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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 another person ("successor person"), as defined in section 5035 of the Business and Professions Code, 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 to each client that is subject to the sale or transfer. The notice shall be sent via first-class or certified mail to the last known address of the client, or via electronic transmission as provided in this section. The notice shall contain, at a minimum, the following: a request for the client's consent to transfer its records to the successor person, 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 records to the successor person until either the client's consent is obtained, or the 90 days 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 of its records, in either written or electronic format, for not less than four years from the date of sale or transfer of the licensee's practice. Any written or electronic copy of the notice specified in this section, and any document reflecting the client's consent or objection shall be a legible, complete, and accurate reproduction of the original business record;

(b) If a client objects to the transfer of its records to the successor person, the licensee shall return any client records without delay, or as agreed upon with the client; and,

(c) With respect to client records not subject to the sale or transfer, a licensee shall return any client records without delay, or as agreed upon with the client.

(d) If the licensee is unable to contact a client, that client's records shall not be transferred, and shall be retained by the licensee for a period of not less than four years from the date of sale or transfer of the licensee's practice, or if the client's records include audit documentation as defined in section 68.2, for the time period set by section 68.3, whichever is longer.

(e) After the retention period indicated in subdivision (d), 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 the records unreadable or undecipherable through any means.

(f) For the purposes of this section, “electronic transmission” means the transmission of a document by electronic means to the electronic mail address at or through which a client has authorized or consented to such communication method. Proof of such authorization and consent for electronic transmission shall be demonstrated through a written confirmation of such agreement from the client. As part of that agreement, at the time of giving consent to electronic transmission, the client shall provide their electronic mail address for the purpose of receiving electronic notice or documents from the licensee.

(g) “Client records” shall have the meaning set forth in section 68 and shall include working papers as defined in section 68.1 if considered part of the client’s records as specified by section 68.

**NOTE:** Authority cited: Sections 5010 and 5018, 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 licensee that discontinues its practice but does not sell or transfer the practice to another person (“successor person”), as defined in section 5035 of the Business and Professions Code, shall comply with all of the following:

(a) Send a written notice regarding the discontinuance of the practice to each client as provided in this section. The notice shall be sent via first-class or certified mail to the last known address of the client, or via electronic transmission as provided in this section. The notice shall contain, at a minimum, the date of discontinuance of the practice and, if the licensee maintains any client records, the date and method of delivery or return of any client records. The licensee shall also return any client records, without delay, or as agreed upon with the client. The licensee is not required to provide notification to former clients.

(b) If the licensee is unable to contact a client, that client’s records shall be retained for a period of not less than four years from the date the licensee’s practice discontinues, or if the client’s records include audit documentation as defined in section 68.2, for the time period set by section 68.3, whichever is longer.

(c) After the retention period indicated in subdivision (b), 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 the records unreadable or undecipherable through any means.

(d) For the purposes of this section, “electronic transmission” means the transmission of a document by electronic means to the electronic mail address at or through which a client has authorized or consented to such communication method. Proof of such authorization and consent for electronic transmission shall be demonstrated through a written confirmation of such agreement from the client. As part of that agreement, at the time of giving consent to electronic transmission, the client shall provide their electronic mail address for the purpose of receiving electronic notice or documents from the licensee.

(e) “Client records” shall have the meaning set forth in section 68 and shall include working papers as defined in section 68.1 if considered part of the client’s records as specified by section 68.

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