing legal education courses relating to the prevention, detection, and treatment of substance abuse, including no-cost and low-cost programs and materials pursuant to subdivision (d) of Section 6070, informing all members of the State Bar of the program's existence and benefits through both direct communication and targeted advertising, working in coordination with the judicial branch to inform the state's judges of the program's existence and availability as a disciplinary option, and working in cooperation with organizations that provide services and support to attorneys with issues related to substance abuse. (Added by Stats. 2001, ch. 129.)

§6237. Effect on Disciplinary Authority

It is the intent of the Legislature that the authorization of an Attorney Diversion and Assistance Program not be construed as limiting or altering the powers of the Supreme Court of this state to disbar or discipline members of the State Bar. (Added by Stats. 2001, ch. 129.)

§6238. Report to Board of Governors

The committee shall report to the Board of Governors and to the Legislature not later than March 1, 2003, and annually thereafter, on the implementation and operation of the program. The report shall include, but is not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the program. (Added by Stats. 2001, ch. 129.)