

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 16-9095

## ORDER APPROVING AMENDMENTS TO THE STATE BAR RULES

**ORDERED** that:

1. Articles I, III, IV, VIII, and XII of the State Bar Rules are amended as set forth in this order. The amendments are effective immediately.
2. Miscellaneous Docket No. 08-9040 (Apr. 28, 2008) is repealed and superseded by Article III, Section 8(A), as amended.
3. The order contains a clean copy of Articles I and III, as amended. The amendments to Articles IV, VIII, and XII are demonstrated in redline form.
4. By October 1, 2016, each member of the State Bar must add an electronic service address to the member's attorney profile on the State Bar website in accordance with Article III, Section 3, as amended.
5. The Clerk is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

Dated: June 14, 2016.



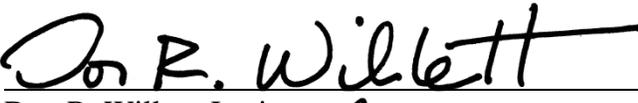
Nathan L. Hecht, Chief Justice



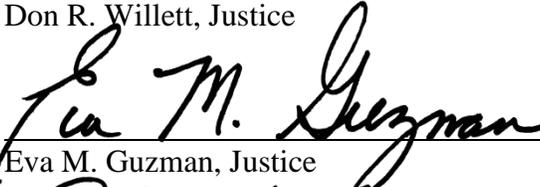
Paul W. Green, Justice



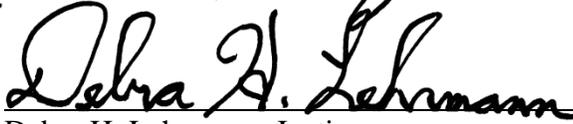
Phil Johnson, Justice



Don R. Willett, Justice



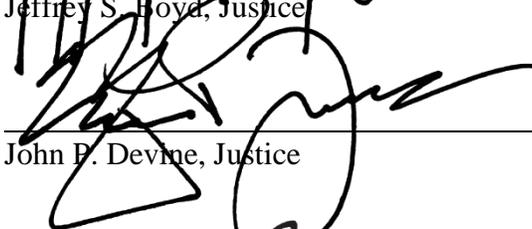
Eva M. Guzman, Justice



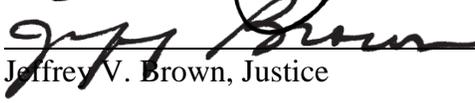
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

## Article I—Definitions

The following words have the meaning set out below, unless a different meaning is apparent from the context:

1. “State Bar” means the State Bar of Texas.
2. “Clerk” means the clerk of the Supreme Court of Texas.
3. “Board” means the State Bar board of directors.
4. “Act” means the State Bar Act, Chapter 510, Acts of the 66th Legislature of Texas, Regular Session, 1979, being also Senate Bill No. 287 as passed by the 66th Legislature of Texas, Regular Session, 1979, and signed by the Governor on June 11, 1979, currently codified at Title 2, Subtitle G. Chapter 81 of the Texas Government Code and as it may be amended.
5. “Metropolitan County” includes any of the counties of Bexar, Dallas, Harris, Tarrant, and Travis of the State of Texas, as well as any other county hereafter so designated by the board.
6. “Member in good standing” is a member of the State Bar who is not in default in payment of dues and who is not under suspension from practice.
7. “Registered mailing address” means the mailing address designated by a member to appear on the State Bar membership rolls and for receiving communications from the State Bar.
8. “Preferred email address” means the email address designated by a member for receiving electronic communications from the State Bar.
9. “Electronic service address” means the email address designated by a member for service of documents through the electronic filing manager established by the Office of Court Administration and for communications to a member from Texas courts. The State Bar will provide each member’s electronic service address to the Office of Court Administration. A member’s electronic service address may be different from the member’s preferred email address.
10. “Court” is the Supreme Court of Texas.
11. “Ex Officio” means by virtue or because of an office. Unless otherwise provided, one serving as an ex officio member of a body is entitled to vote.

12. “Rules” means the State Bar Rules.
13. “Member” means a member of the State Bar.

## **Article III—Membership**

### **Section 1. Members**

The members of the State Bar are those persons designated by the Act.

### **Section 2. Enrollment in the State Bar**

Within ten days of being admitted to practice law in Texas, a member must file with the clerk the enrollment form prescribed by the State Bar and pay all required fees.

### **Section 3. Member Contact Information; Duty to Keep Updated**

- A. Each member must provide to the State Bar and keep updated any contact information requested by the State Bar, including the member's:
- registered mailing address;
  - preferred email address;
  - electronic service address; and
  - telephone number.
- B. If a member fails to designate an electronic service address, the member's preferred email address will be deemed to be the member's electronic service address.
- C. A member must update the member's registered mailing address, preferred email address, and electronic service address on the State Bar website within 30 days of a change to any address.
- D. Service of any notice to a member by the State Bar is deemed to be effective if the notice is sent to the member's registered mailing address or preferred email address.

### **Section 4. Membership Fees**

All membership fees are payable at the time of enrollment as a member of the State Bar and annually on the first day of the State Bar's fiscal year.

### **Section 5. Membership Rolls and Bar Cards**

Upon enrollment, the clerk will enter that person's name on the membership rolls and issue the member a bar card.

## **Section 6. Default in Payment of Fees or Assessments**

If a member is in default of payment of membership fees or any assessment levied by the Court on the 30th day after the due date, the clerk will promptly notify the member of the default. If the fees and assessments are not paid within 60 days after the notice of default is mailed, the defaulting member will automatically be suspended from the practice of law. Practicing law while suspended is professional misconduct and grounds for discipline.

## **Section 7. Resignation from Membership Other Than in Face of Pending Disciplinary Action**

- A. A member may resign from membership by delivering to the State Bar the following materials, addressed to the clerk:
- the resignation form provided by the State Bar;
  - the member's bar card or, if the card has been lost, a written statement—either sworn to before a notary or made under penalty of perjury—that the card has been lost and will be returned to the State Bar if found; and
  - a certificate by the chief disciplinary counsel affirming that no disciplinary action is pending against the member and that the member is not being investigated for professional misconduct.
- B. The membership records will be amended to reflect the member's resignation when the State Bar receives and verifies the materials required by (A).

## **Section 8. Waiver of Membership Fees**

- A. Waiver for Military Service in a Combat Zone
1. The executive director will waive or refund the membership fees of a member of the United States Armed Forces for any year in which the member serves in a combat zone designated by an executive order of the President of the United States.
  2. To request a waiver or refund under this subsection, a member must remit to the State Bar the form prescribed by the State Bar and all required documentation before the end of the dues year in which the member is deployed.

B. Waiver for Undue Hardship

1. The legal services fee mandated by Section 81.054(j), Government Code, may not be waived under this subsection.
2. The executive director may waive some or all of the remaining membership fees of any member who demonstrates undue hardship.
3. Undue hardship exists when a member is unable to pay membership fees due to illness, disability, or other extraordinary circumstances beyond the member's control.
4. To request a waiver under this subsection, a member must, by August 31 of each year in which a waiver is requested, remit to the State Bar:
  - the form provided by the State Bar;
  - a written statement by the member—either sworn to before a notary or made under penalty of perjury—averring that the circumstances on which the request is based are beyond the member's control and the direct cause of the member's inability to pay membership fees; and
  - any other documentation required by the State Bar.
5. Approval of a request for a waiver under this subsection is within the sole discretion of the executive director.

C. Within 30 days after a waiver is granted under this section, the State Bar will report the waiver to the clerk.

**Section 9. One-Time Expunction of an Administrative Suspension for Nonpayment of Membership Fees**

- A. This section does not apply to a disciplinary suspension for professional misconduct.
- B. A member who meets the following criteria may request a one-time expunction of an administrative suspension for nonpayment of membership fees:
1. the member has not previously obtained an expunction under this rule;
  2. the suspension was for 90 days or less;
  3. except for the suspension that is the subject of the expunction request, the member has not previously been suspended for nonpayment of membership fees;

4. the member is not currently the subject of a disciplinary proceeding or investigation; and
  5. the member has no record of disciplinary suspension—whether active or probated—or of prior disbarment or resignation in lieu of discipline.
- C. The member seeking the expunction must make a written request to the State Bar. After verifying that the member meets the criteria in (B), the State Bar will forward to the clerk the member's request and a recommendation that the member's record of suspension be expunged. The clerk will expunge the suspension from the member's record.
- D. A suspension expunged under this rule is deemed never to have occurred. The record of an expunction is confidential and may not be disclosed by the clerk or the State Bar.

#### **Section 10. Return to Former Status**

- A. When a member who has been suspended for nonpayment of fees or assessments removes the default by payment of fees or assessments then owing plus an additional amount equivalent to one-half the delinquency, the suspension will automatically be lifted and the member restored to former status. Return to former status is retroactive to the inception of the suspension, but does not affect any proceeding for discipline of the member for professional misconduct.
- B. A person who has voluntarily resigned from membership must apply to the Board of Law Examiners and comply with the rules of the Court pertaining to admission to the practice of law before resuming the practice of law.
- C. An inactive member may return to active status upon written application to the clerk and payment of fees for the current year.

## Article IV—Administration

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### Section 5. Qualification of Officers and Directors

- A. No person may serve as an officer or director who,
1. has not taken the official oath by the second regular board meeting ~~next following the commencement~~ of the term for which ~~he~~ the person was elected or appointed,

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### Section 13. Vacancy in an Office

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- D. Should the president-elect succeed to the office of president and have less than six ~~(6)~~ months to serve in the unexpired term, ~~he shall in such event,~~ the president-elect will serve the next full term to which he would have normally succeeded that follows the unexpired term.

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## Article VIII—Committees, Sections, and Divisions

### Section 1. Creation, Membership, Officers; Vacancies

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- B. As soon as practicable after assuming office, and not later than the April board meeting of the calendar year in which ~~he~~ the president-elect will assume the presidency, the president-elect shall prepare and present to the Board for its advice and consent; a proposed roster of State Bar committees, committee chairpersons, and committee members for the president-elect's term as president ~~his presidential year~~. The board at the April meeting shall approve the list of State Bar committees and the president-elect shall promptly notify the proposed chairpersons and members of their selection and obtain their consent to serve. Any necessary changes or additions in committee organization and personnel shall be reported by the president-elect to the retiring board at its June meeting and shall be finally approved by the incoming board at its first meeting of the new organizational year. Subsequent creation of special committees by the president and the appointment of the personnel thereof, shall be subject to approval by the executive committee or by the board at the earliest opportunity.

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## Article XII—Minimum Continuing Legal Education

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### Section 2. Definitions

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(N) “MCLE Annual Verification Report” means the written report containing a listing of all CLE credit hours recorded in a member’s MCLE compliance record for an MCLE compliance year. This report shall be furnished to each member annually by the MCLE Department.

~~(O) “Preferred Address” means the member’s physical address, post office box, E-mail address or other address, that is on file with the State Bar of Texas Membership department and that is designated as the member’s preferred address for receiving written notifications.~~

~~(P) “Secondary Address” means any or all of the member’s physical addresses, post office boxes, E-mail addresses, or other addresses on file with the State Bar of Texas Membership department and that are not designated as the member’s preferred address for receiving written notifications.~~

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### Section 8. Compliance

(A) Two months before the end of a member’s MCLE compliance year, the Director must send the member an MCLE Annual Verification Report. ~~The Director may send the report by email to a member who has an email address on file with the State Bar.~~ Members must review the report for accuracy. If the report is accurate and shows that the member has completed all MCLE requirements for the MCLE compliance year or that the member is exempt from MCLE, then no additional action is required by the member. If the report is inaccurate, the member must correct his or her MCLE compliance record by following the instructions on the report. To avoid a fine or suspension, all CLE credit hours must be completed, and all corrections to a member’s MCLE compliance record must be received by the Director, before the end of the member’s MCLE compliance year.

\* \* \*

(C) On or about the 12th day of the month immediately following a member’s birth month, the Director ~~will~~ shall notify in writing all members who ~~is~~ are in non-

compliance for the MCLE compliance year just ended ~~to advise such members of the member's~~ their non-compliance status. ~~Such notice shall be in the form of a written notice, and sent to each member at the Preferred Address and via one Secondary Address (if any) that is then on file with the Membership Department of the State Bar.~~

- (D) On or about the first day of the third month immediately following a member's birth month, the Director ~~will~~shall send a final notice to any member who has not cured ~~their~~ the member's noncompliance status. ~~Such notice shall be in the form of a written notice, and sent to each member at the Preferred Address and via one Secondary Address (if any) that is then on file with the Membership Department of the State Bar.~~

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- (F) Upon the execution of suspension, the Director ~~will send~~ shall ~~cause to be sent~~ a written ~~notification~~ notice to each member who is suspended from practice by the order. ~~Said notification shall be sent to each member at his or her Preferred Address and via one Secondary Address (if any) that is then on file with the Membership Department of the State Bar.~~

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