

# COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

**AGENDA ITEM:** October 2016 – O-501

**DATE:** October 6, 2016

**TO:** Subcommittee on Moral Character

**FROM:** Gayle Murphy, Senior Director, Admissions  
Kelly O’Haire, Director, Moral Character Determinations

**SUBJECT:** **Proposed Amendments to Moral Character Determination Application Declaration**

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## BACKGROUND

Recently, the Board of Trustees considered certain recommendations concerning the authorization and release form signed by disciplined attorneys who are seeking reinstatement. The proposed form was modeled after the authorization and release signed by applicants as part of the moral character determination process. As a result of that consideration, it was determined that some changes needed to be made to the authorization and release form signed by applicants. Minor clarifying changes to ensure that the release comports with the California Right to Financial Privacy Act are recommended.

## DISCUSSION

The suggested changes were reviewed by staff. With the exception of the sentence, "Records from tax agencies include, for example copies of federal tax returns," we have no problems with recommending the form be amended. It is rare that these documents are needed, and if they were needed, the applicant would be asked to provide them, not the Franchise Tax Board. The inclusion of this sentence may cause much angst and questions from the applicant population.

Consideration was also given to including additional language that would allow the State Bar of California to report criminal conduct and attorney misconduct if discovered during the moral character determination investigation. Suggested language follows:

*In the event that the moral character investigation discovers information that I have engaged in illegal or inappropriate activities, I understand and acknowledge that the Committee will report such activities to appropriate authorities, including, but not limited to, any states in which I am an applicant or currently licensed, the State Bar’s Office of Trial Counsel, the Franchise Tax Board and law enforcement.*

In light of the current law that does not permit the release of applicant information and the current status of the State Bar's dues bill, however, staff does not recommend making these changes at this time or proposing that the statute be amended to permit the sharing of such information.

**RECOMMENDATION:**

It is recommended that the Committee adopt the proposed amendments to the moral character determination application authorization and release.

**PROPOSED MOTION:**

If the Committee agrees with this recommendation, the following motion is suggested:

Move that the proposed amendments to Moral Character Determination application authorization and release in the form attached hereto be approved.