

## TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

### DIVISION 2. ATTORNEY MEMBERS

#### Chapter 3. Law Corporations

*(Formerly Chapter 2; renumbered effective November 4, 2011.)*

##### Rule 3.150 Scope

- (A) Subject to Supreme Court approval, the State Bar is authorized by law to establish and enforce rules for corporations that practice law in California.<sup>1</sup> To practice law in California, a corporation must be certified by the California Secretary of State and registered by the State Bar. These rules refer to such a corporation as a law corporation.
- (B) These rules do not reiterate or supersede the State Bar Act,<sup>2</sup> statutory requirements for law corporations,<sup>3</sup> or any other legal requirement.<sup>4</sup>
- (C) For law corporations, the governmental agency referred to in the Professional Corporation Act is the State Bar.<sup>5</sup>

*Rule 3.150 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

##### Rule 3.151 Eligibility

A corporation, including a nonprofit public benefit corporation that applies to register as a law corporation must meet statutory requirements.<sup>6</sup>

*Rule 3.151 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

##### Rule 3.152 Application to register as a law corporation

- (A) To apply to register as a law corporation an applicant must
  - (1) submit an Application to Register as a Law Corporation<sup>7</sup> with the fee set forth in the Schedule of Charges and Deadlines; and

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<sup>1</sup> Business & Professions Code § 6171.

<sup>2</sup> See especially Business & Professions Code, Article 10, §§ 6160-6172. See also State Bar Rule 1.4.

<sup>3</sup> See especially Title 1, Part 4, Division 3 of the Corporations Code, commencing with section 13400 (Moscone-Knox Professional Corporation Act).

<sup>4</sup> See especially *Frye v. Tenderloin Housing Clinic, Inc.* (2006) 38 Cal.4th 23, 40 Cal.Rptr.3d 221 regarding nonprofit public benefit corporations.

<sup>5</sup> Business & Professions Code § 6160.

<sup>6</sup> Business & Professions Code § 6161 and Corporations Code § 13406.

<sup>7</sup> Business & Professions Code § 6161.

- (2) provide the proof of security for claims required by Rule 3.158.<sup>8</sup>
- (B) The name under which the law corporation intends to practice law must include a designation of corporate existence such as “Professional Corporation,” “Prof. Corp.,” “Corporation,” “Corp,” “Incorporated,” or “Inc.”<sup>9</sup>
- (C) The effective date of registration as a law corporation is the date an applicant files a complete application.<sup>10</sup> The State Bar has discretion to grant a later effective date requested by the applicant.

*Rule 3.152 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

#### Rule 3.153 Amendment or abandonment of incomplete application

If the State Bar notifies an applicant that an Application to Register as a Law Corporation is incomplete or otherwise fails to meet application requirements, it must provide the applicant at least sixty days to amend the application. If the applicant fails to meet application requirements within this time, the application is deemed withdrawn.

*Rule 3.153 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

#### Rule 3.154 Duties of a law corporation

- (A) A law corporation must have a currently effective certificate of registration issued by the State Bar; submit an Annual Renewal with any required fee,<sup>11</sup> unless exempt by these rules;<sup>12</sup> report to the State Bar within thirty days a change of address or e-mail address; and otherwise comply with these rules and applicable law.
- (B) A law corporation may practice law only under the name registered with the Secretary of State and approved by the State Bar. Use of the name must comply with requirements of the Rules of Professional Conduct.<sup>13</sup>
- (C) A law corporation must observe all rules and law that apply to a member of the State Bar and must not do or fail to do anything that would constitute a cause for discipline of a member.<sup>14</sup>
- (D) A law corporation employing an attorney who has resigned, been disbarred, been suspended from the practice of law, or resigned with charges pending

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<sup>8</sup> Business & Professions Code § 6171(b).

<sup>9</sup> Business & Professions Code § 6171(c).

<sup>10</sup> Rule 1.24.

<sup>11</sup> Rule 3.156.

<sup>12</sup> Rule 3.156(C).

<sup>13</sup> Business & Professions Code § 6171(c).

<sup>14</sup> Business & Professions Code § 6167.

- (1) may not permit the attorney to practice law or represent that he or she is available to practice law and must supervise the performance of any duties assigned to such an attorney;<sup>15</sup> and
- (2) must remove the name of any attorney who is disbarred or resigned with charges pending from its business name, signs, advertisements, letterhead, and other materials within sixty days of the disbarment or resignation.<sup>16</sup>

*Rule 3.154 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

#### Rule 3.155 Special reports

- (A) A law corporation must submit within forty-five days as a Special Report any change in directors, officers, share ownership, articles of incorporation, or bylaws.<sup>17</sup>
- (B) This rule does not apply to a qualified legal services project or qualified support center<sup>18</sup> incorporated as a nonprofit public benefit corporation.<sup>19</sup>

*Rule 3.155 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

#### Rule 3.156 Annual renewal<sup>20</sup>

- (A) A law corporation must annually renew its authorization to practice law by submitting an Annual Renewal with the fee set forth in the Schedule of Charges and Deadlines. The form must report any changes to the information last provided to the State Bar in an Annual Renewal, a special report, or a Law Corporation Guarantee. If the information required for the guarantee has changed, the renewal must also include a current guarantee executed by all shareholders. The deadline for submission of the Annual Renewal and the amount of the fee are set forth in the Schedule of Charges and Deadlines.
- (B) A law corporation that fails to submit a complete Annual Renewal and fee is suspended and is not entitled to practice law. It may be reinstated upon submission within one year of the renewal, fee, and any penalty. If the suspension lasts more than one year, the registration of the law corporation is involuntarily terminated.

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<sup>15</sup> Business & Professions Code § 6133. See Rule 1-311, Rules of Professional Conduct of the State Bar of California.

<sup>16</sup> Business & Professions Code § 6132.

<sup>17</sup> Business & Professions Code § 6162.

<sup>18</sup> Business & Professions Code §§ 6213(a) and 6213(b).

<sup>19</sup> Corporations Code § 13406(c).

<sup>20</sup> Business & Professions Code §§ 6161.1, 6163.

- (C) This rule does not apply to a qualified legal services project<sup>21</sup> or qualified support center<sup>22</sup> incorporated as a nonprofit public benefit corporation.<sup>23</sup>

*Rule 3.156 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

### Rule 3.157 Shares

- (A) A shareholder of a law corporation must be licensed and entitled to practice law.<sup>24</sup>
- (B) The shares of a law corporation must be owned only by that corporation or a shareholder.<sup>25</sup>
- (C) The shares of a deceased shareholder must be sold or transferred to the law corporation or its shareholders within six months and one day following the date of death.<sup>26</sup>
- (D) The share certificates of the law corporation must set forth the preceding restrictions of this rule regarding ownership, sale, or transfer of shares. These restrictions must also be set forth in the articles of incorporation or bylaws.
- (E) The shares of a shareholder who is ineligible to practice law or legally disqualified<sup>27</sup> to render professional services to the law corporation must be sold or transferred to a qualified shareholder within ninety days after the date of ineligibility or disqualification. The terms of such a sale or transfer of shares must be set forth in the articles, the bylaws, or a written agreement.
- (F) The shares of a shareholder disqualified for any reason may be resold to that shareholder upon his or her becoming eligible to practice law.
- (G) This rule does not apply to nonprofit public benefit corporations.

*Rule 3.157 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

### Rule 3.158 Security

- (A) Each law corporation must provide the State Bar with proof of security for claims for errors and omissions of the corporation or any person who practices law on behalf of the corporation, on its behalf as an employee or otherwise. The law

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<sup>21</sup> Business & Professions Code § 6213(a).

<sup>22</sup> Business & Professions Code § 6213(b).

<sup>23</sup> Corporations Code § 13406(c).

<sup>24</sup> Business & Professions Code § 6165.

<sup>25</sup> Corporations Code § 13406(a).

<sup>26</sup> Business & Professions Code §§ 6171(a) & 6171.1.

<sup>27</sup> Business & Professions Code §§ 6166, 6171(a), and Corporations Code § 13401(e).

corporation must provide proof of security with its Application to Register as a Law Corporation and provide new proof of security when that last provided is no longer current. Proof of security must be provided as indicated below.

- (1) All law corporations, except as otherwise provided in this rule, must provide a Law Corporation Guarantee providing that the shareholders jointly and severally agree to pay all claims established against the law corporation for errors and omissions arising out of the rendering of professional services. The guarantee must name each shareholder and be executed by each.<sup>28</sup>
  - (2) A nonprofit public benefit corporation<sup>29</sup> must provide a certificate of annual insurance.
  - (3) Law corporations incorporated and registered with the State Bar before October 27, 1971, and that have elected to provide security by insurance, must provide a certificate of insurance.
- (B) For purposes of determining the amount required as proof of security, a person who practices law on behalf of a law corporation includes
- (1) any employee, other person, or partnership in which the law corporation is a partner and that the law corporation holds out as being of counsel or otherwise available to practice law on behalf of the law corporation; and
  - (2) any association that has a continuous relationship with the law corporation for the practice of law, or that the association, with the consent of the law corporation, holds out as being of counsel or otherwise available to practice law on behalf of the association.
- (C) The Schedule of Charges and Deadlines sets forth the minimum amount of security that a law corporation must provide annually for a single claim and for all claims, whether against the corporation or a person practicing law on behalf of the corporation.

*Rule 3.158 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011. Amended March 2, 2012; amendment approved by the Supreme Court effective December 1, 2014.*

### Rule 3.159 Voluntary termination of registration

A law corporation may by resolution request that the State Bar terminate its registration. The date of termination will be the date of the resolution, a later date requested by the law corporation, or an earlier date at the discretion of the State Bar.

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<sup>28</sup> Business & Professions Code § 6171(b).

<sup>29</sup> Corporations Code § 13406(b).

*Rule 3.159 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011. Amended March 2, 2012; amendment approved by the Supreme Court effective December 1, 2014.*

#### Rule 3.160 Involuntary termination of registration

- (A) A law corporation that fails to submit a complete Annual Renewal and fee is suspended and is not entitled to practice law.<sup>30</sup>
- (B) The State Bar may terminate the certification of a law corporation for failure to comply with these rules or applicable law.<sup>31</sup> Termination is effective sixty days after it has issued a notice to the law corporation stating the grounds for the termination. The law corporation may request Supreme Court review of the termination.<sup>32</sup>

*Rule 3.160 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

#### Rule 3.161 Public information

State Bar records regarding the certification of a law corporation are public information, except for correspondence, internal memoranda, complaints, and any other document for which disclosure is prohibited by law.

*Rule 3.161 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.*

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<sup>30</sup> Rule 3.156(B).

<sup>31</sup> Business & Professions Code § 6169.

<sup>32</sup> Rule of Court 9.13(d). And see Business & Professions Code § 6170.