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Proposed CBA Regulations Section 54.3 and 54.4

§ 54.3. Sale or Transfer of Licensee's Practice.

A licensee that sells or transfers all or part of the licensee's practice to a successor licensee and will no longer retain any ownership in the practice shall comply with all of the following:

(a) send a written notice regarding the sale or transfer of the practice via first class mail to the last known address of each client that may be subject to the sale or transfer. The notice shall contain, at a minimum, the following: a request for the client's consent to transfer that client's files or records to the successor licensee and a notice that the client's consent will be presumed if it does not notify the licensee that it objects within 90 days from the date of the written notice. The licensee may not transfer any client files or records to the successor licensee until either the client's consent is obtained or the time indicated in the licensee's written notice has lapsed without any objection from the client, whichever is shorter. The licensee is required to retain a copy of the written notice and any document reflecting the client's consent or objection to the transfer. The written notice and any document reflecting a client's consent or objection to the transfer of the client's files shall be retained for not less than seven years from the sale or transfer of the licensee's practice;

(b) if a client objects to the transfer of their files or records to the successor licensee, the licensee shall return the client's records promptly or as agreed upon with the client; and,

(c) with respect to files or records not subject to the sale or transfer, a licensee shall return the client's files or records promptly or as agreed upon with the client.

(d) If the licensee is unable to contact a client, that client's files or records, if not transferred or returned, shall be retained by the licensee for a period of not less than seven years from the date of sale or transfer of the licensee's practice. After the seven-year retention period required by this subdivision, the licensee shall dispose of or arrange for the disposal of client records that are no longer to be retained by the licensee by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

NOTE: Authority cited: Sections 5010, 5018 and 5063.3, Business and Professions Code. Reference: Sections 5018 and 5063.3, Business and Professions Code, Section 1798.81, Civil Code.

§ 54.4. Discontinuance of Licensee's Practice.

(a) In the case of a discontinuance of a licensee's practice without a sale or transfer of the practice to a successor licensee, a licensee shall send a written notice via first class mail regarding the discontinuance of the practice to the last known address of each client. The licensee shall also return the client's files or records promptly, or as agreed upon with the client.

(b) If the licensee is unable to contact a client, that client's files or records shall be retained for a period of not less than seven years from the date the licensee's practice discontinues. After the seven-year retention period required by this Section, the licensee shall dispose of or arrange for the disposal of client records that are no longer to be retained by the licensee by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

NOTE: Authority cited: Sections 5010, 5018 and 5063.3, Business and Professions Code. Reference: Sections 5018 and 5063.3, Business and Professions Code, Section 1798.81, Civil Code.