



The State Bar of California

OPEN AGENDA AUGUST 2020 OPEN SESSION MINUTES – August 18, 2020

Provisional Licensure Working Group
The State Bar of California
Zoom

Tuesday, August 18, 2020
9:00 a.m.

Time meeting commenced: 9:00 a.m.

Time meeting adjourned: 4:01 p.m.

Chair: Hailyn Chen

Committee Coordinator: Ezra Angelus

Members present: Ruben Duran, Robert Barrett, Bhandari, Diane Boyer-Vine, Julie Crisp, Terri Garland, Dolores Heisinger, Jennifer Henning, Paul Kramer, Carol Langford, Cindy Panuco, Hon. Jesus Rodriguez, Angela Sierra, Phillip A. Talbert, Tiffany Townend-Blacknell

Members joined in progress: Hon. James Herman, Larasz Moody-Villarose

Members absent: Vern Pierson

Public Comment: The Provisional Licensure Working Group received five public comments and four written public comments.

Minutes: August 21, 2020

Chair Report: N/A

Staff Report: N/A

Consent:

Limitations on Practice

It was moved, seconded and duly carried to require that supervising lawyers provide written disclosure to each of his or her clients at outset of representation, or when a Provisionally Licensed Lawyer begins to provide legal services, that a Provisionally Licensed Lawyer and/or someone who is only a participant in the State Bar's Provisional Licensure Program that may only practice under supervision will be involved in the case.

Moved by Langford, seconded by Hon. Rodriguez

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Talbert, Townend-Blacknell

Abstain: Sierra

Absent: Moody-Villarose, Hon. Herman, Pierson

It was moved, seconded and duly carried that subject to all applicable rules, regulations, and statutes, a Provisionally Licensed Lawyer may provide legal services to a client which may include, but are not limited to, entering appearances, drafting legal documents, contracts or transactional documents, and pleadings, engaging in negotiations and settlement discussions, and providing other counsel, provided that the work is performed under the supervision of a Supervising Lawyer.

Moved by Duran, seconded by Barrett

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Sierra, Talbert, Townend-Blacknell

Absent: Moody-Villarose, Hon. Herman, Pierson

Eligibility to Participate As a Supervisor

It was moved, seconded and duly carried that a Supervising Lawyer shall be required to have practiced law for at least four years in any United States jurisdiction and have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California.

Moved by Langford, seconded by Boyer-Vine

The motion passed. Roll call vote:

Ayes: Chen, Duran, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Talbert, Townend-Blacknell

Nay: Barrett

Abstain: Sierra

Absent: Moody-Villarose, Hon. Herman, Pierson

It was moved, seconded, and duly carried that a supervising attorney must not be inactive in California, or ineligible to practice, suspended, or have resigned or been disbarred in any jurisdiction.

Moved by Boyer-Vine, seconded by Barrett

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Talbert, Townend-Blacknell

Abstain: Sierra

Absent: Moody-Villarose, Hon. Herman, Pierson

It was moved, seconded and duly carried that pursuant to Rule 1.1 of the Rules of Professional Conduct a Supervising Lawyer must exercise competence in the areas of law in which they supervise a Provisionally Licensed Lawyer.

Moved by Boyer-Vine, seconded by Barrett

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Talbert, Townend-Blacknell

Abstain: Sierra

Absent: Moody-Villarose, Hon. Herman, Pierson

It was moved, seconded and duly carried that there are no limitations on the number of Provisionally Licensed Lawyers a Supervising Lawyer may supervise.

Moved by Duran, seconded by Langford

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Sierra, Talbert, Townend-Blacknell

Absent: Crisp, Moody-Villarose, Hon. Herman, Pierson

It was moved, seconded and duly carried that a Supervising Lawyer must be prepared to assume personal representation of the Provisionally Licensed Lawyer's clients in the event the Provisionally Licensed Lawyer is unable or ineligible to continue representation.

Moved by Boyer-Vine, seconded by Kramer

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Sierra, Talbert, Townend-Blacknell

Absent: Moody-Villarose, Hon. Herman, Pierson

Supervisory Requirements

It was moved, seconded and duly carried that a Supervising Lawyer must agree to assume professional responsibility for any work that the Provisionally Licensed Lawyer performs while under the Supervising Lawyer's supervision.

Moved by Langford, seconded by Duran

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Sierra, Talbert, Townend-Blacknell

Absent: Moody-Villarose, Hon. Herman, Pierson

It was moved, seconded and duly carried that malpractice insurance is not required, and to rely on the current rules.

Moved by Duran, seconded by Langford

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Talbert, Townend-Blacknell

Abstain: Garland, Sierra

Absent: Moody-Villarose, Hon. Herman, Pierson

Level of Supervision

It was moved, seconded and duly carried that the Supervising Lawyer determine whether their presence is required for court appearances in which the Provisionally Licensed Lawyer is appearing on behalf of a client.

Moved by Henning, seconded by Hon. Rodriguez
The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Talbert, Townend-Blacknell

Abstain: Sierra

Absent: Moody-Villarose, Hon. Herman, Pierson

Signing Documents

It was moved, seconded and duly carried that the Supervising Lawyer may decide whether it is necessary for them to review, approve, and sign all agreements, settlements, contracts, and other similar documents prepared by the Provisionally Licensed Lawyer.

Moved by Barrett, seconded by Langford
The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Panuco, Hon. Rodriguez, Talbert, Townend-Blacknell

Abstain: Hon. Herman, Sierra

Absent: Moody-Villarose, Pierson

Termination of Provisional Licensure

It was moved, seconded and duly carried that upon issuance of an adverse moral character determination, a provisional license is suspended until a final disposition on appeal, and terminated should the provisionally licensed lawyer receive a final adverse moral character determination.

Moved by Boyer-Vine, seconded by Langford
The motion passed. Roll call vote:

Ayes: Chen, Duran, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Hon. Herman, Kramer, Langford, Hon. Rodriguez, Sierra, Talbert

Nay: Barrett, Townend-Blacknell

Absent: Moody-Villarose, Panuco, Pierson

Other Miscellaneous Issues

Provisional Licensure Terminates in the Following Circumstances

It was moved, seconded and duly carried that provisional licensure terminates upon imposition of any sanction for misconduct by the State Bar of California or any other professional or occupational licensing authority, including administrative or stayed suspension against the Provisionally Licensed Lawyer; upon imposition of any sanction for misconduct by the State Bar of California or any other bar, including administrative or stayed suspension, against the Supervising Lawyer; upon admission to the State Bar of California; upon cessation of the Provisional Licensure Program; upon request; for failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar; and if the Provisionally Licensed Lawyer no longer meets the requirements of this rule.

Moved by Kramer, seconded by Heisinger
The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford , Sierra, Talbert, Townend-Blacknell

Absent: Hon. Herman, Moody-Villarose, Panuco, Pierson, Hon. Rodriguez

It was moved, seconded and duly carried that the same privileges and confidentialities that would apply to licensed lawyers also apply to Provisionally Licensed Lawyers.

Moved by Garland, seconded by Boyer-Vine
The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Sierra, Talbert, Townend-Blacknell

Absent: Hon. Herman, Moody-Villarose, Panuco, Pierson, Hon. Rodriguez

It was moved, seconded and duly carried that the State Bar shall not seek to confirm continuing eligibility of the Provisionally Licensed Lawyer and the Supervising Lawyer.

Moved by Langford, seconded by Boyer-Vine
The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Talbert, Townend-Blacknell

Abstain: Sierra

Absent: Hon. Herman, Moody-Villarose, Panuco, Pierson, Hon. Rodriguez

It was moved and seconded that an applicant must pay a fee of \$300 to the State Bar.

Moved by Chen, seconded by Duran

The motion is withdrawn.

It was moved, seconded and duly carried that the fee to apply for the Provisional Licensure Program is \$200. The fee for applicants who are seeking to participate in the program in a non-paid position pay a reduced fee of \$55.

Moved by Langford, seconded by Boyer-Vine

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Heisinger, Henning, Langford, Moody-Villarose, Talbert, Townend-Blacknell

Nay: Kramer

Abstain: Garland, Sierra

Absent: Hon. Herman, Panuco, Pierson, Hon. Rodriguez

It was moved, seconded and duly carried that applicants for the program must be December 2019 - December 2020 graduates of JD or LLM law school programs from California-based law schools (whether ABA approved, California accredited, or unaccredited) or law schools outside of California if such graduates are permitted to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061.

Moved by Langford, seconded by Barrett

The motion passed. Roll call vote:

Ayes: Chen, Duran, Barrett, Bhandari, Boyer-Vine, Crisp, Garland, Heisinger, Henning, Kramer, Langford, Moody-Villarose, Sierra, Talbert, Townend-Blacknell

Absent: Hon. Herman, Panuco, Pierson, Hon. Rodriguez