

**List of Public Comment Received
As of 10/09/13**

1. 8/5/13

Daryl Muenchau, Ph.D., J.D.

2. 8/5/13

John Malki, Esq.

3. 8/23/13

Niels B. Schaumann
President & Dean
California Western School of Law

4. 8/26/13

California Law School Pro Bono Administrators

5. 8/28/13

James J. Preis
Executive Director
Mental Health Advocacy Services, Inc.

6. 9/2/13

Perry L. Segal, Chair
On behalf of the Law Practice Management & Technology Section Executive
Committee – and its membership

7. 9/2/13

Perry L. Segal, Esq.

8. 9/4/13

Latonia Haney Keith
David Lash
Association of Pro Bono Counsel

9. 9/4/13

Levi Lesches, Student

Pepperdine School of Law

10. 9/4/13

Katherine Kruse
President
CLEA
Clinical Legal Education Association

11. 9/5/13

Karen L. Tokarz
Charles Nagel Professor of Public Interest Law and Public Service
Director, Negotiation and Dispute Resolution Program

12. 9/5/13

Mark A. Kressel
President
Los Angeles County Bar Association
Barristers Section

13. 9/5/13

Patricia Egan Daehnke
President
Los Angeles County Bar Association

14. 9/5/13

Megan Knize, CYLA Board Member 2010-2013
Nathaniel Lucey, CYLA Board Member 2011-2014
Ireneo Reus III, 2012-2013 Chair
Alex Calero, 2012-2013 Vice Chair
CYLA Board Members

15. 9/5/13

Robert R. Kuehn
Professor of Law & Associate Dean for Clinical Education
Washington University School of Law

16. 9/5/13

Diego Cartagena, Esq.
On behalf of the Southern California Pro bono Managers

17. 9/5/13

Diego Cartagena, Esq.
On behalf of Bet Tzedek

18. 9/5/13

Andrew J. Guilford

19. 9/5/13

OneJustice
Bay Area Pro Bono Managers

20. 9/5/13

Audrea J. Golding, Chair
State Bar Council on Access & Fairness

21. 9/5/13

Christopher Kearney
President
Bar Association of San Francisco

22. 9/5/13

Eric Toscano
Barristers Club Vice-President
Bar Association of San Francisco

23. 9/5/13

James P. Menton, Jr.
Chair
Business Law Section

24. 9/5/13

Berkeley Law

Gillian Lester
Acting Dean and Morrison Professor of Law, Berkeley Law

Andrew Guzman

Associate Dean, International & Advanced Degree Programs

Amelia Miazad

Executive Director, International & Advanced Degree Programs

25. 9/5/13

Nisha N. Vyas

Pro Bono Director

Asian Americans Advancing Justice - Los Angeles

26. 9/5/13

Hon. Ronald B. Robie

Associate Justice

California Court of Appeal, 3rd Appellate District

Chair, California Commission on Access to Justice

27. 9/9/13

S. Lynn Martinez

Chair, Standing Committee on the Delivery of Legal Services

State Bar of California

Office of Legal Services

28. 9/16/13

Donna Lewis

29. 10/1/13

Alan H. Sarkisian

Attorney at Law

30. 10/9/13

Diane Karpman

President

Beverly Hills Bar Association

From: [Daryl Muenchau](#)
To: [Greenman, Teri](#)
Subject: Admissions Regulation Reform - comment
Date: Thursday, August 01, 2013 2:58:03 PM

Dear Ms. Greenman,

I looked over the summary of the Phase I final report. The situation is discouraging, to say the least. It looks to me like lawyers are becoming (or already are) a commodity, like almost everything else already is.

I conclude that it is time for something different in view of the decreasing economic value of a law degree and the high cost to obtain it. If the proposed admissions reforms are to go into place, there is an added burden on students and new lawyers. Maybe a reasonable trade-off would be to reduce some of the tuition cost by allowing law school students to take some (not all) of their course work online at cost low enough to break even on online operations. Of course, the law schools would no doubt oppose that to protect their revenue streams. Instead, Calbar would operate that and make it available to students who wish to pursue that option.

I am familiar with a few online courses in other disciplines, e.g., math, computer science, social science. Some of them are truly excellent and use very pointed and effective means to confirm that students are actually mentally there and grasping content. In some cases, students have to correctly answer questions (usually hard questions) for each unit of subject matter before proceeding to the next unit - nobody can fake that. Final confirmation that content has been grasped could be regular on-campus law school exams. There is no reason that the law cannot be taught in a similar manner with the same degree excellence. Who knows, it may turn out that the results are better than what there is now.

That's all I have. I do feel sorry for new people entering the profession. It just isn't what it used to be.

Sincerely,
Daryl Muenchau, Ph.D., J.D.

From: [John Malki](#)
To: [Greenman, Teri](#)
Subject: Task Force on Admissions Regulation Reform
Date: Thursday, August 01, 2013 3:38:17 PM

This is my comment:

Any additional training requirements should be credit toward the amount of coursework required to graduate from law school and/or qualify to take the bar exam. In other words, the net result should not increase the educational or financial burden of becoming a lawyer. There wouldn't be a need for better training if existing legal education were adequate, so something in the existing coursework can afford to be dropped to accommodate the new training requirements. I diligently sought, and was fortunate to have acquired, an internship, and a part-time job as a law clerk, while in law school, and the practical training was invaluable. However, it was a huge burden on top of law school; it's a miracle I survived.

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August 23, 2013

Task Force on Admissions Regulation Reform

Teri Greenman

Executive Offices

State Bar of California

180 Howard Street

San Francisco, CA 94105-1639

Sent Via E-mail: teri.greenman@calbar.ca.gov

Dear Chairman Streeter:

Thank you for providing California Western School of Law the opportunity to comment on the Task Force on Admissions Regulation Report of June 24, 2013. As I stated in my previous comments, I commend the Task Force for its focus on increased practical training in law schools and its emphasis on access to justice. At California Western, we stress both concepts through our vertical skills curriculum and extra-curricular programs, including our Pro Bono and Public Service Program. My comments here pertain to the Competency Training Requirement of at least 15 units of practice-based experiential course work.¹

I commend the Task Force's proposal that law schools should individually determine which of their academic programs meet the 15-unit requirement. However, I, with the Clinic Faculty at California Western, strongly believe the 15 unit requirement, exclusive of first year courses,² should be met only by a law school's programs that offer academic credit. We differ with the Task Force's suggested alternative (b), that some or all of the 15 units could be satisfied by a "Bar-approved externship, clerkship, or apprenticeship at any time during or following law school." Allowance of work outside of academic programs defeats the purpose of the "*structured competency training*"³ requirement to create "a shifting of priorities within law schools in a way that encourages the existing trend toward incorporating more clinically-based experiential education."⁴ There is no incentive for law schools to consider their curricula, if this requirement can be entirely met after law school. We agree with those commentators who cautioned that

¹ Regarding the proposed requirement of 50 hours of pro bono/modest means work, I have reviewed and concur with the letter signed by the Law School Pro Bono Administrators, including our Pro Bono Administrator at California Western.

² Current criteria for the 15 unit training requirement include the exclusion of first year Legal Writing courses. We believe first year Legal Writing courses should be included as part of students' competency skills learning, thus increasing the required units from 15 to a minimum of 19. Moreover, many Legal Writing courses, including ours at California Western, include skills training in a variety of legal practice areas, in addition to that of legal writing..

³ State Bar of California Task Force on Admissions Regulation Reform: Phase I Final Report ADA Version [Report], June 24, 2013, p. 1. (emphasis added)

⁴ Report, pp. 21-22.

allowing students to go outside a law school's academic programs for compliance in fact undermines the school's curricular efforts.⁵ Alternative (b) also puts the Bar in the difficult position of drafting detailed certification procedures. Once such "standards for equivalency in close consultation with law schools" are drafted, monitoring the quality of and number of hours attributed toward student work outside of academic internships and clinics burdens both the Bar and the law schools.

On the other hand, we support the Task Force's recommendations as to additional training and mentoring by members of the bench and bar, integrating more practicing lawyers into law school faculties through adjunct roles, re-examining ABA accreditation standards that may impede experiential learning opportunities for students, and further scrutiny of required subjects tested on the Bar. The extent and depth of subjects tested by the California Bar places heavy restraints on the abilities of students to enroll in courses that teach competencies the Task Force suggests are necessary for practice. Unless the Bar lessens its hold on subjects students must take to be prepared for the Bar, many law schools will be unable to comply with the Competency Training Requirements.

We appreciate the Task Force's consideration of our concerns, and look forward to continued work with the State Bar on this important project.

Sincerely,

A handwritten signature in dark ink, appearing to read "Niels B. Schaumann". The signature is fluid and cursive, with the first name "Niels" being more prominent than the last name "Schaumann".

Niels B. Schaumann
President & Dean

⁵ Report, p.19, fn 42.

August 26, 2013

California State Bar Board Committee on
Regulation, Admissions & Discipline Oversight
c/o Teri Greenman
Executive Offices
State Bar of California
180 Howard Street
San Francisco, CA 94105-1639
Sent Via E-mail: teri.greenman@calbar.ca.gov

**RE: Law School Pro Bono Administrators Public Comment on the State Bar
Task Force on Admissions Regulation Reform: Phase 1 Final Report**

Dear Board Committee on Regulation, Admissions & Discipline Oversight:

As law school professionals dedicated to promoting pro bono service among law students and future lawyers, we support State Bar efforts to increase student pro bono participation and to address the justice gap that is continually widening. We offer the following comments on the Task Force on Admissions Regulation Reform's Final Report. Further, we recommend that both a legal services provider and law school pro bono administrator be appointed to the implementation committee if the Report is adopted.

The Task Force proposes that students provide "50 hours of legal services specifically devoted to pro bono or modest means clients." We submit our comments in the form of questions to help the Committee consider potential issues foreseen by the undersigned Law School Pro Bono Administrators, and to help guide the implementation committee regarding the requirement of 50 hours of legal services devoted to pro bono or modest mean clients.

1. Can a student satisfy his or her 50 hours of pro bono doing legal work for which the student is also receiving academic credit?
2. If the answer to the above question is yes:
 - a. Would all externships for which students receive academic credit, including with non-profits, government agencies, and judicial officers, count toward the 50 hours of required pro bono?
 - b. Would participation in law school legal clinics for which students receive academic credit count towards the 50 hours of required pro bono?

3. Can the same hours of legal services devoted to pro bono or modest means clients that count towards the pro bono requirement also be used to satisfy the pre-admission practical skills training requirement? For example, may a student who receives academic credit for work in a law school legal clinic also count those hours toward the 50 hours of required pro bono?
4. What type of work will be considered “legal work” that would satisfy the 50 pro bono hour requirement? For example, do hours attending training prior to volunteering count? Travel time to the location, particularly if working with a rural community? Light administrative work that meets the needs of the non-profit legal organization, in addition to direct legal services?
5. Can a student satisfy his or her 50 hours of pro bono working with a bar certified pro bono program or modest means program if the student is financially compensated for this work, either through a summer stipend from their law school (i.e. a PILF grant), or while working as a summer associate with a law firm doing pro bono work?
6. With regards to modest means work, will supervising attorneys be required to pay law students or graduates for such legal work? If not, will the California State Bar seek a decision from the Department of Labor that such work is not a violation of state or federal wage and hour laws?
7. How will “modest means” be defined for purposes of the 50 hour pro bono requirement?
8. Can a student satisfy his or her 50 hours of pro bono while working under the supervision of an attorney who is not licensed to practice law in California? This would be most likely to occur in the following scenarios:
 - a. A student is working for a judge, but is directly supervised by a law clerk, who is not licensed in California.
 - b. A student completes legal work for a non-profit organization based outside of California, usually through legal research completed remotely.
 - c. A student works with an attorney whose practice does not require a California bar license, most likely when practicing in an administrative law setting such as immigration.

- d. A student spends the summer working outside of California or the United States.
 - e. A student graduates from a school that is outside of California.
9. Who will determine if a program is “Bar certified”? Can a program that is overseen by a law school automatically be deemed “Bar certified”?
10. How will students verify completion of his or her 50 pro bono hours? Will the supervising attorney be required to sign a form? If forms are required, will they be available for submission online near the time the work is completed?
11. Who will review the forms submitted to the State Bar? How will questions about the 50 hour pro bono requirement be answered? Will there be an appeal process if submitted hours or a project is not approved?
12. How will law schools be expected to assist in the submission or approval process of the 50 pro bono hours?
13. Will some applicants be able to petition or be automatically exempt from this requirement, such as LLM candidates or those who are working full time while attending law school and may have a hardship basis?
14. The pro bono/modest means requirement is recommended to go into effect in 2016. Would that apply to incoming law students just beginning law school in 2016, or those who are graduating and are seeking California Bar admission in 2016?

Thank you for your time and consideration. The Pro Bono Administrators submitting this letter recognize the importance of law student pro bono work, and the vital role it serves in providing access to justice to so many underserved communities and causes.

We look forward to the opportunity to provide additional input as the process moves forward, and will make ourselves available to the State Bar, including all committees reviewing this issue, to answer questions and provide feedback, especially during the implementation phase.

Sincerely,
California Law School Pro Bono Administrators (listed next page)

California Western School of Law

Jill T. Blatchley

Pro Bono Program Coordinator

Chapman University School of Law

Laurie Ellen Park

Assistant Director of Career Services &
Designated Pro Bono Counselor

Golden Gate University School of Law

Cynthia Chandler

Public Interest Career Counselor

Loyola Law School

Sande Buhai

Director, Public Interest Law Department

Pepperdine University School of Law

Jeffrey Baker

Director of Clinical Education

Santa Clara University School of Law

Deborah Moss-West

Assistant Director, Center for Social Justice
and Public Service

Southwestern Law School

Laura Cohen

Director, Street Law Clinic and Community
Outreach

Stanford Law School

Elizabeth de la Vega

Director, Pro Bono and Externships Program

**University of California, Berkeley
School of Law**

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Field Placement Director

**University of California, Davis
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Kirsten Hill

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**University of California, Irvine
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Catherine Mayorkas

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August Farnsworth

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**University of Southern California
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MENTAL HEALTH ADVOCACY SERVICES

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A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.

August 28, 2013

State Bar of California
180 Howard Street
San Francisco, California 94105-1639
Attention: Ms. Teri Greenman

Re: In Response to Request for Comments on the Phase I Final Report Issued by the State Bar of
California's Task Force on Admissions Regulation Reform on June 24, 2013

The California State Bar's Task Force on Admissions Regulation Reform requested comments to its proposals contained in the Phase I Final Report issued on June 24, 2013. Mental Health Advocacy Services, Inc. (MHAS) submits its comments and commends the Board's goal to foster legal skills competency among new admittees while honoring the need to increase access to justice through attorney mentoring of low bono and pro bono work for vulnerable clients. MHAS is a nonprofit legal services agency that provides free legal services to adults and children with mental health disabilities. MHAS has been serving clients throughout Los Angeles County for over 35 years. MHAS advocates for children and adults to protect rights and fight discrimination, provides training and technical assistance to community members, including attorneys and service providers, and also participates in impact litigation to improve the lives of low-income people with mental health disabilities.

MHAS embraces its role working with law students and new lawyers as volunteers, mentoring them in meaningful legal work around government benefits, fair housing, consumer law and special education. To enhance the legal services we provide, we work flexibly with students who commit as little as one or two afternoons a week and students and new attorneys who commit full-time over a number of months. As the taskforce considers proposed reforms, our experience may illuminate discussion of different extern strategies. While our clients benefit from all service, students able to commit few hours inevitably limit the legal skills they develop, commonly doing client intake, interviewing and legal research. Students able to commit full-time for a period of weeks, such as a summer or semester, experience greater opportunities to build in-depth skills.

As the task force considers strategies, MHAS submits that law students who engage in "semester-in-practice" experiences (for-credit, full-time externships for a semester) receive some of the most comprehensive training a public interest legal services agency can offer. Students engaged in this type of learning experience, under the close supervision of a staff attorney, have opportunities for negotiation, drafting administrative pleadings in multiple practice areas, drafting demand letters, and managing clients with a depth not available to the part-time intern. Expansion of semester-in-practice programs in California law schools would be one way in which law schools and public interest legal services agencies could collaborate to foster new attorney skills.

Thank you for your consideration of these comments.

Respectfully submitted,


James J. Preis
Executive Director

From: [Perry L. Segal, Esq.](#)
To: [Greenman, Teri](#)
Subject: Public Comments - Admissions Regulation Reform - on Behalf of the LPMT Section Executive Committee
Date: Monday, September 02, 2013 3:02:10 PM
Importance: High

The Law Practice Management & Technology Section Executive Committee of the State Bar of California carefully reviewed this proposal, sought input from our membership and spoke at a public meeting of the Task Force. We would like to call attention to the following points:

- 1) Economically, law students/new attorneys are disparate. As such, some of the proposed requirements will produce more hardship for certain students over others. We not only refer to cost, but *time*. The more-financially-stable student will be better able to bear the burden of any additional costs but may also be spared from having to take a job during school to subsidize the costs. For a student in that predicament, a 50-hour pro or low-bono requirement (for example) is much more burdensome when coupled with studies and a job.
- 2) Additional mandatory requirements will only be beneficial if the *quality* of the offerings takes precedence over the *quantity* of hours. If the focus is on the mandatory component rather than auditing to assure quality levels are being met, the Task Force will not accomplish its goals, nor will the goals for the students be achieved; namely, more thoroughly, better-equipped new attorneys.
- 3) As always, the LPMT Section strongly supports a focus of these additional requirements toward competent management of a law practice and the modern technology required to accomplish that goal.

We thank the task Force for the opportunity to submit these comments.

Sincerely,

Perry L. Segal, Chair

On behalf of the Law Practice Management & Technology Section Executive Committee – and its membership

From: [Perry L. Segal, Esq.](#)
To: [Greenman, Teri](#)
Subject: Public Comments - Admissions Regulation Reform
Date: Monday, September 02, 2013 3:34:18 PM
Importance: High

I am currently the sitting Chair of LPMT, which has submitted its official comments. I submit these additional comments in support on behalf of myself as an individual:

I attended law school part-time as an adult in my late thirties, while also working. I took the First-Year Law Student Exam (aka, the “Baby Bar”), which required almost two months of intensive preparation, as the general first-time-taker pass rate hovers around 22-24%. My workload was quite full.

Like my Committee, I support the Task Force’s goal of achieving better-equipped law students/attorneys right out of the gate; I only ask that you also consider the student/new attorney who is burdened with additional responsibilities such as a job, family obligations, etc. and keep in mind the effect the burden of these additional requirements ***might*** have on a person in that position.

There are always methods that the Bar can bring to bear that would assist in alleviating these additional burdens (e.g. providing a longer window to complete course & hour requirements, etc.).

Thank you for the opportunity to submit these additional comments.

Sincerely,

Perry Segal
An Individual



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<http://www.probonocounsel.org>

September 4, 2013

By E-Mail (teri.greenman@calbar.ca.gov)

Ms. Teri Greenman
Executive Offices
State Bar of California
180 Howard St.
San Francisco, CA 94105-1639

Dear Ms. Greenman:

I am writing on behalf of the Association of Pro Bono Counsel ("APBCo") in regard to the new pro bono admission requirement proposed by the State Bar of California. APBCo supports efforts to expand pro bono services and close the gap in access to justice. We would, however, like to highlight certain concerns and observations about the proposal and offer the assistance of our members' experience as leading law firm pro bono professionals, especially in working out details for implementation.

APBCo is a membership organization of over 125 partners, counsel and practice group managers who run pro bono practices on primarily a full time basis in 85 of the country's largest law firms. Founded in 2006, APBCo is dedicated to improving access to justice by advancing the model of the full-time law firm pro bono partner or counsel, enhancing the professional development of pro bono counsel, and serving as a unified voice for the national law firm pro bono community.

APBCo stands with the Bar in support of its efforts to increase pro bono representation. Through expanded involvement of the private bar we can help narrow an ever-increasing "justice gap." By assisting low-income individuals and communities in accessing the courts, we not only protect our democracy, but also help ensure that life's most basic necessities are not unfairly taken away from those at risk of losing them. We have found that pro bono assistance is most valuable when attorneys and law students can work together with, and rely on, skilled legal aid attorneys and dedicated law school faculty and staff to lend their expertise on the poverty law issues that are central to these cases. Legal aid attorneys and law school personnel provide training, support and mentorship, enabling private firm lawyers to effectively represent low-income clients and community-based organizations.

We have highlighted below some of the issues that we believe may come up in implementation, and we urge the Bar to include members of APBCo on the Implementation Committee, whose background and expertise can help navigate these issues.

IMPACT ON THE LEGAL AID COMMUNITY

Sufficient funding for legal aid providers in California is a necessary pre-requisite to any meaningful expansion of pro bono assistance to low-income individuals and communities. The members of APBCo rely on the expertise of our colleagues in the legal aid community to help us manage successful pro bono programs at the nation's largest law firms. Rarely do law firm pro bono professionals accept a direct legal services client who has not been screened, and whose issues have not been expertly analyzed and evaluated, by an experienced legal aid lawyer. Additionally, pro bono professionals often work with legal aid partner organizations to provide initial training and on-going mentoring and support. Legal aid offices and private law firms have a symbiotic relationship that benefits their mutual client community in vital ways.

Ironically, this new effort in California comes at a time when state-wide legal aid funding has been dramatically reduced. For example, before the 2008 recession, the state IOLTA program was disbursing more than \$20 million annually to qualified legal services organizations. Today, that amount is less than \$5 million. Consequently, a key area of examination for the Bar needs to be the extent to which any new requirements will place greater responsibilities on the shoulders of the state's network of already financially-burdened legal aid organizations. With such drastic reductions in funding, many of the organizations on which pro bono programs rely have been forced to cut staff and services. Without sufficient substitute funding, the legal aid community will not have the resources to be the necessary foundation for any expansion of pro bono legal services.

CHALLENGES OF IMPLEMENTATION

Stakeholders

APBCo encourages the Bar to expand membership of the Implementation Committee in order to forge the strongest possible program, with as much unanimity from the many corners of the legal community as possible. In addition to representatives of the Bar itself, and members of the ABPCo community of pro bono experts, it is particularly important to include knowledgeable representatives from legal services organizations, the small firm division of the Bar, and law school, court and in-house corporate legal department constituencies. APBCo stands ready to lend our collective expertise to the implementation planning efforts, and encourages the inclusion and participation of each of these other constituencies as well.

Constituency of Bar Applicants

The Implementation Committee should also consider the issues presented by the broad range of bar applicants who will be impacted immediately by the new rule. Many applicants will be recent law school graduates joining large, commercial, APBCo-member law firms, who can fulfill the requirement through existing programs run by experienced pro bono professionals. However, other bar applicants will not have the benefit of an existing pro bono program for supervision and support. They may begin their careers as sole practitioners or as associates in small law firms that do not have formal pro bono programs. Others will be seeking employment in government, courts, corporate legal departments and in the public interest community. Some will be coming from out of state, and some will be graduating from LLM programs after having lived abroad. Applicants from these disparate backgrounds will also need to be able to access appropriately supervised pro bono work. This should be an important consideration as implementation guidelines and processes are developed.

Supervision of Pro Bono Engagements

APBCo also encourages the Bar to specifically address supervision of the expanded pro bono work

envisioned by the new rule, which will be performed in many instances by individuals not yet licensed to practice law. In order to ensure that low-income individuals and communities receive competent pro bono service from bar applicants, it is crucial that applicants receive quality supervision. The network of financially-challenged legal services organizations will not be able to meet these challenges without significant additional resources being made available to them. Small law firms, sole practitioners, in-house legal departments, government offices, and others may not have the expertise or resources necessary to ensure that low-income clients are competently represented. Combinations of efforts may be needed to build a foundation of supervision and mentoring that will ensure high quality services. As a profession, our ethical obligations require us to provide to our pro bono clients the same level of expert, sophisticated representation that we provide to our commercial clients. Because many of the issues for which low-income clients seek representation involve substantive expertise that private practitioners may not have, outside expert supervision is critically important.

Project Oversight

Similarly, the method of enforcement of and oversight of any new requirements must be carefully considered. Attesting to completion of all new pro bono work may require a network of participants that would include law firm attorneys, law school professors, legal aid supervisors, volunteer experts, and others. Examination of attestation standards, forms, qualifications, and time frameworks again will necessitate careful planning and collaborative thought. APBCo would be pleased to lend our collective expertise in exploring these many crucial oversight issues.

Definitional Issues

Finally, APBCo members are well versed in the different types of representations and engagements that are considered to be qualified pro bono work under different definitional standards. The more uniformity there can be in defining the characteristics of engagement that will be acceptable to the State Bar the more meaningful will be the work likely to result. Again, the experience of APBCo members in tracking these various standards will be helpful in establishing clear parameters within which all members of the Bar can operate and rely. Addressing definitional issues at the outset will not only prevent a variety of issues from arising down the road but will also ensure the integrity of the program.

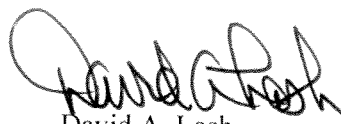
CONCLUSION

The Association of Pro Bono Counsel stands ready to assist the State Bar in implementing a new pro bono admission requirement. APBCo believes that increasing pro bono legal assistance can be a meaningful part of ensuring access to justice. But based on our extensive experience in the pro bono sector, we also know that considering the issues that we've touched on in this letter is crucial to making sure that the new rule will maximize the benefits to low-income individuals and communities throughout California. We would be pleased to be of assistance in helping to develop implementation guidelines if a pro bono admission requirement is adopted.

Sincerely,



Latonia Haney Keith
President, APBCo



David A. Lash
Immediate Past Co-President, APBCo

September 4, 2013

From: Levi Lesches, Student, Pepperdine School of Law

To the Board of Governors of the State Bar of California:

I am a Pepperdine School of Law student, writing to voice my concerns about the Phase I Final Report that has recently been prepared by the Task Force on Admissions Regulation Reform, and is currently before the Board of Governors for vote. The report is truly a remarkable accomplishment that both the Task Force's members, and the entire State Bar can be proud of. Unfortunately however, the report's recommendation that new bar applicants should be required to perform fifty hours of pro bono service is inherently unjust, and that specific recommendation should be rejected by the Board of Governors. I shall attempt to briefly summarize why the fifty hour pro bono requirement is (a) unduly oppressive on the average law student, and contrary to the national ideal of equal protection, (b) provides very little practical benefit in preparing students for law practice, (c) problematic in terms of implementation, and (d) very likely was not have been adopted by the Task Force if they had properly incorporated student opinion into the drafting process.

It has been informative and even comforting to I review the transcripts of the Task Force meetings, and witness the remarkable process that created the report. I would particularly like to commend Judge Brick, Professor Schultz, and Dean Tacha for their particularly insightful advice and contributions to the process. I fully concur in the underlying findings of the Task Force. I cannot sufficiently stress the extent to which the interests of law students and the findings of the Task Force are aligned. The extensive testimony heard by task force heard lamenting the general lack of practice-readiness amongst law school graduates, is constantly being echoed by law school graduates as well. Law students want nothing more than to practice, and many of my friends who have graduated were in fact completely side-blinded by their lack of real world legal skills. A number of them bear bitter resentment to the legal education community for failing to adequately prepare them for the profession, when preparing students for the practice is the very reason law schools exist.

These sentiments however were not my initial reactions to reading report. When I initially encountered the report, and read the final recommendations without the illumination of the process that created it, my only reaction was anger. Reading the report was akin to discovering a "Mosanto Protection Act" surreptitiously slipped into an omnibus appropriations act. My impression was that the report was nothing more than a Washington-style back-room deal that sacrificed the public welfare for private well-connected interests. The invitations I received from Dean Tacha and Senator Dunn to participate in the public comment process initially was not received very well, because the report had every appearance of a system that as rigged against law students from the inception. It was only after Ms. Greenman provided me with the transcripts of the Task Force's hearings, and I read the motives and concerns driving the report, that I realized that my impression was mistaken my scorn. But I believe it is vital that you, as the Board of Governors and the Task Force as well, should appreciate why the report evoked such animosity from a law student reading it; it goes a long way in demonstrating the flaws in the report.

Law school in 2013 is an entirely different game to what most members of the Task Force probably remember from their school years. Jobs are scarce, while tuitions keep climbing. Last year more than a quarter of graduates from UCLA, Los Angeles' best performing law school, were unable to find a job requiring a law degree.¹ Despite these dismal statistics, which progressively worsen as one begins looking at lower ranked schools, all Californian ABA accredited law schools (other than Stanford) raised their tuitions this year, as they have done every year over the past decade. The sticker price for a year in law school is approximately \$47,000,² and the average law student graduates with more than \$100,000 in non-dischargeable debt.³ These statistics make law school a risky and highly pressurized venture for would be lawyers,⁴ and understandably law students are highly focused on doing everything and anything that might help them secure a job upon graduation.

This includes pursuing government, judicial and public interest externships. A Southwestern School of Law employee testified before the Task Force that a full seventy percent of students are participating in externships or clinics as part of their schooling.⁵ My peers, as well as myself, spent a substantial amount of our fall semesters hunting for any opportunity to secure an externship, precisely in order to improve our practice readiness in the hope of an increased chance at gainful employment. Law students spend hundreds of hours on non-paying activities such as trial competitions, moot court competitions and negotiation competitions; law reviews, clinics, externships and the like. There is no lack of willingness to spend time on these activities. There is a significant lack of opportunities. Not only is there a dearth of post-graduation jobs, there is a dearth of non-paying potentially-employment-enhancing activities. Students are not only competing for better jobs; they are competing for better opportunities at competing for legal jobs.

If this sounds depressing, trust me that it is. But I am not here to solicit sympathy. I am simply explaining why outrage is the most likely reaction of any law student who learns of the proposed fifty hours mandatory unpaid pro-bono requirement will be pure. The cards are stacked so heavily against a legal education turning into a rewarding career, whether financially or emotionally, that merely suggesting additional bar passage requirements is akin to walking over to a soldier who is laying mortally wounded on a battlefield, and asking him to do some good for his country. With the amount of unpaid hours law students already put in, the dismal career opportunities awaiting them at the end, it is plain wrong, if not offensive, to place restraints on those sparse opportunities that exist for law students to earn money while in school.

We are the affected constituency. Ask us about the proposals. We can easily clarify why they are misguided. Yet unfortunately, student testimony comprised only a small part of the materials

¹ <http://www.sacbee.com/2013/05/19/5432793/one-in-six-recent-california-law.html>

² <http://lawschooltuitionbubble.wordpress.com/original-research-updated/the-1stb-data/#CA>

³ <http://ideas.time.com/2013/03/11/just-how-bad-off-are-law-school-graduates/>

⁴ It would be fair to assume that many members of the Task Force, as well as the Board of Governors, would have chosen not to become lawyers had they faced the same challenges the industry faces today. That students today possess the kind of commitment to legal service that they are ready to assume these daunting challenges, ought to command the respect of society at large, and particularly those lawyers who were not required to make such challenges.

⁵ RT April 23, 69:2-5.

considered by the Task Force. The Task Force incessantly discussed the various “stakeholders” and interests affected by the new proposals, but we are not stakeholders. We are burden-bearers. This is our life; we are the ones whose lives stand to be thrown into disarray by the fifty hour pro-bono requirement. *We should have been consulted and involved in the process.*

I say “disarray,” because the pro-bono requirement will dramatically worsen the life of the average law student. There were many valid criticisms of the pro bono admission requirement, voiced by many who testified before the Task Force. I believe Mr. Fishman summarized the obvious problems and concerns eloquently.⁶ I will only add a few more points I feel Mr. Fishman did not adequately address.

As a preliminary matter, the benefits of the proposal are *minimal*. As mentioned above, law students actively and diligently pursuing the pro-bono, government and judicial externships that would be made mandatory. Those positions are largely filled, many of them by over-qualified applicants. Requiring those very few students who are privileged enough to secure paying work, as well as the large number of students unable to find a summer job, to fill a pro-bono position or be excluded from the bar, will produce very little social benefit, whether in terms of pro-bono work done, or work experience gained. It is being done already, as a byproduct of the free-market economy.

The burden imposed however be entirely disproportionate to the benefit gained. Having *every* student in the state compete for the limited number of these positions available, will create fierce and intense competition for the dubious privilege of working for free. Additionally, the legality of the scheme under FLSA is questionable. Although the U.S. Department of Labor generally allows unpaid social work,⁷ making such work mandatory will be challenged because it inevitably leads to labor abuses. Much like the way schools do not provide credit for paid externships, because the salary paid alters the power dynamic between the student and law office,⁸ an employer’s knowledge that the student requires him or her to sign off on the fifty hours worked, will lead to a new unwelcome dynamic that undermines the very purpose of these externships.

The mandatory fifty hour requirement will also be offensive to the ideals of Equal Protection so dearly cherished by our nation. Practicing Californian lawyers are not required to perform any pro-bono work. Assemblyman Knox’s 1976 proposal requiring lawyers to provide forty hours of pro bono service a year was defeated on the assembly floor. The State Bar’s 1993 working group on legal accessibility, and the California Commission on Access to Justice created by the Bar in 1997, both reported that the legal needs of California’s poor and middle income residents was 72-75% unmet; but neither suggested that Californian lawyers be obligated to perform pro bono service. There was a number of intimations to the Task Force that a new proposed rule before the Supreme Court for approval would make pro-bono mandatory for all admitted members of the bar, but those statements were inaccurate. The new proposed rule 6.1 of Professional Conduct is *aspirational*; it recommends, but does not require, pro

⁶ June 11, 2013, 11:19 onward.

⁷ <http://www.dol.gov/whd/regs/compliance/whdfs71.pdf>

⁸ RT June 11, 2013, 40:12-41:4.

bono service by the practicing legal community.⁹ It is simply unfair to demand that students who have never been paid for a minutes work should have a duty to service the public's legal needs, while long-serving attorney's do not.

It is no doubt tempting to point to New York's new requirement that bar applicants perform fifty hours of pro-bono work.¹⁰ However, I am confident in predicting that the new requirement will not be from the better regarded parts of Judge Lippman's legacy. There is no need for our State Bar to adopt this measure that does little to improve public access to justice, fails to yield significant improvements in student practice readiness, but does display profound insensitivity to the formidable challenges faced by the twenty-first century law student.

In conclusion, the fifty hour pro bono recommendation faces not only complex implementation challenges, but is fundamentally wrong: it is an unnecessary strain on overburdened law students. I trust that is would have never been suggested by the Task Force, if it had engaged student input more fully.

I recommend that the Board of Governors reject the proposed fifty hour pro bono requirement for new bar applicants.

Sincerely Yours

Levi Lesches

⁹ <http://rules.calbar.ca.gov/LinkClick.aspx?fileticket=e-tXbro0S6g%3d&tabid=4775>

¹⁰ <http://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml>

C L E A
Clinical Legal Education Association
<http://cleaweb.org>

September 4, 2013

Teri Greenman
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Dear Board Committee on Regulation, Admission and Discipline Oversight:

The Clinical Legal Education Association (CLEA) writes in support of adopting the recommendations of the State Bar of California Task Force on Admissions Regulation Reform, contained in its Phase 1 Report, approved June 11, 2013. CLEA is an organization of over one thousand members engaged in clinical legal education. Our members teach clinic and externship courses as full-time, part-time and adjunct professors in law schools across the United States and internationally. Many of our members also serve in leadership roles within their law schools, bringing a depth of knowledge about experiential learning to larger-scale efforts to reshape and reform legal education from within.

CLEA applauds the California Task Force Report for recognizing the importance of practical skills education as an issue of public protection meriting attention by state bar admissions officials. As the Task Force noted, the “practice-readiness gap” between law school and law practice remains a serious concern, despite the successful efforts that many law schools have made in expanding their curricula to include more skills and real-practice education. The Task Force’s conclusion that legal education must include attention to competencies beyond the cognitive capacities of legal analysis, reasoning, and issue-spotting are reinforced by decades of studies of legal education and the legal profession.

A comparison with the experiential requirements in other professions demonstrates the modesty of the Task Force’s proposal that fifteen law school academic credits be devoted to skills-based courses. Even with the adoption of the Task Force’s proposed standard, law schools would still lag behind all other professions in pre-licensing professional skills education. As the attached chart demonstrates, for all the other professions, at least one quarter, and as much as one half, of a student’s required education must be in professional skills or clinical courses, as compared to the proposed Task Force requirement of only one-sixth of a law student’s total

academic units. Most other professions also require additional, post-graduate clinical or other practice experience prior to licensure. The Task Force recommendation to require fifteen law school units to be taken in law clinics, field placements, or simulated practical skills courses is a modest and critical first step toward achieving in legal education the level of professional experience required in the education of other licensed professions.

In addition, we urge that California require that at least one-third of the proposed units (5 credits) be devoted to real practice experience through a law school clinic or externship. Most law schools already possess the capacity to deliver such instruction. A recent study by Professor Robert Kuehn,¹ demonstrates that 79% of law schools already have the capacity to offer a clinic or externship experience to every member of their law school entering classes, and 84% of law schools can offer such an experience to over 90% of their students.² Moreover, the thirty-one law schools that have taken the step of either mandating or guaranteeing clinics or externships of all law graduates have done so without charging higher tuition to their students.³ In short, the Task Force is not asking law schools to take on additional requirements that will raise their tuitions, but rather do more what they already can do to provide students with valuable real-practice-experience-based education.

We are sensitive to the important role that the Task Force envisions for collaboration between law schools, practicing lawyers, and the Bar, in bridging their students from the classroom to law practice. As part of that collaboration, the current proposal permits the pre-admission competency training requirement to be met by “a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school.” As currently drafted, this requirement might be interpreted broadly to qualify any employment during law school, whether or not it is educational in nature. To avoid reverting to the problems of inconsistency and exploitation posed by the apprenticeship system of the past, the Bar has a crucial role to play in creating standards, safeguards, and oversight to ensure that appropriate educational support is provided to novice interns or clerks.

Clinical and externship teaching has developed a series of best practices based on educational theory, which explains that students learn best when their exposure to real practice environments is “designed, managed, and guided” rather than just experienced.⁴ Well-designed

¹ Robert Kuehn, *Pricing Clinical Legal Education*, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2318042.

² *Id.* at 31-32.

³ *Id.* at 28-30. Since Professor Kuehn’s study was completed, two additional schools have adopted a clinic/externship requirement or guarantee, for a total of 33 schools. See Karen Tokarz, et al., *Legal Education at a Crossroads: Answering the Clamor for Reform with Expanded Experiential Legal Education and Required Clinical Education*, 43 Wash. U.J. L. & Pol’y (forthcoming 2013).

⁴ Roy Stuckey, et al., Best Practice for Legal Education: A Vision and a Roadmap 165 (2007), citing James E. Moliterno, *Legal Education, Experiential Education, and Professional Responsibility*, 38 Wm. & Mary L. Rev. 71, 78 (1996).

clinical and externship programs are deliberately structured so that students are exposed to the theoretical frameworks underlying practical skills like client interviewing, negotiation, factual investigation, and case planning; include or encourage specific feedback on students' performance; and provide opportunities for reflection and integration of the students' experiences. Such structures cannot be assumed to be available in the context of law practice, where attorneys who supervise law students are deeply embedded in their own practice of law and dependent on their interns or clerks for productive labor. The separation between the goals of education and the demands of employment is reinforced by ABA regulations that prohibits the simultaneous award of academic credit and pay.⁵ To maintain the Task Force's concern with protecting the public, as well as protecting the potential clerks or apprentices in these Bar-approved programs, any pre-admission course or real practice experience that counts toward the 15-credit limit or substitutes should incorporate necessary components that underlie sound experiential teaching and learning.

The California State Bar does not need to look far for such standards. ABA Standard 302(a)(4), which requires that all law graduates receive "substantial instruction in . . . other professional skills generally regarded as necessary for effective and responsible participation in the legal profession," has provided interpretations that further define what "substantial instruction" entails. To meet the current ABA standard, the instruction "must engage each student in skills performances that are assessed by the instructor." Interpretation 302-3. Proposed amendments to the ABA Standard would further clarify the characteristics involved in educationally sound skills instruction, stating that to count toward the ABA professional skills requirement courses "must be primarily experiential in nature and must:

- (i) integrate doctrine, theory, skills, and legal ethics and engage students in performance of one or more of the professional skills identified in Standard 302;
- (ii) develop the concepts underlying the professional skills being taught;
- (iii) provide multiple opportunities for performance; and
- (iv) provide opportunities for self-reflection."

It would considerably ease the State Bar's oversight as well as the administrative burden on law schools in self-certifying their courses for California purposes if California would incorporate this national standard, with which law schools are already familiar, in certifying their coursework for purposes of the California pre-admission requirement. And, such standards could guide the California State Bar in its implementation of rules for qualifying bar-approved clerkships, apprenticeships, or externships.

⁵ ABA Standards for Accreditation of Law Schools, Interpretation 305-3.

CLEA welcomes the opportunity to continue to assist the California State Bar in its efforts to address the important issues related to admitting practice-ready lawyers.

Sincerely,

A handwritten signature in dark ink, appearing to read "Katherine Kruse". The signature is written in a cursive, flowing style.

Katherine Kruse
CLEA President

Experiential Education Requirements for Professional Schools

Law	Medicine	Veterinary	Pharmacy	Dentistry	Social Work	Architecture	Nursing
minimum of 1 credit of 83 required for graduation --- 1.2% of the student's course load --- in prof'l skills ¹	2 of 4 years in clinical settings ²	minimum of 1 of 4 years in clinical settings ³	300 hours in 1st year; 1,440 hours (36 weeks) in last year in clinical settings ⁴	57% of education in actual patient care ⁵	900 hours (18 of 60 required credits) in field education courses ⁶	50 of 160 credits in studio courses (national licensing board's calculation of minimum needed for licensure) ⁷	varies by state - e.g., Cal. 18 of 53 credits (1/3); Texas ratio of clinical to classroom of 3 to 1 ⁸
1/83	1/2	1/4+	1/4+	1/2+	1/3	1/3	1/3+

(prepared by R. Kuehn, Washington Univ. School of Law (July 2013))

1. ABA Accreditation Std. 302(b)(4); ABA Consultant's Memo # 3 (Mar. 2010).

2. Molly Cooke, David M. Irby and Bridget C. O'Brien, "A Summary of *Educating Physicians: A Call for Reform of Medical School and Residency*" (2010).

3. American Veterinary Medical Association, "Accreditation Policies and Procedures of the AVMA Council on Education," Sec. 7.9, Std. 9 (2012).

4. Accreditation Council for Pharmacy Education, "Accreditation Standards and Guidelines for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree," Guidelines 14.4 & 14.6 (2011).

5. American Dentistry Association, "Accreditation Standards for Dental Education Programs" Std. 2-4 (2008); Massachusetts Bar Association, "Report of the Task Force on Law, the Economy, and Underemployment - Beginning the Conversation" 4 (2012).

6. Council on Social Work Education, "Educational Policy and Accreditation Standards," Educ. Policy 2.3., Accreditation Std. 2.1.3 (2012).

7. National Council of Architectural Registration Boards, "NCARB Education Standard" 24 (2012) ("The *NCARB Education Standard* is the approximation of the requirements of a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB).").

8. 16 Cal. Code of Regulations § 1426; Texas Board of Nursing, "Rules and Regulations Relating to Nurse Education, Licensure and Practice," § 215.9(c).



SCHOOL OF LAW

Karen L. Tokarz

Charles Nagel Professor of Public Interest Law
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Director, Negotiation and Dispute Resolution Program

September 5, 2013

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Dear Board Committee on Regulation, Admission and Discipline Oversight:

We write in support of adopting the recommendations of the State Bar of California Task Force on Admissions Regulation Reform, contained in its Phase I Report, approved June 11, 2013. We applaud the efforts of the California Task Force and specifically endorse their recommendation that all law graduates be required to take a minimum of 15 experiential course credits. We further suggest that the required hours be increased to 21 hours, or roughly one-quarter of legal education, including five hours of clinical education.

I am the past director of Washington University's top-ranked Clinical Program and current director of the school's Negotiation & Dispute Resolution Program. I served on the ABA Skills Training Committee from 1996-2000, the ABA Standards Review Committee from 2000-03, and the ABA Accreditation Committee from 2003-2005. I have served on eight ABA accreditation site teams, chairing one. I am former Chair of the AALS Section on Clinical Education and past President of the Clinical Legal Education Association (CLEA). I am co-author, with Antoinette Sedillo Lopez (New Mexico), Peggy Maisel (FIU), and Bob Seibel (Cal Western), of the forthcoming article, *Legal Education at a Crossroads: Answering the Clamor for Reform with Expanded Experiential Legal Education and Required Clinical Education*, 43 Wash. U.J.L. & Pol'y (fall 2013).

After much research and analysis, my co-authors and I reach the following conclusions in our article. We recommend that law schools: 1) provide expanded experiential legal education¹ throughout the curriculum, focused on competency and professionalism, to provide foundational learning for successful transition from law student to law practice; 2) provide clinical education (in-house clinics, hybrid clinics, and externships)² for all students to prepare competent, ethical, and

¹ Under our definition, experiential legal education is a broad umbrella that encompasses credit-bearing courses in which the law student is in the role of attorney in either simulated or real-life settings, including simulation courses (sometimes referred to as "practical skills" courses), in-house clinics, hybrid clinical courses, externship courses (sometimes referred to as "field placements"), labs and practicums.

² Under our definition, clinical legal education includes credit-bearing in-house clinics, hybrid clinical courses, and externships, in which the law student engages in the roles and responsibilities of a lawyer with real-life cases and legal matters; performs legal work and provides legal services; receives supervision of the lawyering, feedback, and assessment of her performance by the faculty member; and engages in contemporaneous reflection on the experience,

“practice-ready” law graduates, who are “ready to become professionals;” and 3) require that each graduate complete a minimum of 21 credits in experiential courses over the three years of law school, including at least five credits in law clinic or externship courses. Together, the proposed 21 credits, plus the first-year legal writing course, constitute roughly a quarter of the 83 required credits for graduation from an ABA-approved law school, which would put legal education in the range of the low end of the percentage of experiential and clinical education required by other professions.

Although historically slow to change, law schools are now facing enormous pressure from educators, students, lawyers, judges, clients, and the public to rethink legal education, as well as lawyers’ role in society. Now more than ever, there is robust, national debate on the threshold contributions law schools should make to the preparation of law graduates for entry into practice. The clamor for reform in legal education and in the legal profession is precipitated by a confluence of factors, including new insights about lawyering competencies and experiential legal education; the shifting nature of legal practice in the United States; a decrease in law jobs; changes in the economics of the legal profession that challenge the current cost of legal education; a dramatic drop in law school applications and admittees; increased competition for students among law schools; increased market demand for “practice-ready” law graduates; and increased numbers of law grads going into solo and small firm practice.³ The current economic, social, and political conditions make it impossible to ignore the clamor for reform. Today’s climate invites a deeper examination of law school curricula and pedagogy, with a focus on the “sequencing of doctrine, skills and values across the curriculum designed to prepare students for practice.”⁴

Prominent educators and commentators have proposed expanded experiential legal education (where students learn in role with simulated clients and cases) and required clinical education (where students learn in role with real clients and cases) to improve legal education and prepare law graduates for practice.⁵ *Educating Lawyers: Preparation for the Profession of Law*, produced by the Carnegie Foundation for the Advancement of Teaching in 2007 (commonly referred to as the *Carnegie Report*), strongly endorses increased experiential and clinical legal education, noting that

the values of the profession, and the development of one’s ability to assess her performance. Clinical legal education includes a classroom instructional component.

³ See generally JAMES E. MOLITERNO, *THE AMERICAN LEGAL PROFESSION IN CRISIS: RESISTANCE AND RESPONSES TO CHANGE* (2013); RICHARD E. SUSSKIND, *TOMORROW’S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* (2013); BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* (2012); THOMAS D. MORGAN, *THE VANISHING AMERICAN LAWYER* (2010); RICHARD E. SUSSKIND, *THE END OF LAWYERS?: RETHINKING THE NATURE OF LEGAL SERVICES* (2010); DEBORAH L. RHODE, *IN THE INTERESTS OF JUSTICE: REFORMING THE LEGAL PROFESSION* (2000).

⁴ *Twenty Years After the MacCrate Report: A Review of the Current State of Legal Education Continuum and the Challenges Facing the Academy, Bar, and Judiciary* 8, American Bar Association, Section on Legal Education and Admissions to the Bar, Committee on the Professional Educational Continuum (Mar. 20, 2013). For detailed discussion of the need for integration of experiential and clinical education throughout the curriculum, see WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND, LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007); ROY STUCKEY, ET AL, *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP* (2007).

⁵ See Katherine R. Kruse, *Legal Education and Professional Skills: Myths and Misconceptions about Theory and Practice*, 1 McGeorge L. Rev. 1, 2 (forthcoming 2013); *How to Fix Law School: Six Experts Tell Us What They’d Change*, *The New Republic* 2-3, 4-5 (Jul. 23, 2013) (quoting Mike Kinsley, editor-at-large, *The New Republic*, and Dahlia Lithwick, senior editor and legal correspondent, *Slate*); Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education for this Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 41-44 (2000).

“[d]ecades of pedagogical experimentation in clinical-legal teaching, the example of other professional schools, and contemporary learning theory all point toward the value of clinical education as a site for developing not only intellectual understanding and complex skills of practice but also the dispositions crucial for legal professionalism.”⁶

In stark contrast to other learned professions, law does not require clinical education. The ABA Accreditation Standards require only that law students take one course credit in “professional skills” (with a recent recommendation out for comment that would increase that number to six) and do not require law students to take clinic or externship courses with real clients in the actual practice of law for graduation from an accredited law school. Other professions, including medicine, veterinary medicine, nursing, dentistry, social work, and pharmacy, require at least one quarter to more than one-half of a students’ pre-licensing education be in supervised clinical practice.

A significant and persistent back story for some of the current concerns about legal education and the preparation of new lawyers for competent, ethical practice is the long-standing criticism of the upper-class curriculum, particularly the third year of law school, when, as the saying goes, law schools “bore you to death.”⁷ As long ago as 1883, Harvard Law Dean Ephraim Gurney lamented in a letter to Harvard President Charles Elliot, one of the inventors of the modern, Langdellian law school: “If you[r] LLB at the end of his three years did not feel as helpless on entering an office on the practical side as he is admirably trained on the theoretical, I think he would begrudge his third year less.”

Although abandoning the third year may save money for some law students, as some critics have suggested, abandoning the third year will eliminate or greatly diminish educational and professional opportunities that have significant importance and value in the marketplace, including crucial personal and professional development, summer internships and jobs that may lead to placement after graduation, and vital experiential and clinical coursework that provide essential preparation for practice. Indeed, the elimination of the third year could have the effect of reinforcing the notion that the bar exam tests effectively tests for lawyer competency, a premise contrary to most the findings.

Rather, we urge law schools to accept the challenge from the profession, the bar, and the market to produce more educational value in the third year (as well as in the two years leading to the final year) and utilize expanded experiential education and required clinic/externship courses to develop the essential lawyering apprenticeships of knowing/understanding, practice expertise, and professional identity/judgment, identified in the *Carnegie Report*.

In our article, we highlight over 30 American law schools that already provide experiential education and required or guaranteed clinical education, some for over 30 or 40 years, dispelling the

⁶ *Carnegie Report*, *supra* note 4, at 58. See BEST PRACTICES, *supra* note 4, at 120 (explicitly endorsing mandatory clinical education for all law graduates, asserting that all students during their third year of law school should be required “to participate in externship courses or in-house clinics in which students represent clients or participate in the work of lawyers and judges, not just observe it”).

⁷ “‘In the first year of law school, they scare you to death. In the second year, they work you to death. In the third year, they bore you to death.’ - Ancient law school proverb” Mitu Gulati, et al, *The Happy Charade: An Empirical Examination of the Third Year of Law School*, 51 J. LEGAL EDUC. 235, 235 (2001).

view that barriers to mandatory experiential and clinic/externship courses for all students are insurmountable.⁸ Three examples:

- Four years ago, Washington & Lee Law School adopted a revamped Third-Year Curriculum, requiring all students to take 20 experiential course credits in simulation or practice-based courses that must include one clinic or externship, three problem-based electives, and two skills immersion courses: <http://law.wlu.edu/thirdyear/>
- Since 1986, University of District Columbia Law School has required all students to take 16 experiential credits, with a minimum of 14 credits in clinics: <http://www.law.udc.edu/?page=Clinic>

⁸ Based on a survey conducted by Karen Tokarz, August 8, 2013, the following U.S. law schools require a credit-bearing clinic or externship for graduation, with years of adoption (notes on file with the authors):

1. University of Puerto Rico (clinic) - 1965
2. University of New Mexico (clinic) - 1970
3. City University of New York (CUNY) (clinic or externship) – 1983
4. University of District of Columbia (UDC-DCSL) (clinic) - 1986
5. University of Maryland (clinic or real client/case practicum) - 1988
6. University of Washington (clinic or externship) – 1993
7. University of Montana (clinic or externship) - 1995
8. Thomas Cooley University (clinic or externship) – 1996
9. Appalachian (externship) - 1997
10. University of Dayton (clinic or externship) - 2007
11. Gonzaga University (clinic or externship) – 2008
12. University of California - Irvine (clinic) – 2008
13. Washington & Lee University (clinic or externship) – 2009
14. University of Detroit Mercy (clinic) - 2012
15. University of Connecticut (clinic or externship) – 2013
16. Cleveland State University (clinic or externship) - 2013
17. John Marshall - Chicago (clinic or externship) – 2013
18. University of the Pacific - McGeorge (clinic or externship) – 2013
19. Wayne State University (clinic or externship) - 2013

The following U.S. law schools explicitly guarantee a credit-bearing clinic or externship, with years of adoption (notes on file with the authors):

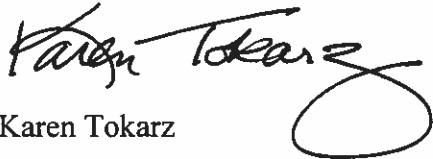
1. Temple University (clinic or externship) - 1985
2. Washington University - St. Louis (clinic or externship) - 1998
3. Rutgers University - Newark (clinic or externship) - 1999
4. Case Western Reserve University (clinic, externship, or real client/case practicum) – 2002
5. University of New Hampshire (clinic or externship) – 2005
6. Nova Southeastern University (clinic or externship) – 2006
7. University of Alabama (clinic) – 2008
8. St. Louis University (clinic or externship) – 2009
9. Charlotte (clinic or externship) – 2013
10. Roger Williams University (clinic or externship) – 2013
11. California Western (externship) - 2013
12. University of Denver (clinic or externship) - 2013
13. American University (clinic, externship, or real client/case practicum) – 2013
14. Touro (clinic or externship) - 2013

- Since 1983, CUNY Law School has required all students to take 16-20 experiential credits, with a minimum of 12 credits in clinics: <http://www.law.cuny.edu/academics/planning.html>

There is additional recent evidence demonstrating the feasibility of offering expanded experiential education, including clinics and externships.⁹

Again, we applaud California's significant and important efforts to improve legal education and the preparation of lawyers for competent, ethical practice and, in the process, protect the public, and encourage your committee to adopt the Task Force recommendations.

Kind regards,

A handwritten signature in black ink, appearing to read "Karen Tokarz", with a large, stylized loop at the end.

Karen Tokarz

⁹See Robert R. Kuehn, *Pricing Clinical Legal Education*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2318042, (2013); *Washington and Lee's New Third Year Reform*, WASH. & LEE U. SCH. OF LAW, <http://law.wlu.edu/thirdyear/> (last visited Jul. 17, 2013) (Washington & Lee's revamped third-year curriculum requires students to take a minimum of 20 upper class, experiential course credits, including five clinic or externship course credits); *The Experiential Advantage*, U. DENV. STURM COLLEGE OF LAW, <http://www.law.du.edu/index.php/experiential-advantage?> (last visited Jul. 17, 2013); *Daniel Webster Scholar Program Curriculum*, U.N.H. SCH. OF LAW, <http://law.unh.edu/academics/jd-degree/daniel-webster-scholars/curriculum> (last visited Jul. 18, 2013) (The University of Denver and University of New Hampshire offer an optional full year of experiential courses, including required clinic or externship courses).

BARRISTERS SECTION

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2013 - 2014

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September 5, 2013

Teri Greenman
Staff, Task Force on Admissions Regulation Reform
State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Ms. Greenman:

I write on behalf of the Barristers Section of the Los Angeles County Bar Association (LACBA Barristers Section) to provide some comment on certain requirements recommended by the State Bar Task Force on Admissions Regulation Reform in its Phase I Final Report dated June 24, 2013 (the Report).

As you know, the LACBA Barristers Section, in existence for more than 80 years, comprises LACBA members who are either 36 years of age or younger or who have been admitted to practice for 5 years or less. The mission of the LACBA Barristers Section is to provide opportunities for new and young lawyers to develop legal skills, build professional reputations and network beyond each member's workplace, and to promote public service projects. The LACBA Barristers Section serves the unique needs of the nearly 4,000 newly admitted attorneys in Los Angeles. Because of our membership, we are well positioned to provide feedback on the Report.

The LACBA Barristers Section wholeheartedly agrees with the Task Force that law students and recent law school graduates will benefit greatly from, and public protection will be fortified by, increased practical skills training for new lawyers. The LACBA Barristers Section also strongly supports the Task Force's efforts to expand pro bono services to low-income and moderate-income Californians. The Report is laudable for its expressed goals of increasing the competence of newly admitted attorneys and furthering support for pro bono legal services. Nonetheless, it also carries the potential to adversely impact the newest and most financially vulnerable members of our profession.

The initial written comments provided by the Bar Association of San Francisco's Barristers Club Board of Directors in response to the March 22, 2013 Discussion Draft of the Report heightened concern by the LACBA Barristers Section that the proposed new admissions requirements may create unanticipated challenges for new attorneys because of the dearth of opportunities to fulfill them. Many of the same economic forces that have reduced job opportunities for new lawyers and limited access to justice for persons in need over the past several years have also reduced opportunities for apprenticeships, practical on-the-job skills training, and supervised pro bono service.

First, we encourage the Task Force to engage newly admitted attorneys on a more systematic basis in the implementation of the new admissions requirements. These individuals will be invaluable to the Task Force in developing experiential opportunities that are both feasible in the current economic climate, and meaningful in bridging the transition from law school to practice. New and young lawyers' organizations like the LACBA Barristers Section, because of our programming and membership, are among the professional organizations best suited to provide the Task Force with information on what individual law graduates need supplemented as they search for work, begin their first jobs, and launch their careers.

Second, we encourage the Task Force to examine even more closely the potentially disparate impact that its recommended requirements may have on some law school graduates and actively mitigate that impact wherever possible. For example, in a section of the Report discussing feedback that the proposed requirements may have an adverse impact on diversity in the legal profession, the Task Force indicated that this concern was too speculative to warrant delaying adoption of these changes at the policy development stage. Once the State Bar has adopted the basic requirements and begun planning their implementation, however, there will be further opportunity to consider and address any negative impacts on diversity.

Third, we encourage the Task Force to set up committees or other mechanisms to test and actively monitor the implementation of the new admissions requirements so they develop into fair, reasonable requirements that foster meaningful educational experiences. The requirements and their implementation can be adjusted based on the experience of the community during the initial implementation. The Task Force should ensure that law schools, legal services providers, private practitioners, and new attorneys can provide feedback on their experiences with the new requirements. These stakeholders may be able to offer innovative approaches to challenges and opportunities that arise as the bar translates its new admissions requirements into an effective mechanism for improving the profession.

In sum, the LACBA Barristers Section believes that the coming phases will be critical in ensuring that the Task Force's recommendations develop into a program that successfully prepares new attorneys for practice in today's legal market, while also instilling a commitment to pro bono legal service. There could be no more appropriate way to fulfill these goals than to involve as many young attorneys as possible in the development of the system for meeting them. We sincerely appreciate the Task Force's work in making great strides toward the future development of more competent, confident, and considerate young and newly admitted lawyers.

Regards,



Mark A. Kressel
President

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September 5, 2013

Teri Greenman
Staff, Task Force on Admissions Regulation Reform
State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Ms. Greenman:

I write on behalf of the Los Angeles County Bar Association ("LACBA") to comment on the Phase I Final Report dated as of June 24, 2013 (the "Report") of certain recommendations (the "Recommendations") made by the State Bar Task Force on Admissions Regulation Reform (the "Task Force").

LACBA, with over 21,000 members, is the largest local voluntary bar association in California. LACBA's mission is to meet the professional needs of Los Angeles lawyers and advance the administration of justice. LACBA provides numerous pro bono and public service opportunities for its members, including through its AIDS Legal Service Project, Domestic Violence Project, Immigration Legal Assistance Project, Center for Civic Mediation and Veterans Pro Bono Project. LACBA provides lawyer referral services through its Legal Referral and Information Service (LRIS), the largest and oldest referral service of its kind in the country. LACBA also supports numerous legal service providers (including Public Counsel) and provides its members with hundreds of hours of quality MCLE programs every year. LACBA has a long-standing and abiding commitment to both pro bono legal services and training lawyers.

LACBA commends the Task Force for taking the initiative to study the issue of practical skills training for California lawyers and for the thoughtful work that has gone into making the Recommendations. LACBA has a number of concerns with the Recommendations, however, including the following potential issues:

- Adverse impact on diversity in the profession;
- Disproportionate cost burden on law students and new lawyers;
- Impediment to national uniformity and multistate practice; and
- Limited availability of resources for mentoring and supervision of law students and young attorneys.

As the Report recognizes, a number of these issues likely can be mitigated as part of the implementation process. However, certain of the more substantive concerns will be impossible to assess fully prior to the adoption of the Recommendations. As a result, we encourage the State Bar to implement the Recommendations gradually and with sensitivity to these important concerns. We trust that, as all relevant constituencies gain experience with the new practical skills requirements, it is likely that (i) the Recommendations can be adjusted to strengthen their efficacy, and (ii) any adverse consequences can be identified and, once identified, might be subject to further mitigation or resolution by adjustments and refinements of the Recommendations and any implementing rules on an ongoing basis.

In particular, LACBA is concerned that the creation of an infrastructure to provide guidance and supervision to law students and young attorneys in gaining their practical skills experience is essential to the success of the Recommendations, and that it will take time and resources to create this infrastructure. Requiring young and inexperienced attorneys to complete practical training will be counterproductive to the goal of public protection if supervised, quality opportunities are too scarce to accommodate the demand for them.

Accordingly, we recommend that the Task Force consider the following:

- Endeavoring, as part of the implementation of the Recommendations, to preserve maximum flexibility for young lawyers in terms of the ways in which they are permitted to fulfill the new requirements; and
- Adopting a formal structure and process for assessment of the impact of the Recommendations. That assessment should evaluate whether the Recommendations are producing the intended consequences and whether the Recommendations should be revised further, as well as the impact with respect to the areas of concern that have been identified by LACBA and other constituencies and any other potential unintended consequences.

Our Barristers Section comprises LACBA members who are either 36 years of age or younger or who have been admitted to practice for 5 years or less. The Barristers have a unique perspective on the Recommendations. Attached to this letter are separate comments from the Barristers Section regarding the Recommendations.

Again, we commend the Task Force for the concepts of increased practical training and access to justice driving the Recommendations. We look forward to continuing to work with the State Bar in the implementation and evaluation of the Recommendations.

Very truly yours,



Patricia Egan Daehnke
President



THE STATE BAR OF CALIFORNIA

California Young Lawyers Association Board

180 Howard Street, San Francisco, California 94105

Telephone (415) 538-2232

Date: September 5, 2013

To: Jon Streeter, Chair Task Force on Admissions Regulation
Members, Task Force on Admissions Regulation

From: Megan Knize, CYLA Board Member 2010-2013
Nathaniel Lucey, CYLA Board Member 2011-2014
Ireneo Reus III, 2012-2013 Chair
Alex Calero, 2012-2013 Vice Chair
CYLA Board Members

Re: Public Comment Regarding Task Force on Admissions Regulation Reform:
Phase I Final Report

CYLA supports the Task Force's recommendations to implement the following additional admissions requirements proposed in its June 24, 2013 report: (1) 15 units of practice-based, experiential coursework during law school (or an approved externship or clerkship during or after law school); and (2) 10 hours of new lawyer MCLE or participation in a mentoring program during the first year of practice.

CYLA would like to provide input into the Task Force's final iteration and implementation of these requirements to assure the requirements are effective and do not impose an undue burden on new attorneys.

I. CYLA Represents the Interests of California's Young Lawyers

CYLA members have attended the Task Force on Admissions Regulation Reform meetings in the spring of 2013 and have testified and offered written comments. CYLA is deeply committed to protecting the interests of the State's new lawyers and assisting the State Bar in implementing these requirements.

As the nation's largest organization of young lawyers, CYLA agrees with the Task Force's findings that new members are entering the profession without the skills necessary to effectively represent clients. Moreover, CYLA agrees that there are fewer avenues open to new attorneys to obtain these skills. This lack of preparedness poses a risk to the State Bar's charge of assuring the public receives competent legal counsel. It also reduces the likelihood that new members will find meaningful employment within the profession because they have not been adequately trained. Implementing the above requirements, if done properly, will help new members of the State Bar acquire the foundational skill and hands-on experience they need to provide competent legal services in their initial years as attorneys.

CYLA further shares the Task Force's concern regarding the burdens of expense and time that these new requirements will likely impose on new members. The Task Force correctly found that new members leave law school with a tremendous debt burden and minimal job opportunities. Many new graduates will spend a significant portion of the first year as attorneys looking for paid work. The additional requirements must seek to minimize the demands on new members' time and economic resources. Addressing these burdens is critical to furthering the State Bar's broader goals of promoting diversity in its membership and eliminating economic barriers to entering practice.

II. CYLA Is Prepared to Assist in Implementation of Post-Admission Requirements

As the representative body for California's new attorneys, CYLA is ready to assist the Task Force and State Bar in developing, implementing, and enforcing these new requirements. CYLA is eager to play a prominent role in implementing these requirements, especially the post-admission requirements.

CYLA already has a robust webpage, hosted by the State Bar, with links to Resources, Publications, Education, and other topics that serves as a "clearinghouse" of resources for new attorneys. We have an active presence on Facebook and Twitter, and we are prepared to serve the State Bar's needs for publicizing the new requirements, connecting young lawyers to opportunities, and more. We can provide input on the compliance mechanisms and also educate our members about compliance requirements.

To that end, the hallmark of these new requirements should be flexibility. With respect to the second requirement, to the extent that it is completed at the post-admission stage, after a new lawyer is part of the State Bar and a member of CYLA, the Task Force should take an expansive view as to how new members can fulfill the pro bono/modest means requirement. CYLA can provide online resources to direct new attorneys to reputable legal services providers.

With respect to the third requirement, CYLA recommends that the State Bar offer no-cost or low-cost practical skills MCLE programs to its new members. New members should be able to fulfill the 10-hour MCLE requirements with self-study programs, distance learning tools such as webinars, as well as in-person clinics. CYLA already is in the process of building a library of on-line MCLE courses and articles directed at the needs of new attorneys.

With respect to the post-admission requirement for mentoring, CYLA already has mentoring programs established with the Business Law, and we are ready to assist with implementation of this program as well. We could hold workshops to "kick off" the mentoring program in certain regions, explain the requirements and offer tips to mentors and mentees. Because we have experience with mentoring programs, we are especially pleased to be involved with the development, implementation, education, and enforcement of this requirement.

In closing, these new requirements will serve the public by promoting greater competence and skill among the Bar's new members. CYLA looks forward to partnering with the State Bar to implement the Task Force's proposal a reality.



September 5, 2013

Teri Greenman
Executive Offices
State Bar of California

by email: teri.greenman@calbar.ca.gov

Re: Comment on Task Force on Admissions Regulation Reform's Phase 1 Final Report

Dear Ms. Greenman:

I am writing in response to the notice for public comment regarding the State Bar of California Task Force on Admissions Regulation Reform's Phase 1 Final Report (June 24, 2013). As set forth below, I applaud the Task Force for taking the step, long overdue in legal education and bar admissions, of ensuring that a law student's education includes a substantial amount of practice-based, experiential training. I request that the Bar include an additional requirement that a student's coursework include a clinical experience through either a law clinic or externship course, as this requirement is needed to prepare for the practice of law and is attainable by law schools without increasing the tuition burden on students.

I. The Rule Should Add a Requirement that Each Applicant Have a Clinical Experience

The proposed rule's competency training should be amended to require that prior to admission a candidate must have taken a law clinic or externship course. The Bar's goal of developing a new set of training requirements to better prepare new lawyers for the successful transition into law practice is incomplete without coursework involving the actual practice of law.

Dean Erwin Chemerinsky of the U.C. Irvine School of Law, who previously wrote of his support for the Task Force's recommendations, stated the need for every law school graduate to have the experience of handling a real client's actual legal problem:

There is no way to learn to be a lawyer except by doing it. I often have remarked that it is unthinkable that medical schools could graduate doctors who had never seen patients or that they would declare that they just wanted to teach their students to think like doctors.¹

Dean Chemerinsky's school has walked his talk by requiring that each J.D. student complete at least one semester of clinical education, almost always in a law school clinic where the student will work with actual clients under close faculty supervision.

I recently completed an empirical study showing that the overwhelming majority of other law schools, both in California and throughout the country, could implement today a similar clinical education requirement for a law clinic or externship experience without any change in their curriculum or faculty. "Pricing Clinical Legal Education" (attached) reviews

¹ LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2012 ANNUAL SURVEY RESULTS 4 (foreword by Erwin Chemerinsky).

curricular data submitted annually by all ABA accredited law schools to determine the current availability of clinical education courses.² According to the data, 158 law schools (79%) already have the law clinic and externship course capacity to provide each of their J.D. students with a clinical experience prior to graduation. Another eleven law schools already offer sufficient law clinic or externship positions for over 90% of its students.³ Thus, although only 15% of law schools presently require or guarantee a clinical experience, 84% of law schools either already have or are easily capable of providing the course capacity to comply with a requirement that each bar applicant have a clinical experience. This demonstrates that the California Bar could implement a clinical experience requirement effective today without those schools having to add any new or expanded clinical courses, any new positions in existing clinical courses, or any additional faculty in order for their students to qualify for admission.

Looking just in California, ABA data shows that 19 of the 21 ABA-accredited California law schools (90%) already have the capacity in the law clinic course positions they offer and field placement/externship positions they have filled to ensure that each of their J.D. students has a clinical education experience prior to graduation.⁴ Of the two that presently do not have the capacity, one only needs to find additional slots for 9 students in its law clinics and externships, putting the true percentage of California schools that could accommodate a bar requirement immediately at no additional expense at 95%. The remaining school is providing the capacity to accommodate only 58% of its students in clinical education courses.

I am aware of the Task Force's concern about the possible increased cost to students from its proposal but my study shows there need not be any increase. Students at schools requiring or guaranteeing a clinical experience are not, on average, paying more in tuition and fees than students who are not being provided this important educational opportunity. After controlling for public-private status and *U.S. News* ranking, significant determinants of the prices students pay, I examined the tuition and fees at the 18 schools that currently require each J.D. student to take a credit-bearing law clinic or externship as a graduation requirement. Those schools do not charge higher tuition and fees than schools that do not have such a requirement.⁵ Similarly, examining the 13 schools that guarantee, but do not require, each J.D. student the ability to take a credit-bearing clinic or externship prior to graduation yielded a similar result -- guaranteeing a clinical experience to every student does not have a statistically significant effect on the tuition and fees charged those students.⁶ I also found that upon adoption of a clinical

2 Robert R. Kuehn, *Pricing Clinical Legal Education*, at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2318042.

3 *Id.* at 31-32 & Figure 4.

4 Using data in the 2014 ABA-LSAC OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS and comparing for the 21 ABA-approved schools the sum of "# of positions available in faculty supervised clinical courses" plus "# of field placement positions filled - full-time & part-time" with "JD Enrollment 1st-year Total."

5 Kuehn, *supra* note 2, at 29 & Figure 2 (using information on schools with mandatory and guaranteed clinical experiences listed in Karen Tokarz, Antoinette Sedillo Lopez, Peggy Maisel & Robert Seibel, *Legal Education at a Crossroads: Answering the Clamor for Reform with Expanded Experiential Legal Education and Required Clinical Education*, 43 Wash. U. J.L. & Pol'y (forthcoming fall 2013)).

6 *Id.*, at 29-30 & Figure 3.

education requirement or guarantee, schools do not raise their tuition at a rate higher than schools that do not require or provide those courses.⁷

Looking just at law clinics (which are often identified as being the more expensive type of clinical education course), the data do not show that the increased availability of law clinic positions for students results in higher tuition. Comparing the availability of positions for students in faculty supervised law clinic courses to the size of the first-year J.D. class, schools with a higher ratio of clinic positions to students do not charge statistically higher tuition.⁸

The relative proportion of law clinic to field placement positions available for students at a school also does not drive tuition -- schools with a higher ratio of clinic to field placement positions (i.e., providing a greater proportion of law clinic to field placement opportunities for students) do not have statistically significant higher tuitions.⁹ Nor does a school's percentage of students that participate in a law clinic show an effect on tuition. Schools with a greater percentage of their students participating in a law clinic do not charge higher tuition than schools with a lower participation percentage.¹⁰ Therefore, like the relationship between the availability of all clinical education courses (i.e., combined positions available in law clinic and externship courses) and tuition, providing more law clinic course opportunities for students, even providing a law clinic experience for every student, is not associated with higher rates of tuition.

I further compared the tuition at the 158 schools with sufficient law clinic and field placement positions for each student with schools that do not presently offer enough positions. There is no statistically significant difference in the amount of tuition charged to make these law clinic and externship positions available to all J.D. students before graduation -- schools that provide sufficient clinical education courses for every student do not, on average, charge greater tuition and fees than those schools that do not.¹¹ The tuition and fees of the 21 accredited California law schools were included in this analysis. Similarly, focusing just on law clinic courses, there is no significant difference between the tuition charged by schools with sufficient capacity for every student to participate in a law clinic before graduation and the tuition at schools that do not presently have that clinic capacity.¹²

So, not only are nearly 7 out of 8 law schools already capable of implementing a bar admission requirement to provide a clinical education experience to each of their students without adding any additional course or instructor, they are able to do so without charging their students more in tuition than schools presently without sufficient positions to provide every student with that much needed educational experience.

As I concluded in the article: "Students that are being provided more clinical education opportunities, or even required or assured of a chance to enroll in a law clinic, are not paying more in tuition. Stated alternatively, students that are provided fewer clinical education

7 *Id.* at 33-34 & Figure 6.

8 *Id.* at 35 & Figure 7.

9 *Id.*

10 *Id.* at 35-36 & Figure 7.

11 *Id.* at 32-33 & Figure 5.

12 *Id.* at 36 & Figure 7.

opportunities, or not offered law clinic training, do not benefit financially from this lost educational opportunity by paying less in tuition and fees. Contrary to what is sometimes claimed, this study, and the examples at a number of schools, show that providing or requiring every student clinical training in law school need not cost students more in tuition.”¹³

In sum, 7 out of 8 law schools (and 19 out of 21 in California) are already capable of providing every student with the law clinic or externship courses needed to comply with a bar requirement that every applicant take a law clinic or externship course while in law school. In addition, requiring that every student receive clinical training in law school has not, and need not, cost students more in tuition in fees.

The availability and price of a clinical experience in law school creates no impediment to adopting a mandatory clinical education bar admission rule. If the California Bar, like numerous reports on legal education, understands the value to and need for students to work with actual clients under faculty supervision, the feasibility and price of implementing a clinical legal education requirement is not an impediment to adopting that as a bar rule.

II. A Substantial Amount of Practice-Based, Experiential Training Prior to Admission Is Necessary to Prepare Students for the Practice of Law

For decades, bar committees and legal education experts have pointed out the need to better prepare students for the practice of law. The ABA’s 1979 *Report and Recommendation of the Task Force on Lawyer Competency: The Role of Law Schools* (the Crampton Report), 1992 *ABA Report of the Task Force on Law Schools and the Profession* (the MacCrate Report), recent draft report of ABA *Task Force on the Future of Legal Education*, as well as the 2007 Carnegie Foundation and *Best Practices for Legal Education* reports all found that there is a severe lack of practice-based training in law school and that it is critical for schools to provide more supervised practice experiences.

State bars also have been pressing for more practice-based training in law school, especially in this era when students are finding it so difficult to market their limited skills to employers. The bar associations in Ohio, New York, Illinois, and Massachusetts have all recently noted that fundamental changes in the practice of law require new approaches to the education of lawyers, including law school curricular initiatives designed to enhance the development of practice-ready graduates. Following up on the recommendation of an Ohio Bar task force for a bar admission rule requiring that a student, prior to taking the exam, complete a law clinic or externship in law school or a practice experience through a bar association program involving law school faculty and the practicing bar, the Ohio Supreme Court announced that a task force of law school deans will explore how such a rule might be implemented by schools.¹⁴

Yet, at present, ABA accreditation standards only require that J.D. students take a single professional skills course.¹⁵ My recent research into the clinical education requirements of other

¹³ *Id.* at 40.

¹⁴ Letter from Maureen O’Connor, Chief Justice, Supreme Ct. of Ohio, to Patrick F. Fischer, Ohio State Bar Ass’n (Sept. 26, 2012).

¹⁵ AM. BAR ASS’N, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, Std. 302(a)(4) (2013); Am. Bar Ass’n, *Consultant’s Memo # 3* (Mar. 2010) (advising that one credit of skills training would be sufficient to satisfy the “substantial instruction” in professional skills requirement in Standard 302(a)(4)).

professional schools shows that law, which unlike other professions does not require a post-graduation, pre-licensing apprenticeship, lags far behind other professions in the practice-based training new licensees receive as part of their professional education. As Appendix A to this letter illustrates, law's requirement for a single, practice-based course contrasts with the requirements of other professions that a minimum of 1/4, and up to 1/2, of a student's education be in practice-based courses.¹⁶ Comparison with these other professions shows how, contrary to the questions raised by some comments, the Task Force's proposal for 15 units of coursework in practice-based, experiential courses is justified and necessary.

Even with the proposed 15 units of coursework, law would only be requiring that 1/6th of a student's education be in experiential courses. To ensure that students are receiving sufficient training in law school and to mirror the minimum requirements of other professional schools, I request that the number of required course units in the proposed rule be increased to 21 (or 1/4 of a J.D. student's coursework) and expanded to include practice-based first-year legal research and writing courses. Anything less than 21 units would still leave law students without the minimum amount of practice-based training that other professions have deemed necessary to adequately prepare professionals for the demands of their future practice. There is no reason to believe that the practice of law is unique among professions and need not ensure that students spend at least 1/4 of their professional education in practice-based training.

III. The Education Requirement Will Encourage, Not Stifle, Curricular Innovation

Two deans have objected that a 15-credit practice-based education requirement would stifle law school innovation, one claiming that it would drive nearly all students into full-time externships in law school and another asserting that it will harm the quality of practical skills education. The short answer to these objections is that these schools, reflecting their general opposition to any effort by the Bar to get schools to improve the preparation of law students for the practice of law, will actually be prompted to innovate by the requirement for expanded experiential education opportunities.

The proposed regulation provides that each school can decide how it best wants to offer students the practice-based education necessitated by the rule. Each school will make its own decision whether to offer more or different law clinics, externships, or simulations courses (or even units within doctrinal courses), only constrained by the regulation's requirement that the coursework be practice-based and experiential in nature.

If one school decides to offer more full-time externships and another decides not to offer semester-long externships (or even no externships at all), those choices are up to the school based on its pedagogical goals and decisions about allocating resources. If another decides it wants to offer only law clinics or more law clinics or different types of law clinics, again, that is the particular school's choice and is not dictated by the proposed rule.

If anything, the rule, by setting only a numeric goal within a broadly defined set of practice-based subject areas, will drive innovation as schools strive to determine which types of course offerings will best suit their students' needs and wants. Although it may require some schools to reallocate resources away from doctrinal courses and toward experiential courses, the recent draft report of the ABA Task Force on the Future of Legal Education concluded that

16 See also at Appendix A to Robert R. Kuehn, *Pricing Clinical Legal Education*.

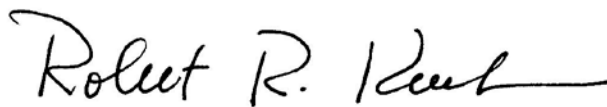
while there have been some recent shifts toward more attention to experiential learning, “[t]he balance between doctrinal instruction and hands-on training needs to shift still further toward the core competencies needed by people who will deliver services to clients.”¹⁷

The ABA Task Force’s draft report also observed that the culture of law schools “is at the root of an enormous number of current conditions” that are dragging down legal education and that schools need to reconfigure the role of faculty and promote change in faculty culture. The California Bar can not let a faculty culture of opposing outside requirements that might affect its curricular goals and of resisting the expansion of practice-based, experiential courses under the guise of concern about stifling innovation stand in the way of reforms that are in the best interest of law students and consumers of legal services.

CONCLUSION

The proposed bar admission rule on pre-admission competency training in law schools is a much needed proposal that will greatly enhance the professional training of law students and benefit California’s consumers of legal services. In moving forward, I urge the Bar to also impose a clinical education requirement and to increase the number of required practice-based, experiential course credits to 21 in order to better enhance the professional training of new lawyers and to align the legal profession’s educational requirements with those of other professions.

Sincerely,

A handwritten signature in black ink that reads "Robert R. Kuehn". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Robert R. Kuehn, Professor of Law
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St. Louis, MO 63130-4899
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17 Am. Bar Ass’n, Task Force on the Future of Legal Education, Working Paper 26 (July 2013).

App. A - Clinical Education Requirements for Professional Schools

Law	Medicine	Veterinary	Pharmacy	Dentistry	Social Work	Architecture	Nursing
minimum of 1 credit in prof'l skills required for graduation; no clinical education requirement ¹⁸	2 of 4 years in clinical practica or clerkships ¹⁹	minimum 1 of 4 years in clinical settings ²⁰	300 hours in 1st year & 1,440 hours (36 weeks) in last year in clinical settings ²¹	57% of education in actual patient care ²²	900 hours (18 of 60 required credits) in field education courses ²³	50 of 160 credits in studio courses (national licensing board's calculation of minimum needed for licensure) ²⁴	varies by state - e.g., Cal. 18 of 53 credits (1/3); Texas 3 to 1 ratio of clinical to classroom ²⁵
1/83	1/2	1/4+	1/4+	1/2+	1/3	1/3	1/3+

18 AM. BAR. ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, Std. 302(b)(4) (2012-13); Am. Bar Ass'n, *Consultant's Memo # 3* (Mar. 2010).

19 MOLLY COOKE, DAVID M. IRBY & BRIDGET C. O'BRIEN, EDUCATING PHYSICIANS: A CALL FOR REFORM OF MEDICAL SCHOOL AND RESIDENCY 21 (2010).

20 AM. VETERINARY MED. ASS'N, ACCREDITATION POLICIES AND PROCEDURES OF THE AVMA COUNCIL ON EDUCATION, Sec. 7.9, Std. 9 (2012).

21 ACCREDITATION COUNCIL FOR PHARMACY EDUC., ACCREDITATION STANDARDS AND GUIDELINES FOR THE PROFESSIONAL PROGRAM IN PHARMACY LEADING TO THE DOCTOR OF PHARMACY DEGREE, Guidelines 14.4 & 14.6 (2011).

22 AM. DENTISTRY ASS'N, ACCREDITATION STANDARDS FOR DENTAL EDUCATION PROGRAMS Std. 2-4 (2008); MASSACHUSETTS BAR ASS'N, REPORT OF THE TASK FORCE ON LAW, THE ECONOMY, AND UNDEREMPLOYMENT - BEGINNING THE CONVERSATION 4 (2012).

23 COUNCIL ON SOCIAL WORK EDUC., EDUCATION POLICY AND ACCREDITATION STANDARDS, Policy 2.3., Std. 2.1.3 (2012).

24 NAT'L COUNCIL OF ARCHITECTURAL REGISTRATION BDS., NCARB EDUCATION STANDARD 24 (2012) ("The *NCARB Education Standard* is the approximation of the requirements of a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB).").

25 16 Cal. Code of Regulations § 1426; Texas Board of Nursing, "Rules and Regulations Relating to Nurse Education, Licensure and Practice," § 215.9(c).

Southern California Pro Bono Managers

Southern California Lawyers Serving the Public Good

September 5, 2013

State Bar of California – Task Force on Admissions Regulation Reform
c/o Teri Greenman
Executive Offices
State Bar of California
180 Howard St.
San Francisco, CA 94105-1639

Re: Comments – Phase I Final Report of Task Force on Admissions Regulation Reform

Dear Board of Trustees and Task Force on Admissions Regulation Reform:

This letter is respectfully submitted in response to the request for comments on the Phase I Final Report (the "Report") issued by the State Bar of California's Task Force on Admissions Regulation Reform (the "Task Force") on June 24, 2013.

The Southern California Pro Bono Managers (the "SoCal Pro Bono Managers"), a collaborative of pro bono managers and supervising attorneys at Southern California public interest law agencies who work with volunteer law students and attorneys, believe the goal of providing better training to young lawyers and law students is laudable, and that combining it with strategies to respond to the access to justice problem is commendable. We offer these comments and questions in order to secure greater clarity and in hopes of providing guiding considerations to the Implementation Committee.

First, the SoCal Pro Bono Managers would like to reiterate their various requests, submitted individually under separate cover, for at least two (2) full-time pro bono coordinators from legal services nonprofits, one from Southern California and one from Northern California, to be included as members of the Implementation Committee. The full-time pro bono managers at legal services nonprofits focus their efforts on connecting pro bono clients with pro bono attorneys and law students. We therefore have in-depth experience about the needs of young lawyers and law students. This is an essential perspective that the Implementation Committee should consider. In addition, it is critical that at least one such member be from Northern California and another from Southern California. The legal services delivery systems in each region of the state are structurally different. In order to include such diverse perspectives, it is critical that the two regions be represented.

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The SoCal Pro Bono Managers feel it is important to note that for some organizations, a requirement of 50 hours of pro bono service is not necessarily sufficient for a law student to be granted exposure to a substantive learning experience that allows for the full development of practical skills. Various legal services agencies in Southern California have had experience with students seeking to fulfill school-based pro bono requirements that range from between 25 and 50 hours. It has been our experience that such a limited period of time typically only affords the student the opportunity to become oriented to the office and conduct very limited, discrete tasks, such as research or assisting with client intake. This is not to minimize the benefit to the student of such an experience, or the benefit to the agency in having such assistance. To be sure, in some instances, legal services agencies are able to use a student with a 50 hour pro bono requirement to engage in such discrete tasks. However, in order to provide a student a meaningful, substantive learning or training experience handling, for example, a deposition, preparing for trial, drafting an agreement, or other tasks, legal services agencies often require much lengthier time commitments from law student interns and volunteers.

One possible method of ensuring an in-depth practical experience is the possibility of a “semester-in-practice.” Allowing students to spend an entire semester, full-time, under the tutelage of an experienced attorney would provide students with an extraordinary opportunity to develop and refine a wide array of practical skills. While some law schools offer such opportunities to their students, they are not widespread. We would therefore encourage an open and robust discussion concerning the possibility of law schools, the State Bar, and legal services agencies facilitating a greater number of semester-in-practice opportunities as a means of fulfilling the proposed requirements.

Many of the legal services agencies in the Southern California area already make use of law students as volunteers, interns, and externs. The attorneys supervising law students at these agencies take their mentorship duties very seriously, and many view themselves as field instructors, and prepare accordingly. Moreover, the Report states that the required 50 hours of pro bono/modest means services would need to be completed through a “Bar-certified Pro Bono Program.” (See page 16 of the Report.) The SoCal Pro Bono Managers would ask whether the Task Force is suggesting the creation of such a certification and if so, what requirements must be met in order to allow organizations to become “Bar-certified Pro Bono Programs”? Similarly, will the implementation of the Task Force’s recommendations result in formal requirements on the part of attorney supervisors to meet this certification? For example, will attorneys be held to certain standards in so far as the nature and quality of experience provided students? If so, who will draft and enforce such standards? Will a mechanism exist that would allow attorneys to develop the skills needed to meet these requirements? For example, will supervising attorneys be provided an opportunity to attend CLE courses on this topic? Ultimately, will attorney supervisors be required to certify the quality of the student’s experience? Will they be required to draft reports as to the nature of the work engaged in?

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Assuming that the supervision provided by an attorney should meet certain standards, will there be any requirement that the law student or new attorney's work be of a certain quality or standard? If so, what standards will be in place in order to fairly and accurately evaluate the work-product? If a student is volunteering with a legal services agency for purposes of fulfilling a pro bono requirement, will the requirement be deemed fulfilled if the work-product is deemed poor or unsatisfactory by the supervising attorney?

In considering these issues related to standards and quality of experience and work produced, the SoCal Pro Bono Managers encourage a review of existing and proven tools developed by law schools and related entities. Many law schools have detailed documents, not unlike a memorandum of understanding, signed by legal services agencies to facilitate the placement of a law student on an internship or externship. These documents outline the duties and responsibilities of the legal services agency, the student, and the school in great detail. In addition, the Greater Los Angeles Consortium on Externships has many pieces of literature and various tools, including an extern evaluation matrix, that may be of use to the Implementation Committee when considering these various factors.

In addition, the SoCal Pro Bono Managers would request careful consideration of what will count towards the pro bono requirement. For example, will work on behalf of a pro bono client assigned to a student while employed at a law firm as a summer associate count towards the 50 hour requirement? Similarly, will students who intern with a legal services agency for a summer be deemed to have fulfilled their requirement, or must they complete an additional 50 hours of pro bono work?

Finally, each of the above considerations implies the use of significant resources related to the administration of a volunteer program. Whether it be the creation and implementation of a training curriculum, overseeing the work-product of a lawyer-in-training, or ensuring that an individual has a work station complete with a computer, phone, and access to Lexis or Westlaw, there will be a cost borne by the legal services agencies. The amount of time required to administer such a program alone is evident in the fact that many of the undersigned agencies have allocated resources to having a full time pro bono manager to manage volunteer programs that involve both law students and practicing attorneys. In fact, some agencies have multiple staff members dedicated to the administration of volunteer programs. This cost will only increase with an increase in the demand for pro bono opportunities from law students. Indeed, the cost will increase exponentially, given that the students and recently admitted attorneys who constitute the focus of the Report generally require significantly more training and mentorship than seasoned attorneys--this at a time when legal services agencies have seen sequential years of funding decreases, including cuts to LSC funding and a 10% cut to IOLTA grants in the next funding cycle and a projected 40% cut to grants in the 2014-15 funding year.

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We therefore strongly believe that the Implementation Committee must consider how increased resources will be made available to legal services agencies in order to ensure the development of meaningful, substantive experiences that afford individuals the opportunity to gain the much needed practical skills outlined in the Report. Moreover, we again stress the importance of having representatives from the legal services communities on the Implementation Committee to ensure that this and the various other recommendations made here and by our colleagues in Northern California are considered.

We appreciate this opportunity to provide comments to the Board of Trustees and the Task Force.

Sincerely,

ACLU Foundation of Southern California
Affordable Housing Advocates
Alameda County Bar Association Volunteer
Legal Services Corporation
Alliance for Children's Rights
Asian Americans Advancing Justice/
Los Angeles
Bet Tzedek Legal Services
California Women's Law Center
Casa Cornelia Law Center
Center for Health Care Rights
Center for Human Rights &
Constitutional Law Foundation
Coachella Valley Housing Coalition
Community Legal Services
Disability Rights Legal Center
Elder Law and Advocacy
Pro Bono Program
Esperanza Immigrant Rights Project
Greater Bakersfield Legal Assistance
Harriett Buhai Center for Family Law
Inland Counties Legal Services
Inland Empire Latino Lawyers
Association, Inc.

Inner City Law Center
Learning Rights Law Center
Legal Aid Foundation of Los Angeles
Legal Aid Foundation of Santa Barbara
County
Legal Aid Society of Orange County
Legal Aid Society of San Bernardino
Legal Aid Society of San Diego
Levitt & Quinn Family Law Center
Los Angeles Center for Law and Justice
Mental Health Advocacy Services, Inc.
Mesereau Free Legal Clinic
Neighborhood Legal Services of
Los Angeles County
OneJustice
Professional Alliance for Children
Public Counsel
Public Law Center
Riverside Legal Aid
San Diego Volunteer Lawyer Program, Inc.
Volunteer Lawyers Services Program
Western Center on Law and Poverty

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Southern California Lawyers Serving the Public Good



September 5, 2013

State Bar of California – Task Force on Admissions Regulations Reform
c/o Teri Greenman
Executive Offices
State Bar of California
180 Howard St.
San Francisco, CA 94105-1639

Re: Comments – Phase I Final report of Task Force on Admissions Regulation Reform

Dear Board of Trustees and Task Force on Admissions Regulation Reform:

This letter is respectfully submitted in response to the request for comments on the Phase I Final Report (the "Report") issued by the State Bar of California's Task Force on Admissions Regulation Reform (the "Task Force") on June 24, 2013.

Bet Tzedek Legal Services has been providing free legal services to vulnerable and low-income people in Los Angeles since 1974. Founded by volunteers and with a mission to advocate the just causes of the poor and helpless, Bet Tzedek has always viewed training and mentoring law students and new legal professionals as an important part of our service to the community. We know from experience that engaging law students in pro bono work meets the twin goals of training better advocates and increasing our capacity to serve the community. We therefore applaud the State Bar's goals of providing better training to young lawyers and law students and of institutionalizing young lawyers' engagement in pro bono work. We offer the following comments and questions in order to gain clarity regarding the State Bar's recommendations and in hopes of providing guiding insights to the Implementation Committee.

Inclusion of Legal Services Pro Bono Directors on Implementation Committee

As a member agency of the SoCal Pro Bono Managers group, Bet Tzedek would like to first underscore the group's request, submitted under separate cover, for at least two (2) full-time pro bono coordinators from legal services nonprofits – one each from Southern and Northern California – to be added as members of the Implementation Committee. The full-time pro bono managers have in-depth experience regarding the needs of young lawyers and law students and about the capacity and concerns of legal services agencies. The Implementation Committee would be remiss in not considering this perspective. It is also crucial both Northern California and Southern California be represented, as the legal services delivery systems in each region are structurally distinct.

50 Hour Pro Bono Requirement

Bet Tzedek has extensive experience working with law students and recent law school graduates as volunteers, interns, and externs. At times, our agency engages upwards of 50

such individuals at one time. Moreover, Bet Tzedek has experience working with law students seeking to fulfill school-based pro bono requirements ranging from 25 to 50 hours in length. We have found that such a limited amount of time does not afford an individual the opportunity to develop practical legal skills. We have found that introductory training even for basic tasks can range from 5 to 20 hours, depending on the task(s) and on the student. If training alone takes 5-20 hours, this leaves as little as 30 hours of the 50 recommended by the State Bar for *actual* hands-on legal experience. Moreover, students seeking to fulfill a 50 hour volunteer requirement often do not have the opportunity to delve into a case or practice the skills a supervising attorney may impart. For example, many students attempt to complete the requirement over the course of one week, or by volunteering 2 to 5 hours over the course of a number of weeks. In either case, the student is only with the agency for enough time to undertake one short and discrete task, such as either conducting an intake, drafting an initial set of documents, or assisting with a limited research project. It will likely not afford the student the opportunity to engage in more lengthy tasks, such as helping to manage and develop a case, working on multiple drafts of a document based on supervisor feedback, or shadowing an attorney at a hearing. It is also unlikely that the student will have the opportunity to either engage in more than one of the above tasks or practice the newly acquired skills more than once.

At Bet Tzedek, we have found that for an individual to secure a meaningful, substantive experience that includes exposure to and development of practical legal skills, the student should commit to a minimum of 8 to 10 hours of volunteer work a week over the course of ten weeks. As such, Bet Tzedek generally asks that students looking to secure a substantive learning experience commit to at least 80-100 hours of service with us, regardless of the minimum hours required by their school's pro bono program. We would therefore encourage students to view the 50 hour requirement as a minimum, not a maximum, and for the Implementation Committee to consider methods of encouraging students to volunteer more than 50 hours prior to joining the Bar.

Increase in Semester-in-Practice Opportunities

As the Report suggests, one possible method of ensuring an in-depth practical skills building experience is the idea of a "semester-in-practice." Such an intensive, hands-on experience under the tutelage of our staff attorneys provide students with incredible opportunities to develop and refine a variety of real-world practical skills. At Bet Tzedek, we have hosted a number of students from law schools in California and beyond for full-time externships during the academic year. Such programs are not, however, wide-spread or readily available. We urge the consideration of law schools, the State Bar, and legal services agencies jointly facilitating more semester-in-practice opportunities to fulfill the proposed pro bono requirements.

Supervision Standards

When working with law students, our staff strives to ensure that students have a positive learning experience that provides them with practical legal skills. Attorney supervisors take their responsibility as trainers and supervisors seriously. For example, the agency offers a yearly formal training to our attorney supervisors on the topic of law student supervision. The training follows the guidelines outlined by the Greater Los Angeles Consortium on Externships (GLACE). Bet Tzedek would encourage a review of the GLACE standards, along with the standards outlined by law schools when placing students with legal services agencies for externships, when considering the implementation of the proposed plan.

The State Bar's Report posits that the required 50 hours of pro bono/modest means services would need to be completed through a "Bar-certified Pro Bono Program." (See page 16 of the Report.) We ask whether the Task Force is suggesting the creation of such a certification and if so, what requirements must be met in order to allow an agency such as Bet Tzedek to qualify as a "Bar-certified Pro Bono Program"?

In addition, will the creation of a certification process result in the development and implementation of a set of standards individual attorneys must adhere to in order to supervise students as part of a "Bar-certified Pro Bono Program"? For example, will attorneys be held to certain standards in so far as the nature and quality of experience provided students? Will standards be developed regarding the nature of feedback provided to students? If so, who will draft and enforce such standards? Will a mechanism exist that will allow attorneys to develop the skills needed to meet these requirements?

Standards Imposed On Volunteers

Assuming the supervision provided by an attorney should meet certain standards, will there be any requirement that the law student or new attorney's work be of a certain quality or standard? If so, what standards will be in place in order to fairly and accurately evaluate the work-product? Will the attorney supervisor be required to certify the quality of the student's experience? What would such a certification process look like? If an individual is volunteering with a legal services agency for purposes of fulfilling a pro bono requirement, will the requirement be deemed fulfilled if the individual's work-product is deemed poor or unsatisfactory by the supervising attorney? Bet Tzedek believes that some basic standards should be imposed on students meeting the proposed pro bono requirement. If their work is evaluated and does not meet the standards, students should not be given credit for their pro bono hours.

Definition of Pro Bono

Echoing the SoCal Pro Bono Managers, Bet Tzedek urges careful consideration of what will count towards the pro bono requirement. For example, will work on behalf of a pro bono client assigned to a student while employed at a law firm as a summer associate count towards the 50 hour requirement? Similarly, will students who intern with a legal services agency for a summer be deemed to have fulfilled their requirement, or must they complete an additional 50 hours of pro bono work? Will a student's ability to find funding for their summer work in legal aid have any bearing on whether that time counts toward the pro bono requirement?

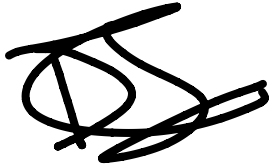
Resources for Implementation

Lastly, as the State Bar considers each of the above items, it must also consider the demand on legal service agencies' resources related to the implementation of the pro bono requirement. From developing a training curriculum to providing supervision and infrastructure such as workstations with computers and phones, Bet Tzedek and other agencies will bear some cost if there is a significant uptick in volunteer and pro bono service. As it stands, Bet Tzedek has not one but two staff positions devoted to the administration of its pro bono efforts – a fact that speaks to the significant time and resources needed to manage a robust volunteer program. We expect this cost to increase with an increase in the demand for pro bono opportunities from law students. Although we work with legal volunteers ranging from law students to pro bono attorneys at law firms to seasoned, retired lawyers, we know that increases in student volunteers will be among the most costly because this group needs the most intensive supervision and oversight. Added to this is the fact that the legal services community is already facing sequential years of funding decreases, including cuts to LSC funding, a 10% cut to

IOLTA grants in the next funding cycle, and a projected 40% cut to grants in the 2014-15 funding year. Bet Tzedek therefore strongly urges the Implementation Committee consider how increased resources will be made available to legal services agencies in light of these new pro bono requirements. Additional resources will undoubtedly be needed to ensure the development of meaningful, substantive experiences that afford law students and new lawyers the opportunity to gain the much-needed practical skills outlined in the Report.

We appreciate this opportunity to provide comments to the Board of Trustees and the Task Force.

Sincerely,

A handwritten signature in black ink, appearing to be 'Diego Cartagena', written over a horizontal line.

Diego Cartagena
Pro Bono Director
Bet Tzedek Legal Services

From: [Andrew_Guilford](#)
To: [Greenman, Teri](#)
Subject: Comments on Admissions Regulatory Reform: Phase I Final Report
Date: Thursday, September 05, 2013 3:20:50 PM

Teri Greenman
Executive Offices
State Bar of California
180 Howard Street
San Francisco, CA 94105-1639
teri.greenman@calbar.ca.gov

Dear Teri (and other friends and colleagues),

I've always believed the State Bar of California can play an extremely important role in the justice systems of our state, our country, and the world, and it's important to consider the broad implications of our licensing system. I am very concerned about the effects of proposals ("proposals") in the *Phase I Final Report* of the Task Force on Admissions Regulation Reform concerning practical skills training.

When I was State Bar President, two key issues for me were Access to Justice and Multijurisdictional Practice. (My President's Page on MJP is at <http://archive.calbar.ca.gov/calbar/2cbj/00jan/frompres.htm> .) I'm concerned that some of the proposals in the *Phase I Final Report* could have disastrous effects on both MJP and on access to a justice system reflecting the diversity we need. I recognize the need for practical skills training, but I believe the need can be met in other ways, such as promoting bar programs like those in the American Inns of Court movement. (See <http://home.innsofcourt.org> .)

Additional licensing requirements will increase the cost of becoming a lawyer, which will necessarily increase the cost of hiring a lawyer, making it more difficult to provide access to justice to those with economic challenges. California already imposes the toughest obstacles in the country -- and maybe the world -- to getting a bar license, and I believe this has hurt our State in providing access to a justice system reflecting necessary diversity. To now unwisely *increase* California's licensing regulations would make matters worse. ***We need to make lawyers more accessible to the economically challenged, not less.***

Further, putting California out in front of almost all other states in establishing new obstacles to practicing law will severely hamper efforts to bring our MJP rules into the 21st Century. Obviously, if we are building more obstacles for California lawyers, then out-of-state lawyers must also face more obstacles when dealing with California. I've heard it argued that if California leads the way with more regulations, other states will follow. But my experience sadly has been that this is not true, and I believe the proposals would further isolate California from the rest of the country and the world. ***We need to be building gates, not fences.***

Finally, I like proposals in the *Phase I Final Report* supporting work for pro bono and modest means clients. I chose one of my clerks last year (from over 600 applications) based largely on the fact that she had well over 300 hours of pro bono work during her studies at UCI School of Law. I believe this reflects important community values and useful practical experience. But I remain sensitive to reservations about mandatory pro bono that I have long heard expressed by those devoted to providing access to indigents. The *Phase I Final Report* calls for different forms of mandatory pro bono work, and I'm concerned that not enough thought has been given to the mandatory pro bono aspects of the proposals.

I have tried to keep this email brief, but I am happy to discuss these issues further with anyone interested.

Thanks for considering my comments.

Sincerely,

Andrew J. Guilford

cc: Teri Greenman by U.S. mail

State Bar of California – Task Force on Admissions Regulation Reform
c/o Teri Greenman
The State Bar of California
180 Howard Street
San Francisco, California 94105

September 5, 2013

Re: Comments on Phase I Final Report of Task Force on Admissions Regulation Reform

Dear Board of Trustees and Task Force on Admissions Regulation Reform:

This letter is in response to your request for comments on the Phase I Final Report (the “Report”) issued by the State Bar of California’s Task Force on Admissions Regulation Reform (the “Task Force”) on June 24, 2013.

We the undersigned pro bono managers at Bay Area public interest nonprofits offer the below comments and questions to the State Bar of California’s Board of Trustees and the Task Force. Our comments and questions pertain to the Report’s proposal to instate a 50 hour pro bono/modest means service requirement for bar candidates and recent admittees. Each of us is responsible for managing pro bono relationships at our respective organizations, and together as a group we procure a great majority of the pro bono opportunities made available to law students and lawyers in the Bay Area. As legal professionals in charge of connecting low-income and underserved clients to pro bono assistance, we believe consideration of the below comments and questions is vital to proper implementation of the Report’s proposals.

Implementation of the Proposals Must Directly Engage the Legal Services Nonprofit Community

Legal services nonprofits are responsible for providing high quality legal services to low-income Californians to ensure those communities have fair access to our justice system. For that reason, law firms, law schools, and corporations trust legal services nonprofits to connect them with pro bono clients.

While we are impressed with the Task Force’s ambition to leverage the time of bar candidates and recent admittees to assist low-income and modest means clients, this cannot happen unless legal services nonprofits play a significant role in the planning and implementation of the Report’s proposals. As recommended under separate cover (in an email to Ms. Teri Greenman on August 15, 2013), the Bay Area Pro Bono Managers request that any implementation group formed include *at least* two full-time pro bono managers from legal services nonprofits, one from Northern California and one from Southern California. Because of the rigorous training and supervision required of these pro bono managers when administering pro bono programs, involving our community is the only way to ensure that implementation of the proposed pro bono requirement succeeds in its goal of getting bar candidates and recent admittees to provide meaningful assistance to underserved communities.

To Expand Pro Bono Opportunities, Legal Services Nonprofits Need More Resources

Legal services nonprofits play a vital role in connecting pro bono law students and attorneys to low-income and otherwise underserved clients. For each pro bono placement, legal services nonprofits are responsible for screening clients (to confirm they are eligible for pro bono services and to identify the relevant substantive legal issues), training pro bono volunteers, and providing ongoing mentoring and assistance to pro bono volunteers during the period of assistance and/or representation. These steps are necessary to ensuring each client receives top-notch legal assistance, which is why law firms and law schools in California insist that legal services nonprofits take these steps before they agree to engage in a pro bono relationship. In fact, California's legal services nonprofits and law firms have been working together over the last several years to draft the Pro Bono Best Practices Guide, due for release in fall 2013, which—among other things—memorializes the consensus in the legal community that legal services nonprofits must provide screening, training, and mentorship when placing any pro bono matter.

Instituting a 50 hour pro bono/modest means service requirement will significantly increase demand for pro bono opportunities. For legal services nonprofits to meet that increased demand, they will require increased resources. Such demand, it should be noted, will come from law students and recently admitted attorneys, a segment of the legal community that, due to its inexperience, generally requires *significantly more* training and mentorship resources than seasoned attorneys. Our nonprofits, however, have seen sequential years of funding *decreases*, including a 10% cut to IOLTA grants in the next funding cycle and a projected 40% cut to grants in the 2014-15 funding year.

The implementation phase of the Report's proposals must, therefore, include consideration of how increased resources will be made available to legal services nonprofits so that bar candidates and recent admittees are offered meaningful opportunities to assist underserved Californians. Increased funding for legal services nonprofits, from both the State Bar and from other sources, will be necessary, as will access to other tangible resources, such as office space, technology, and other infrastructure. We believe the Implementation Committee's charge *must* include responsibility for determining the source of these resources and the manner in which they are distributed in order to ensure the Task Force's goal of increased pro bono participation is realized.

Fundamental Questions Remain

The Report contains several ambiguities that should be clarified as soon as possible to ensure stakeholders—including, among others, legal services nonprofits, law schools, and law firms—fully understand the underlying intent and potential impact of the Report's proposals. Below are some of the outstanding questions we have about the Report.

What is a "Bar-certified Pro Bono Program"?

The Report states that the required 50 hours of pro bono/modest means service would need to be completed through a "Bar-certified Pro Bono Program". (See page 16 of the Report.) As no such certification currently exists, is the Task Force implicitly recommending the creation of such a certification? If so, what requirements—in addition to the requirements for State Bar IOLTA funding—does the Task Force envision to allow organizations to become "Bar-certified Pro Bono

Programs”? And, who will determine whether an organization is or is not certified? Furthermore, will there be any costs associated with the certification process (as there is with State Bar-certified lawyer referral services)?

Could Law School Clinical Work Count toward Both the Competency Training and Pro Bono/Modest Means Service Requirements?

The report states that individuals who meet the competency training requirement, in part or in full, through externships, clerkships, and apprenticeships may count their time in those experiences toward the pro bono/modest means services requirements. The report, however, does not speak to whether law school clinical experiences, which would count toward the competency training requirement, would also count toward the pro bono/modest means requirement.

Can Individuals Meet the 50 Hour Requirement through Service Done in States Other than California?

As noted above, the Report states that the requisite pro bono/modest means service would need to be done through a “Bar-certified Pro Bono Program”. The Report, however, does not speak to the question of whether service performed outside of California—either by an out-of-state law school student who plans to move to California or by a California law school student doing pro bono work in other states during the summer, for instance—would count towards the pro bono/modest means service requirement.

We appreciate this opportunity to provide comments to the Board of Trustees and the Task Force. If you have any questions about the above comments and questions, please contact Michael Winn, Senior Staff Attorney at OneJustice, at 415-834-0100 ext. 302 or mwinn@one-justice.org.

Sincerely,

Allison Barnum
Law Foundation of Silicon Valley

Elizabeth Hom
*Alameda County Bar Association
Volunteer Legal Services Corporation*

Genevieve Richardson
Bay Area Legal Aid

Paul Chavez
*Lawyers' Committee for Civil Rights
of the San Francisco Bay Area*

Richard Konda
Asian Law Alliance

Jamienne Studley
Public Advocates Inc.

Elisa Della-Piana
East Bay Community Law Center

Katrina Logan
*Community Legal Services in East Palo
Alto*

John Robert Unruh
Swords to Plowshares

Katie Fleet
Legal Services for Children

Mairi S. McKeever
*Justice & Diversity Center of the Bar
Association of San Francisco*

Michael Winn
OneJustice

Mary Gilg
*Alameda County Homeless Action
Center*

Nancy Murphy
Legal Aid of Marin

Bill Hirsh
AIDS Legal Referral Panel

Jeffrey T. Ponting
California Rural Legal Assistance



**THE STATE BAR
OF CALIFORNIA**

Council on Access & Fairness

180 Howard Street, San Francisco, California 94105

Telephone (415) 538-2240

To: Jon Streeter, Chair, Admissions Regulation Reform Task Force

From: Audrea J. Golding, Chair, State Bar Council on Access & Fairness

Date: September 4, 2013

Re: Council on Access & Fairness Public Comment on Admissions Regulation Reform Task Force Final Report and Recommendations

OVERVIEW:

The State Bar Council on Access & Fairness (“COAF”) commends the State Bar Admissions Regulation Reform Task Force (“Task Force”) for addressing critical issues related to the need for practical training of law students and newly licensed attorneys. The COAF agrees that the need for public protection dictates that new lawyers have the necessary foundation to represent clients in a competent manner.

We agree with the Task Force that the responsibility for closing the gap in practice-readiness should be shared by the law school community, practicing lawyers, and the Bar and recognize that the recommendations incorporate support and contributions from all segments of the profession. Although the implementation of these recommendations may create greater demands on certain segments of the law school community and /or profession, this is outweighed by the ultimate goal of producing lawyers with the adequate level of competency and professionalism.

We agree that there should be a consistent message on how lawyers will be evaluated for entry into the legal profession and that hands on experience as described in these recommendations pose a more meaningful indicia for performance.

However, in the review and implementation of the recommended options, the Task Force should consider the impact on law students and attorneys from diverse backgrounds and economic settings to ensure that there is a level playing field in terms of available opportunities to complete the practical training requirements ultimately imposed by the State Bar as a condition for the practice of law.

SPECIFIC COMMENTS:

Recommendation #1: Competency training requirement fulfilled prior to admission to practice.

Option (a): Pre-admission completion of 15 units of practice based experiential course work designed to develop law practice competencies

Option (b): in lieu of some or all of the 15 units of practice based, experiential course work, participation in Bar-approved externship, clerkship or apprenticeship during or following completion of law school.

In general, this proposal addresses an important concern in legal education and law practice. It has potential to better prepare for practice ALL law students, especially those that are less well connected and therefore less able to get practice experience, mentors, etc. Schools have to serve all students, including underrepresented groups, so these requirements might give the law students and new lawyers that COAF wants to support a better chance for getting a job or succeeding in practice, even if they hang a shingle.

We also support the suggested subject matter areas for the 15 units of course work and recognize the similarity with the factors for effective lawyering identified in the Shultz-Zedeck study. The COAF has long supported the findings of Prof. Shultz and Dr. Zedeck and the incorporation of this skill-set into the preparation for the practice of law.

Given the response by the public to Judicial Council surveys of court users regarding diversity as a primary concern impacting public trust and confidence in the legal system and the perception of fairness in the courts, the COAF recommends added curriculum specifically devoted to issues of implicit bias in the judicial system and practice of law, as well as in the adequate representation of potential clients.

However, in reading the Task Force report, it appears that greater deference is given to law schools to decide what level of curriculum and practical training will be offered. If some schools provide more opportunities and do a better job of practical training than others, that puts greater burdens on those students who do not attend law schools with expanded curriculum and clinical courses to seek ways to obtain practical training through the other more competitive extern, intern, and clerk options. Law schools should be strongly encouraged to create, support and expand a robust clinical/practical training program to maximize the opportunities for all students to benefit from this training and to meet the proposed pre-admission requirements.

Recommendation #2: Additional competency training requirement, fulfilled either pre- or post-admission, where 50 hours of legal services is devoted to pro bono and/or modest means. Credit towards these hours would be available for “in-the-field” experience under the supervision and guidance of a license practitioner or judicial officer

COAF has concerns that although a wide variety of options are listed to comply with the requirements, that with over 8,000 graduates and over 5,000 newly licensed attorneys in a year, the practical training options will become over-saturated and highly competitive, with all students not having the same opportunities to access the various options (e.g. top tier students would continue to have a better chance to access externships, internships, clerkships, etc.). Also, students who are more economically challenged will have a difficult time meeting the pro bono/modest means practice requirements, while still having to work to cover living and family expenses, loan payments, etc.

We recognize that the requirement to provide pro bono and modest means legal services serves to raise awareness of new lawyers to address equal access issues as an aspect of the professional responsibility of the legal profession. However, COAF is concerned that requiring over 8,000 law grads or over 5,000 newly licensed attorneys each year to seek pro bono and modest means legal services opportunities would create an unmanageable situation for public interest and legal services programs that are the natural sites for these types of legal services. This requirement has the potential of shifting the burden of practical training to the non-profit legal services community and away from law schools and legal employers, without a concurrent level of support.

We encourage the Task Force to re-examine and expand the definition of pro bono legal services to include a number of opportunities that would require the application of practice-oriented skills (e.g. mock trial training in law academies, law-related education, assisting counsel to non-profits, etc.) The Task Force should consider broadly the types of activities that would qualify for practical legal services and provide an expanded, detailed list of the types of pro bono and modest means services that would provide the practical training opportunities envisioned by this proposed program.

Recommendation #3: 10 additional hours of MCLE courses for new lawyers, in addition to the current required MCLE hours for all active members of the bar, focusing on law practice-competency training. Alternatively, credit towards these hours would be available for participation in mentoring programs.

We support the additional law practice-competency training for new lawyers, assuming the State Bar creates an effective training curriculum that involves interactive, hands-on, practical training. However, the 10 hours of additional training should be front-loaded in the first year of practice following admission to practice, to ensure as much practical training as possible for the newly admitted attorney. The alternate option of participation in a voluntary bar-certified mentoring program needs greater detail to ensure that the mentoring relationship provides the appropriate level of training and feedback to the new lawyer for general practice demands, as well as training and feedback for specific areas of practice. Also, consideration should be given to the responsibility and potential liability of the chosen mentors.

CONCLUSION:

COAF supports the Task Force's goal of providing better prepared law students and new lawyers for practice in the 21st century. We agree that new lawyers must be trained to be oriented to the actual experiences of practice and the values of ethics and professionalism inherent in the legal profession to better meet the legal needs and expectations of the diverse potential clients and the public at large. However, care must be taken to ensure that adopted requirements and options provide equal opportunity for all students and new lawyers to meet the pre- and post-admission, practical training requirements to be adopted by the State Bar.



THE BAR ASSOCIATION OF
SAN FRANCISCO

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Michael F. Tubach
Secretary

September 5, 2013

Task Force on Admissions Regulation Reform
c/o Teri Greenman
The State Bar of California
180 Howard Street
San Francisco, CA 94105

RE: Written Comment Regarding Phase I Final Report

Dear Members of the Task Force on Admissions Regulation Reform:

I write on behalf of the Bar Association of San Francisco (BASF) regarding your June 24, 2013 Phase I Final Report. As you know, BASF is a legal professional organization comprised of more than 7,400 members. It promotes excellence in the legal profession and advances professional growth and education. Through its Justice & Diversity Center, it provides pro bono legal services to disadvantaged and underserved individuals in San Francisco and creates opportunities for law students and lawyers to provide those services in our community. Our Barristers Club is comprised of law students and attorneys in their first 10 years of practice and has 3,200 members.

We have commented previously, both in writing and through testimony, on concerns we have regarding potential impacts of the State Bar's practical skills development proposal. We appreciate the opportunity to provide additional input here and welcome the opportunity to work with the State Bar to ensure the success of such a program should the proposal move to an implementation phase. Significant details regarding costs and who will carry them remain unresolved, and we hope to play a meaningful and productive role in striking a workable balance.

We value the State Bar's commitment to flexibility in adapting the proposal to address potential unanticipated challenges and costs as the details of the program evolve, and adjusting the program to meet any such challenges will help ensure that all those who have a role in it are able to embrace all it promises to offer. It is important that those who implement the program continue to assess the costs of this endeavor – on students and graduates, MCLE and pro bono legal service providers, and smaller law offices – and determine how those costs will be financed, including taking into account data from law schools as to the effectiveness of existing practical skills training in making new attorneys "practice-ready" as well as a basis for reasonably estimating the expected costs of making similar programs available for all students. Ensuring consistent standards and supporting consistent monitoring and enforcement of those standards also will be essential to the program's success.

Tammy Albarrán
Krystal Bowen
Joseph J. Catalano
Pamela Fulmer
Alicia M. Gámez
Patricia K. Gillette
Stuart Hanlon
Malcolm A. Heinicke
Paul Henderson
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David Lowe
Mike Moya
Ann N. Nguyen
Stuart Plunkett
Christine L. Richardson
Joshua A. Ridless
Demetrius D. Shelton
Wilma B. Wallace

BARRISTERS CLUB
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EXECUTIVE DIRECTOR
AND GENERAL COUNSEL

Daniel Burkhardt



To make certain that the goals of this effort are achieved as effectively as possible, we would support a suggestion previously made by some others who have commented on the proposal: that the program begin as a pilot. Launching this noble effort in such a fashion would allow all those involved in it to address unforeseen consequences and make sensible changes while the effort is at a manageable scale. After such a pilot period and after any unanticipated impacts of the proposal have been addressed, the State Bar and its partners would then be well-positioned to expand the effort to its full potential and adopt it on a permanent basis. Our association and its pro bono legal services programs have a strong and proud history of providing the types of training and volunteer opportunities central to the success of the proposal, and we would embrace the opportunity to serve as a pilot provider under the program.

Because we have commented extensively on previous occasions and those comments are part of the record, we will not repeat in detail our thoughts regarding areas worthy of additional development as the program unfolds. We do, however, want to take this opportunity to highlight areas in which we hope we can work with the State Bar as this effort progresses.

Students and Graduates

We look forward to playing a meaningful role in ensuring the program:

- defines practical skills in a manner that will promote the California Bar's goals of enhancing consumer protection and improving new attorneys' employment prospects;
- carefully considers costs and time commitments for law students and law school graduates and promotes creation of practical skills courses with manageable student-instructor ratios;
- clearly defines the apprenticeship, externship, and internship opportunities and ensures such programs are readily available to students who work while going to school and a structure for ensuring that such opportunities are practicable for these students;
- structures apprenticeship, clerkship, and internship programs so that any additional financial burdens on new graduates are manageable;
- does not add significant additional financial obligations on graduates by requiring material pro bono services at a time when they may well be unable to sustain such efforts; we understand that the State Bar is leaning toward a broad pro bono definition, which could help smooth out this issue.

MCLE and Pro Bono Legal Service Providers

We also look forward to making helpful contributions toward ensuring the program:

- carefully considers any additional demands and costs on pro bono legal service providers; adequate financial support is crucial to the success of existing programs and this initiative;
- defines the mentorship option to ensure mentoring relationships are developed to achieve their intended goals;
- clearly delineates the types of MCLE that would qualify as practical skills training under this program and identifies the number of students and graduates providers might expect to serve as well as the associated costs and how those will be financed.



Smaller Law Offices

We also look forward to providing useful input to ensure that small firms are not disproportionately impacted by the pro bono requirements. We want to work to make sure that such potential consequences do not chill the already difficult market for new graduates seeking jobs.

Consistent Standards

Finally, we hope to play a constructive part in making sure that standards are consistent and consistently applied for each of the program's requirements. We also welcome the prospect of ensuring that there are opportunities appropriately tailored to students depending on whether they are pursuing careers in litigation, corporate, tax, real estate or other practice areas.

Conclusion

We commend the Task Force for its important work in studying the issue of practical skills training for the lawyers of our state and for the thoughtful work that has gone into crafting the report. We look forward to teaming with the State Bar to realize fully the goals of this effort.

Sincerely,

Christopher Kearney
President



THE BAR ASSOCIATION OF
SAN FRANCISCO

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Secretary

September 5, 2013

Task Force on Admissions Regulation Reform
c/o Teri Greenman
The State Bar of California
180 Howard Street
San Francisco, CA 94105

RE: Written Comment Regarding Phase I Final Report

Dear Members of the Task Force on Admissions Regulation Reform:

The Barristers Board of the Bar Association of San Francisco serves and represents attorneys in their first ten years of practice -- i.e., the population that will be directly impacted by the State Bar Task Force's practical skills proposal. We believe that new attorneys are a critical stakeholder in the Task Force's proposal and should be involved in the consideration and implementation of any practical skills program. To this end, the Barristers Board prepared a response to the State Bar's proposal which we shared with the Committee in a letter dated April 17, 2013. Subsequent to that letter, we also prepared and circulated a survey to gather reactions and perspectives from our membership regarding the proposal. Our members provided feedback which is important and relevant to the Committee's proposal. The survey results are attached. We urge the Committee to take the perspectives of new attorneys into consideration.

Sincerely,

Eric Toscano
Barristers Club Vice-President

BARRISTERS CLUB
OFFICERS

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Eric L. Toscano
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Daniel Burkhardt

Enclosure

The Barristers Club of The Bar Association of San Francisco: Survey of State Bar of California Proposed Changes

1. Did you complete at least 15 total units of practical skills courses and/or legal clinics following your first year of law school?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes	50.6%	79	156	1
No	49.4%	77		

2. If you answered “No” to Question 1, why not?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
I didn't want to because my other courses were more useful.	19.5%	15	77	80
My law school didn't have enough of those types of courses/clinics or admission into the courses/clinics was difficult or limited.	28.6%	22		
Other (please specify)	51.9%	40		

3. Were the practical skills courses or clinics your law school offered directly applicable to your current practice?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes, Strongly Agree	25.2%	39	155	2
Yes, Agree	34.2%	53		
Maybe/Indifferent	19.4%	30		
No, Disagree	11.0%	17		
No, Strongly Disagree	10.3%	16		

4. Would your legal education have been better if you had taken more practical skills courses or legal clinics?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes, Strongly Agree	36.5%	57	156	1
Yes, Agree	31.4%	49		
Maybe/Indifferent	22.4%	35		
No, Disagree	5.8%	9		
No, Strongly Disagree	3.8%	6		

5. The first proposal requires applicants who did not complete 15 academic units of practical skills training following their first year of law school to complete a six-month apprenticeship or clerkship prior to licensure. Do you believe you would have been able to complete a six-month apprenticeship or clerkship?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes -- I was offered a clerkship or government agency apprenticeship.	23.2%	36	155	2
No -- These types of positions are competitive/limited and I don't think I would have been able to secure one.	40.0%	62		
I am not sure.	36.8%	57		

6. Assuming you were required to complete a six-month apprenticeship or clerkship prior to licensure and the apprenticeship/clerkship was unpaid, how would that impact you financially (or how would it have affected you)?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Little to No Impact	6.5%	10	155	2
Annoying, but Manageable	20.6%	32		
A Serious Burden	72.9%	113		

7. Do you support the State Bar's proposal to require applicants to complete 15 units of practical skills coursework or complete a six-month apprenticeship or clerkship prior to being admitted to practice law?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes, Strongly Support	22.6%	35	155	2
Yes, Support	34.2%	53		
Indifferent	6.5%	10		
No, Disagree	15.5%	24		
No, Strongly Disagree	21.3%	33		

8. Please feel free to share any additional thoughts regarding the State Bar's first proposal here:

Answer Options	Response Percent	Response Count	Answered question	Skipped question
		84	84	73

I support requiring some practical skills training even though I don't think it solves the overall issues. I don't support the alternative - requiring apprenticeship/clerkship because it still does not necessarily prepare people for the realities of legal practice and can add yet another hurdle.
Question 4 is problematic, since the survey does not first determine much practical skill or clinical training was received in law school. I happened to take many more practical skills classes than the average in my class, and I found them tremendously beneficial. That said, there would have been limited benefit to taking more simply because of diminishing returns. I think a student taking the average (or minimal) amount would benefit from greater practical skill or clinical training.
I have serious concerns about the definition of practical skills coursework and the manner in which the State Bar may execute its proposal. But, I do support the general purpose of increasing the amount of practical skills work required in law school.
I would support this requirement IF, and ONLY IF there were serious changes to the law school academic requirements. Law school has proven to be a serious financial burden on most, and by all accounts is no longer the "investment" it once was. By shortening law school to 2 years, and then requiring a practical apprenticeship, students would not be saddled with (as much) debt, and they would be able to jump into practice right away after passing the bar.
The second proposal has the benefit of providing direct services to low income individuals and families, but the pro and low bono service might not be organized or sufficiently supervised to provide quality training in practical skills, such as legal writing, research or document preparation. The third proposal is the weakest because attending MCLE courses is usually a passive activity that does not match the quality of learning by experience.
Don't make students/graduates learn on the backs of those who need representation.
Law schools need to adjust the programs/classes they offer accordingly, so that law students who cannot afford to complete a 6-month apprenticeship/clerkship for no/low pay have a viable alternative to meet this requirement.

I like the concept, but it needs to be better defined.
The apprenticeship or clerkship program would need to be subsidized and should not be unpaid. An alternative is to have law schools set up clinics and programs that cover the requirement and/or have law school completed in 2-2.5 years, with the next six months set aside for apprenticeship. The apprenticeship requirement should take place after obtaining bar results.
Less class time, more work time. John Adams, Abe Lincoln: never sat in a law classroom. They apprenticed with other lawyers, sat for the bar, and became great advocates. (Read McCullough's and Kearns Goodwin's biographies, respectively for a primer on they became attorneys.) At most law school should be three semesters; the rest of one's preparation should be apprenticing. Fixing the LawSchool\$Mill is not rocket science and should not take another five years. The Bar just needs to stand up to the vested interests of the law schools and the universities that skim the profit of the law schools. My law school rakes in over \$20,000,000 per YEAR in tuition. (Do the math: 200 students per class x 3 classes x \$37,000.00 = \$22,200,000.) They never publish a budget. NEVER. Where does it all go? Does it cost \$22,000,000. per year to operate a building of 12 classrooms, a PC lab, and a library?
The six-month apprenticeship or clerkship should be reduced to the term of a summer clerkship (approx. three months) or semester-long clerkship (approx. four months) so that students can satisfy this requirement during law school.
To require law students to complete a significant practical skills requirement prior to licensure unfairly shifts a burden that should fall on the failing legal education system to law students themselves. This burden especially impacts out-of-state students; where California law schools are likely to find ways to adapt to the requirements, certainly schools in other states will not. The downturn in the legal market has underscored the need for additional practical skills training, however that service should be provided by law schools. If the goal truly is to have better attorneys in the market, then the California Bar--in partnership with other state bars, the ABA, and relevant organizations--should be working to pressure law schools to re-structure their education systems. Indeed, in light of the great financial burden law schools impose on students knowing that they are not providing skills sufficient to practice in the market place, it is shameful that California would choose to further this burden by "blaming the victim."
This is a good idea ONLY IF the student can also gain law school credit for such work. Otherwise, this is a tremendous financial burden on the student. Working for free on top of paying \$150K for law school is beyond unfavorable.

Do to the financial burden this proposal would have had on me when I was in law school what about also proposing that this requirement would be fulfilled via a paid legal/clerk position. I worked the summer after my first year as a law clerk and the lessons I learned during that time was valuable.
I support this, but I'm not sure how it can work - given the need to take the Bar courses, take other courses in other areas of law, moot court/journal, and the need to still support themselves financially. Perhaps it can actually be incorporated into specific courses, rather than be a separate clinic, etc..
Earning money as a young attorney is difficult enough. Making people spend \$160 thousand dollars on an education and then forcing them to do an unpaid apprenticeship is unfair. If you want to change the system, you should make it a school requirement to open more clinic positions, or to allow for more units to be earned outside of the classroom in work situations. Also, you should be able to receive class credit even if you are paid to work, as it makes no difference in terms of how much i'm learning whether I'm getting paid to work or i'm doing an unpaid internship, but to require law students to do more unpaid work is callous and frankly shows a strong disconnect between the State Bar's goals and the reality of the job market for young attorneys.
Work on access to clerkships and apprenticeships. I think practical work in the field, similar to a medical residency, is a great idea. Again, the only concern is access.
Practical skills are under-emphasized in law schools. Really, law schools are vocational schools and need to prepare students for their jobs, just like med school. Having practical skills requirement is a step in the right direction.
I attend Golden Gate University School of Law and I am required to take at least 3 units of experiential learning. I have completed 2 semester-long internships. In my opinion, internships that are completed during law school should be included in any proposed licensure requirements.
During law school is possible and much less financially burdensome and practical than the apprenticeship/clerkship after law school.
I think the proposal should include our first year. As a 1L at Golden Gate University, I participated in a 2 credit class that was participatory, the 1L elective. I am currently finishing my second year. By the end of my third year I will only have completed 14 units of practical skills related courses. I think the number of units should be reduced to 10. 15 units extremely high considering I have 4 semesters plus 2 summers to complete the units. At GGU students take 12-17 units per semester. 15 units would be a lot. I think that if students are required to complete an apprenticeship prior to licensure it should be able to be any kind of apprenticeship. This way you are not forcing students to work only for judges or for government.

Mom and dad did not pay my rent in law school. They did not pay my tuition. They did not pay for my books, groceries, transportation, or activities. They are not paying my loans now, nor are they paying my rent. Look, I understand that law is a prestigious field with vast potential for its practitioners. Unfortunately, this all too often means that students often come from privileged backgrounds that allow for months in Europe or celebratory cars for graduation from their long established parents. For me, however, this has meant years of waiting as I desperately grasped for funds for an overpriced test, overpriced background checks, and overpriced computer programs in a market that gave me underpaid "opportunity" after underpaid "opportunity" (read: doc review). The idea of competing to slave for another lawyer who might or might not be competent is just silly. Aside from serving as another excuse not to pay me what I'm worth (by the way, how do you think the bank feels about that excuse?), it puts practitioners at the mercy of yet even more established practitioners who likely have little interest in our individual success. I don't mean to sound bitter. This has been my experience. In a system for the people, by the people, we sure do seem to make assumptions about the people which aren't necessarily warranted; as in, that they can afford the mounting debt created by the attorney branding process. If clinical courses are so useful, why not mandate them as a way of retaining your already granted license for the first 2 years or so? The Bar requires CLEs. Why not merge those requirements for new attorneys with available practice courses to be completed in a certain amount of time? If 6 months is enough time to learn the practical skills for new attorneys, why not spread it out so that people can actually compete for jobs instead of internships? The cost of those courses should be a consideration, but if given time, something most lawyers should be able to complete. LSAC, three years (3!) of law school, and the Bar all present hurdles for individuals trying to help their community members effect their rights in court. Additional burdens on individual lawyers continue to hurt those lawyers and their communities. Please, just stop already.

I learned more in a 3 month judicial externship than in 3 years of law school. I do think that unpaid externs shouldn't also have to pay a full semester/year of tuition while they work for free, though. It was difficult to stomach paying my school tens of thousands of dollars just to give me units for working for free.

I support this proposal, but I believe it has to be practical in its application. Clerkships and Internships are not always equal and may still lead to new attorneys being unprepared for the practice of law. If we are talking about clerkships and internships that are consistent with certain guidelines and Cal Bar rules, then we are looking at the ability of the Bar to not only create these guidelines but be able to monitor and enforce them. It may be more practical to encourage legal employers to expand their summer programs and become more involved with students as they are studying the law, i.e. mentoring programs etc. This will allow new attorneys the ability to have someone for the attorney to consult with and monitor the young attorney's process. I find that more small or solo practitioners are willing to do this but do not have the time or money to invest. Even if schools required 15 internship/externship units, this would require an additional semester or year of schooling unless we reduce electives or bar course requirements. To ask the average student's who are burdened with debt from school and for taking the BAR to either forgo viable employment for any period of time may be asking too much of an already stressful situation. I would suggest instead of credits but hours that are a part of the Bar Exam that can occur between the time the student takes the Bar until the result come out. This can be paid or unpaid.

I don't support the proposal as is. Also your questions are not well phrased and are not going to elicit all the right feedback. However, I am a strong believer that practicing law is an apprenticeship and gaining practical skills are critical prior to offering services without supervision. These skills can be learned on the job, assuming, the job offers a true mentorship program. I think hanging one's shingle right out of school is not wise. Soody Tronson p.s. Not sure if moot court and the like constitutes practical training in your definition - I took it but I don't consider it a practical course (it's more like taking chemistry lab that goes along with a chemistry course).

Law Schools should be encouraged to create more practical skills programs and help students obtain clerkships. I fully support more practical skills coursework and law office experience, but it should not be an obstacle to practice, it should be a benefit to students. And practical experience should be broadly interpreted to meet the requirements, so that students are not limited in where they can gain such experience.

Place more regulations on law schools and stop regulating law students.

It would have been difficult for me to meet this requirement. I attended Northwestern University for law school and these classes were very competitive to get into. I did take as many units as I could, but I don't even think it would be possible to reach this goal of 15. I do think that this is important for students, however, unless the schools themselves have this requirement, it will be difficult for the students to meet it. I think in the beginning it may be better to impose a less restrictive requirement (i.e. 4 units).

As useless as law school classes were, this mandated apprenticeship period will only further entrench the sanctioned exploitation of new lawyers, and could seriously hinder their ability to become full fledged, salary-earning lawyers. If someone graduates from law school with some practical experience, this is perfect. However, if someone graduates from law school without having that practical experience, this extra burden of requiring an apprenticeship will only delay his/her ability to capitalize on a degree and a three-year long investment that he/she has already paid up to six figures for. Yes, there should be some restrictions to entry into the legal market. There are too many lawyers out there now. But I think that restricting access to the legal field should be at the level of law schools themselves. When someone has already invested so much time and energy into a law degree and an extremely difficult bar exam, and is due to repay student loans, that extra six months can be a significant financial burden.

This is an excellent proposal. Many graduates come out of law school with little to no practical experience in the law. I wasn't one of them, but having tried to work with a few, it is clear that some practical experience would help them: 1) transition into the legal field; and 2) find a job. Also, question 5 needs a few more options.

15 units is a high bar, though it's not entirely clear what would qualify as "practical skills coursework." E.g., I took 3 semesters in a legal clinic, and that would have provided only 12 units. If 3 semesters is not sufficient, this requirement seems too stringent. Also, given the current legal market and the student loan burden most new grads have, this requirement will preclude many new lawyers who aren't also independently wealthy from practicing.

15 units is unfeasible if you have to pay to work. Any work experience should be applicable, and hopefully paid apprenticeships or clerkships. Laws around working for free should be more strictly enforced.

Law school should be more like med school. Especially for the lower ranked schools (T2's and the like)

These proposed revisions are targeted at denying out-of-state law school attendees from being able to be admitted to practice in California. This is highly objectionable. I attended law school outside of California, and the CA-only requirements would have essentially prohibited me from becoming licensed. The 6-month clerkship/apprenticeship is extremely unlikely to be sufficiently paid or available, so we're essentially excluding all poor and/or limited-means applicants from out of state. Licensed attorneys are having a hard enough time getting employment; you want to make them work for 6 months for free or vastly underpaid before they can then be unemployed and licensed? That's ludicrous. I know we're a monopoly, but we shouldn't abuse that status to reduce the number of bar applicants.

It would depend on whether this would be an additional requirement or a restructuring of current requirements. A 15-unit additional req would be a serious burden as would not being eligible to work for an additional 6-months to complete a clerkship. These would be useful courses but should be incorporated into existing requirements/replace some of what students already need to do.

Key is not simply requiring the courses/internship on paper. Key is ensuring those courses/internships are structured in a way that actually help soon to be attorneys.

I think that the requirement - whether 15 units or six month apprenticeship - can be met in the last two years of law school. Financial Aid, scholarships, Federal Work Study, etc. are more readily available and accessible then after graduation. Plus, studying for the Bar and a 6 month requirement at least in the Bay Area is too burdensome financially and too competitive to meet the needs of the majority of students graduating.

I support the proposal to require applicants to complete 15 units of practical skills coursework, but I do not support the alternative of completing a six-month apprenticeship or clerkship prior to being admitted to practice law. Students come out of law school with overwhelming amounts of debt and need to be able to start practicing law immediately.

How about (1) switching to a two-day bar exam, and (2) offering reciprocity to people admitted to the bar in other states. Do that first, then come back to us with this proposal.

Law school is an expensive endeavour with lost opportunity costs. To force newly-admitted attorneys to apprentice, similar to a barrister's pupillage is unfair. If the State wishes to limit the eligibility of attorney's to practice in the State, it should stop the "end around" and come out with it - eligibility limited to those persons who have graduated with a J.D. from an ABA-accredited law school or CA approved law school.

I recently finished my first year at GGU Law as a part time student. I believe this training could benefit those students who attend law school full time. However, my concern is how this would effect part time students. I work full time at a law firm while attending classes in the evening. I could not imagine having to add 15 more credits to my schedule. I do believe this program could benefit a lot of full time students who do not have any work experience, however, I fear that it could hurt the part time students who must work or have families. I would love to clerkship, however, myself along with many others are furthering our careers while attending law school, which does not leave room to do other things. I don't know enough about the classes I will be taking later on in law school, but maybe we can substitute practical skills classes with other classes that aren't as effective. Also, I would love to attend a week long "mini session" during our winter and/or summer breaks to learn more lawyering skills. Thank you.

My practical skills coursework was valuable, but 15 units is too much. There are ample opportunities to gain practical skills, both in school and afterwards, but students should have choice. The more academic courses are also valuable to expand a student's breadth and depth of understanding the law, and that should not be sacrificed for more practical skills coursework. Not all lawyers want to pay to be in school just to get the so-called skills that they will be cultivating for the rest of their careers. The intensive subject-matter course knowledge is in many ways harder to pick up once a student is no longer in school.

Support the coursework but not the apprenticeship.

In terms of time, some other requirements would have to be sacrificed. What do you propose?

Schools would have to significantly expand high-quality offerings. I would not want to pay high-cost tuition for practical experience not on-par with standard offerings. Unpaid six-month externship would be a financial burden compared to paid positions, particularly as that could bring graduates right up to or into loan repayment deadlines. Neither option seems to account for practical experience obtained over the summer or through internships.

I benefitted tremendously from my practical legal skills class but I don't think that is necessarily universal and I don't know that mandating participation ensures meaningful experience.

Law schools would need to offer a lot more practical skills classes for this to work. Those classes are usually small and fill up quickly, making it difficult for students to schedule 15 units over 4 semesters. I would not support forcing students to take a semester-long externship. Nor would I support forced 6-month unpaid internships. I was deferred for ~9 months, but I was paid. Also, most students take 3-month positions with firms or government both summers of law school, so that should count.

I think this would impose a very serious burden on law students and applicants. My law school did not provide any clinics that would have been useful to my current practice and clerkship are exceptionally competitive as is to throw everybody who wants to apply to the CA bar into the mix. I did complete a clerkship, but it required admission to the bar within 6 months of starting my employment (NY State court) so I would have been in a Catch 22 if these requirements applied. I completely disagree that this is the correct approach to give entry level lawyers more skills. People receive training they need on the job they have. Law firms and clients need to accept that: the Bar needs to push back rather than capitulate to client demands at the expense of least powerful players in this equation: indebted, stressed out law students.

Regarding question 5, do you mean to limit the apprenticeship to government agencies? There could be apprenticeships in firms (aka internships). Also, I could answer Yes to the question as presented, but I wasn't offered the opportunity (and did not apply for one; I had an associate position). Nonetheless, I am sure I could have obtained an apprenticeship. But to your real question: These proposals seem to lob the fix to the perceived problem to the people least equipped to address and finance the solution: newly minted JDs. We can't create experiential opportunities out of whole cloth by ourselves, because we have absolutely no power to influence the agencies/firms that would provide the skills-building. Also, is it true that private student loan lenders restrict options for repayment deferral? Not to mention the need to provide for our daily living expenses. Increasing the number of law-school-based skills building opportunities seems most efficient and could provide quality controls/measurements. Please remember, however, that not everyone wants to be a litigator (or should be). Skills building should cover the spectrum of practice.
Seems like a very big financial burden.
A semester long apprenticeship would be more manageable.
All practical training, if mandated, must take place DURING law school. Forcing recent grads who have to hustle for jobs to work for free or pay for more learning would be a disaster. Many, perhaps most, of these people are already financially ruined. Now is not the time to add financial pressure.
I strongly support the idea of 15 units of practical skills or clinical work, but strongly disagree with the idea of requiring an unpaid apprenticeship (particularly for lawyers with families or other obligations, since student loans will have ended) or difficult-to-acquire clerkship.
I agree with the requirements for practical skills coursework. However the idea that you would be required indebted new attorneys to work for free or at discount is offensive. Any action that increases the cost of law school and becoming an attorney is against public policy.
The way students can possibly afford this is to make it part of their law school experience instead of post law school / pre-licensure. Especially torts / personal injury / small claims court cases should be allowed to have student attorneys. Also, many people shun jury duty - yet this would be great experience for law students. Every law student should be required to serve on a jury at least once prior to practice. Also, any such work should be pro-bono (poor individuals) and/or to aid govt / court officials. An apprenticeship program that may lend itself to providing large private firms with free labor would not have my support.
I have serious concerns about the financial impact of this first proposal on unlicensed law school graduates already burdened with substantial debt from law school. Also, I think some "practical skills" can be acquired by focussing more on the writing component of law practice (which also presents opportunities to improve students' analytical abilities, techniques of persuasion, logic, etc.)
I spent my third year of law school working as an unpaid intern from 9:00 am to about 4:00 pm, every day, for a calendar year at a Public Defender's office. I took classes at night and participated in a school-based clinic that gave me school credits for my internship. It was a great experience and helped me have some, albeit rough idea, of what I was doing when I got my bar card.

I had a clerkship after law school and it is there that I truly learned how to PRACTICE law. School focuses on the rule of law and theory, and even though I had an externship, a trial advocacy class, and other related practical-skills courses, nothing prepared me for practice like ACTUAL PRACTICE. The budget shortages and overburdened dockets tell me this is a total win-win situation: those about to graduate and/or post-grads should be required to do an externship with the courts.

I believe that additional requirements for admission to the California bar--if any--should focus on ethical responsibilities and/or additional/advanced legal writing courses. The California bar is already one of the most challenging bars to be admitted into--it seems unfair to impose additional requirements (particularly requirements that could be financially burdensome to some individuals) for admission into an already highly selective bar. Practical legal skills are learned in practice. The profession as a whole would be better served if lawyers had a better understanding and appreciation of our ethical responsibilities and a better ability to communicate in written form.

I believe if a newly admitted attorney is hired by a firm with several attorneys/mentoring program, practical skills training are less urgent. However, for attorneys going out on their own just out of law school, it is nearly impossible to do so without more practical skills. I am in a unique situation having worked in a law office for many years and having a mentor, however, I still took several skills oriented CLE courses my first year (and still am working on them). The pro/low bono program is a great way to kill two birds with one stone, so to speak

I agree that law school graduates should learn and earn experience in doing more practical skills prior to graduation from law school. However, implementation of such a requirement needs to be done gradually and carefully since not all law schools currently offer enough practical skills programs and courses for students to meet the requirement. An apprenticeship or clerkship, especially if unpaid or low pay, would be a horrible financial burden on new law graduates who are taking out loans at record levels and who have to start repayment six months after graduation - not six months after taking the bar exam. And woe to the person who passes the bar (after putting in a lot of time, effort, expense in school costs, bar exam study costs etc., but cannot secure an apprenticeship or clerkship in order to get licensed and start earning the money he or she needs to pay off loans!!

On-the-job training is so specific to each company and position that I doubt requiring all bar candidates to complete 15 units of practical skills coursework or to complete a six-month apprenticeship would, in and of itself, make first-year attorneys that much more efficient at their jobs.

I think 12 units - 3 per semester is more appropriate. However, I don't agree with the 6 month required UNPAID apprenticeship or clerkship. This will impose a financial hardship on those graduates who are not wealthy and had to shoulder debt in order to attend law school. This will likely have a disparate impact on minority students as well.

15 units of practical skills coursework/clinics sounds reasonable. 6 months of apprenticeship/clerkship is completely unreasonable. Nobody will be able to get an apprenticeship or clerkship. The only way I would even remotely consider supporting a mandatory apprenticeship/clerkship is if every state and district court system in California supported a program and could accommodate every single student.

This is insane. How are people supposed to support themselves for yet another 6 months unpaid? The bar to becoming a lawyer (no pun intended) is already high enough. For one, the bar needs to stop claiming it wants more low-income folks to become lawyers and then to propose requirements such as this. For another, where are these apprenticeships going to come from, exactly? This seems like a short-sighted idea. Good in theory, I suppose, but has all kinds of unintended consequences. Furthermore, not everyone wants to be the type of lawyer that fits neatly into a box, so while law school is good training and I suppose passing the bar is not the worst thing, forcing people to become trained in way that is not applicable to their future career is crazy. What about legislators, executive directors, financial advisers, etc who have the degree but don't want to stay active in the bar? This proposal does not serve them. Do not force us to carry an additional unpaid burden.

These do not seem like necessary requirements.

There are enough requirements and mandates put upon legal students as it is, especially in light of the troubled job market and economy. This would just be one more thing.

I think the proposal is a good idea, but I think 15 units is too much and six months is too long. 10-12 units seems adequate, as does a four-month, full-time internship/clerkship/apprenticeship.

Requiring new lawyers to take on an unpaid apprenticeship or clerkship for six months before licensure sounds like a huge barrier to entry for people from financially disadvantaged backgrounds. The six months after graduating law school before bar results came out were tough enough for me personally. I believe law schools should bear the burden of making sure students are equipped with practical skills. For the astronomical price of a JD these days, the schools need to have a duty to the profession. Giving people the option of doing a apprenticeship or clerkship would allow law schools to duck offering adequate clinical programs. I worked my second and third years of law school at a firm - would that qualify as an apprenticeship?

I believe that people entering the field of law to practice (litigate) need to have hands on experience of some kind before they are admitted in order to know what they are doing. Working under a supervising attorney (as a certified law student) was extremely helpful and also ensures the newly admitted attorney has a scope of how to use their license. Making it mandatory to have these practical skills is equivalent to that of being a Dr. A doctor who went through med school and never worked on a patient before receiving their licence would be somewhat of an analogy.

I strongly support the State Bar's first proposal (15 units of practical skills coursework) /if/ law schools are able to provide useful courses without damaging their current curricula. I am strongly opposed to requiring a six-month apprenticeship or clerkship. In the legal market since 2008, even unpaid positions have been extremely difficult to come by in highly competitive areas of the country, and it is unfair to penalize good law students for an inability to get hired.

Many schools do not offer a sufficient number or variety of practice skills classes; at my law school, skills classes are a tiny minority of those offered and are difficult to enroll in. Unless the ABA requires law schools to offer more skills classes, the requirement would be burdensome to many students. The six-month apprenticeship or clerkship is ridiculous. Students and graduates are faced with few opportunities for low-pay clerkships or "apprenticeships", many members of the bar work for free to obtain some experience for their resume. There would be few avenues for students and graduates to obtain such experience and many would incur significant financial burden to do so. Would we now have student loans, bar loans, and then "apprentice loans" to cover costs for the 6 months? Employers would benefit from this requirement by students/graduates who would conceivably only meet the requirement by working for organizations, judges, and firms for free/low pay. Considering that such opportunities may not be in their intended practice area, the practical benefits of this would be minimal.

As to question 7 I only support the 15 credit practical skills coursework requirement. Students have too much debt to force them into unpaid clerk ships.

Law school graduates have little, if any, practical skills. As long as all students i.e. those at smaller law schools, would be able to take skills work, then I support it.

The Bar can't fix the legal system by mandating practical skills.

It's a great idea if it's a paid clerkship/intership. Otherwise, it's unthinkable, as student loans begin to come due.

The practical skills are valuable, but I think 15 units may be too high (approx 5 courses). I also think 6 months may be too long of a commitment since that would require the program to cover multiple semesters or the summer, and limit other opportunities.

The units should come with a significant tuition discount. Paid units should be permissible given the ungodly cost of living and tuition.

Practical skills coursework could be anything. In most cases it will not help attorneys at their new jobs. And it's unnecessary: every new job entails a learning curve. Adding different coursework will not change that learning curve for most new lawyers. For instance, most lawyers will not be litigators so taking 15 credits of trial practice (the most common practical skills class) will not change their learning curve at their new job. Additionally, I'm concerned that this proposal is a way to further burden out-of-state applicants, whose law schools will not necessarily adjust to this new requirement. The requirement of a 6-year clerkship / internship has more merit but would have a painfully regressive impact -- basically prohibiting those without another source of income from becoming lawyers. For that reason I can't support it.

The proposal needs a 4th option. The State Bar should work with California Law Schools to create a residency program similar to what doctors are required to go through. The 3rd year of law school should be eliminated in favor of a residency program where law students go out into the world through either public or private internships and actually begin their professional legal training. In this way, the first year learning curve would take place in an environment more conducive to learning and at a reduced cost to public/private institutions as well as clients. Too bad law schools would never give up a year of revenue and thus my proposal is a pipe dream.

These proposals reflect a serious disconnect from reality. Many classmates accumulated work experience through paid part-time jobs at law firms. So did I. Requiring a clerkship or clinic work experience would impede on our freedom of choice. The State Bar should refrain from interfering with our personal choices.
I would strongly support an apprenticeship, but am concerned that the length of 6 months would be burdensome to law students who are finishing off with 3 years of debt. In addition to the fact that law school admissions are down as it is, this additional requirement might further dissuade college grads (especially those from disadvantaged backgrounds) from pursuing a legal education.
A lot depends on the school's offering of these courses (I was lucky in that my school offered many clinical courses, but I know that many schools do not) and in the credit counts - many schools offer clinical credits for just 2-3 units, so it would be difficult to do 15 units, even if you did multiple clinics. Also, a 6-month apprenticeship or clerkship would be financially burdensome for many people with loans.

9. How many hours of pro bono or low bono work did you complete between the end of your first year in law school through the end of your first year as a licensed attorney?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
0-25 hours	44.2%	68	154	3
26-50 hours	9.7%	15		
50+ hours	33.1%	51		
I am still in law school.	3.9%	6		
I am still in my first year of practice.	9.1%	14		

10. If you were not able to complete the requirement in law school, would your employer support you spending up to 50 hours on pro bono or low bono work in your first year of practice?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes	31.6%	48	152	5
No	25.7%	39		
Maybe	30.9%	47		
I am a solo practitioner	11.8%	18		

11. If you are a solo practitioner, did you spend 50 hours this past year on pro bono or low bono work?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes	12.6%	17	135	22
No	9.6%	13		
Not Applicable	77.8%	105		

12. Has your pro bono or low bono work improved your skills in your chosen area of practice?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes, Strongly Agree	18.2%	28	154	3
Yes, Agree	26.6%	41		
Maybe/Indifferent	20.8%	32		
No, Disagree	11.7%	18		
No, Strongly Disagree	3.9%	6		
Not Applicable	18.8%	29		

13. Do you support the State Bar's proposal to require applicants to complete 50 hours of pro bono or low bono work between the end of their first year of law school and the conclusion of their first year as a lawyer?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes, Strongly Agree	18.5%	28	151	6
Yes, Agree	25.8%	39		
Maybe/Indifferent	17.2%	26		
No, Disagree	14.6%	22		
No, Strongly Disagree	23.2%	35		
Not Applicable	0.7%	1		

14. Please share any additional thoughts regarding the State Bar's second proposal here:

Answer Options	Response Percent	Response Count	Answered question	Skipped question
		67	67	90

It's a neat idea but many firms already incentivize this.
The second proposal seems like a good alternative means of fulfilling a practical skills requirement, but it would be difficult as a standalone requirement. Not all firms have generous pro bono hours policies, and it may be disadvantaging solo and small practices with limited bandwidth.
Although I agree with making 50 hours of pro bono work a requirement, I would apply it all lawyers.
Law school is one thing, but private practice is another. Pro bono work is a serious commitment over our already harried workloads, and can prove to be a real financial commitment as well. Society as a whole has decided not to fund this critical work. Lawyers should help, but the potential for requiring 50 hours in the first year of practice is manifestly unfair. I would support a more modest 10 hours of required pro bono work for first year attorneys; any other requirements should be incorporated into law school. That said, I'm not sure I see the value in it for law school either. I greatly benefited from practical skills classes; I benefited very little from pro bono work I did, though I did find it personally fulfilling.
See my prior comment. I'll also add that increasing the number of attorneys providing pro bono and low bono services is incredibly important because there are practical, transferable skills to be learned in that context, and it is consistent with the State Bar's past urging that attorneys complete at least 50 hours of pro bono service each year. The ABA model rule sets that as a standard. This proposal is better than nothing, but it may not be the best option if our goal is strictly to improve the skills of new attorneys.
Don't require students/new lawyers to learn on the backs of those who need representation.
50 hours is a lot. Maybe 25 hours is more realistic. Law students/first year associates are very busy, and often not financially stable, so asking them to take on 50 hours of pro bono or low bono work is not only asking them to sacrifice time, but also put a financial burden on them. That said, I think pro/low bono work is important to our profession and support the idea, but I think 25 hours is much more realistic.
Attorneys in public service likely cannot complete this commitment--I was not allowed to take clients outside the public sector because of conflicts of interest, so I could not have completed this requirement.

This may be difficult, depending on the employer. Also, pro bono work is often outside of one's primary practice area.
Much easier for big firms, but certainly doable for the little guys if local bar organizations set up clinics to facilitate the pro bono work.
This is a good idea also. The more practical experience the better.
The legal needs of low income Californians are not being met. This is a good step in that direction.
Again, the requirement presumably is designed to infuse better attorneys into the market. However, many pro bono and low bono opportunities--particularly those available in law school--are not relevant to many practice areas. In particular, transaction students and attorneys have especially limited pro bono and low bono opportunities. Where relevant practice opportunities are not available, this requirement will only result in an inefficient use of 50 hours.
I love this initiative.
Again, this is a good idea, but only if students also receive law school credit for such work. There should be a required 3 credit class called "Pro Bono Work" where the student has to work approximately 4 hours a week for a semester to gain the 50 hours of pro bono experience. Otherwise, this burden of working for free is too great on a law student already spending \$150K (not to mention 3 years of lost wages) on law school.
Adding more requirements for work where you are unpaid is just unfair. Please see my other comments
Once they actually have a job, they need to concentrate on it and employers may say they support, but they won't really. It will burden an already difficult year.
This may be practically a large barrier. During law school I always had internships or part time jobs and not much time for extra pro bono.
It is egregious to require newly licensed attorneys to perform so many hours of pro bono work. At that critical time in their lives, newly-licensed attorneys are not as productive because they are on a learning curve and they are under a lot of pressure to earn money. Remember how we have to start paying for our student loans? Remember how much money it cost to study for and to take the bar exam? Instead, I want to have a requirement for the experienced attorneys to perform at least 50 hours of pro bono work per year. You are just dumping this onerous requirement on new attorneys because you have the leverage of licensure.
I think that with this requirement, there should also be a requirement that this be done during work hours or that employers account for these 50 hours when giving new attorneys assignments. New attorneys take longer to complete tasks than more experienced attorneys, so this requirement may be burdensome.

The need is too great for this requirement to be dismissed. I think this is a great idea, and frankly, I think pro bono work should be considered for ongoing CLE credit.
The Bar should work with employers and schools to make the above proposal possible. It would be difficult to complete the requirement absent support from schools and employers.
How would this apply to attorneys working, e.g., in government positions?
Providing pro bono, in most cases, means providing support to low income projects ... a law student or 1st year out of law school graduate, usually, lacks the experience to provide help to those who are already in need of help. I've seen too many large law firms filling their quotas by assigning fresh out of school attorneys to such projects. I support pro bono services, but it is still legal services and should be of high quality.
I am not sure if there is a distinction between "pro bono" work, and volunteering in a legal role. I volunteered at the court house for several months, helping with the judge's calendar. I think of "Pro Bono" as helping clients with their matters. So by this standard, I did not complete 50 hours of pro bono work, but I did gain a lot of practical experience.
Pro bono work may not be applicable to a student's career goals, i.e. how does landlord tenant law, or immigration law have any beneficial impact on the practice of securities law?
Again - it really depends on the law school's ability to offer programs where students can achieve these goals. My law school did not - we had a program where you could do volunteer hours but not legal-related. Also, some firms do not support pro bono hours as much as others, 50 hours could be burdensome. I would support 50 hours of a combined pro-bono/volunteer hours however.
The bar should find ways to support that work, this will disproportionately impact people who want to do non-profit work and are therefore less able to afford to do pro bono work despite already serving the needing communities.
I like the idea of this requirement--and the practical skills requirement--but I think it places new graduates in a very difficult position in what is already a brutal market.
It is hard enough finding a job, let alone requiring 50 hours of pro bono work after spending months preparing for the bar exam is not feasible. Perhaps 20 hours would be more feasible.

Requirements for pro bono work are abhorrent. This is absolutely unacceptable.
Don't put it on individual barristers. Protect the barristers by REQUIRING employers to give CREDIT for pro bono work so it doesn't adversely affect the individual's employment.
May be more doable than the first proposal.
See previous comments
Huge burden on a new lawyer especially when loan service payments are due
I don't know a lot about pro bono work, having just finished my first year of law school. However, as long as there is enough work for everyone to meet the requirement and the information on how to do so is communicated effectively, then I believe it's a great opportunity for law students to give back to their communities.
There may be enough litigation and threatened litigation already to be providing it for free.
This seems like a good goal, but I don't think it will necessarily lead either to better-qualified applicants or increased legal services as these would be untrained students or lawyers. Could place particular hardship on non-traditional students.
It's difficult to predict one's hours. Some first year lawyers get through into a trial and have no time for pro bono work. Please stop trying to regulate this area.
Requiring pro bono work seems too indirectly related to the goal of developing practical lawyering skills.
I support the idea that the first proposal can be used to fulfill the requirements of the second proposal. That was not made clear earlier. Since it includes the first, I like the second proposal more.
I strongly believe in pro bono work, but have been unable to do pro bono in my first years of practice (my firm frowns upon using "its" resources in this way). Also, I'd want the schools to provide substantial support and guidance. Malpractice insurance is a concern. And it's not clear that this requirement will achieve the goal, i.e., improving "practical skills."
Requiring potential lawyers do to pro- / low-bono work as part of the law school curriculum makes sense. Putting that same requirement on newly-minted attorneys can put a serious strain on those attempting to be solo practitioners. If the Bar is going to require that kind of commitment, there either needs to be some sort of deferral program or a forgiveness for those who work for themselves. I managed to do it in law school, but I had enough money saved up at that time to allow me to do it. I don't know if others would be in the same position.

Excellent way to learn how to practice law.

This requirement assumes that people will have the financial ability to provide pro bono services and could adversely affect those that do not. It also assumes that applicants will have a job that supports this arrangement (it fails to take into consideration that judicial clerks and other government employees might be precluded from performing services outside their employment, not to mention those who are unable to secure employment right away) and the adequate supervision to perform such services. This requirement has the potential of encouraging applicants who do not have a supportive structure in place (and in today's economic reality many do not) to go out and give free legal advice fresh out of law school without being properly trained or supervised. This could not only be detrimental to the person receiving legal advice but could also expose the applicant to malpractice claims.

Whether or not it provides practical skills applicable to an attorney's area of practice, it fills a critical need.

I would support this proposal if it excluded private practitioners and contractors, and if it required firms to include the 50 hours towards an attorney's billable hours goal.

I think this will allow some who are not likely to explore different and lower paying areas to explore different career tracks.

Each additional barrier to having more attorneys makes obtaining legal services from licensed attorneys that much more difficult or expensive. Additionally, as to this particular proposal, if the Bar considers recent law grads not competent to be admitted to the Bar, why is it requiring those same law grads to provide their incompetent services to some of the least sophisticated consumers of legal services?

How about firms reduce their billable hours below 2000 hours and then we'll talk.

I strongly support pro bono, but don't think this time-based requirement is necessary.

Pro bono work should not be where we put our least experienced attorneys, just because they are free or cheap. It is a disservice to pro bono needs and does not necessarily train lawyers to be better at their chosen practice area. Pro bono should not be a dumping ground for incompetence or mediocre legal services.

While pro bono can be a great learning opportunity, pro bono clients shouldn't be guinea pigs for freshly minted attorneys without adequate resources or supervision.

<p>Sounds like a great way to invite malpractice claims to me - bring in a bunch of new lawyers who don't really have any interest in what they are doing and force them to work? What a disaster, I don't envy whoever has to supervise these people. My first year of practice, I had to work for a plaintiff's firm. They didn't do pro bono. I didn't have time for pro bono. I needed a job and a paycheck. You can't force the individual new lawyers to do this without some kind of regulatory mechanism on the firms who employ them.</p>
<p>I hope California does not follow New York's recent, misguided change to its bar admission rules. Pro and low bono service is a valuable and necessary benefit to the community, but forced generosity is NOT generosity. It benefits no one to require the least qualified, least experienced, and least financially capable of bearing the burden of pro bono work to represent the /most/ needy. It does not benefit the recent graduate or new lawyer: the recent graduate, who must study for the most difficult bar in the country and then try to find a job in a collapsed legal market, a search which will probably take far longer than that first year as a lawyer, during which time the new lawyer will be taking whatever work he or she can find just to pay rent, plus cover various bar dues. If the new attorney is not working for a firm or a company, he or she will need to cover his or her own insurance in order to do pro bono work...which means pro bono work will come at a steep cost, not just in time, but also in money. Additionally, 50 hours of service does not benefit the needy: that's roughly a week of help, leaving them needing to switch counsel in mid-case or seek help from some other undertrained non-lawyer or neophyte who will leave them a week later. And forcing this burden on /only/ those who are struggling under crushing law school debt, 50% of whom are still unemployed in legal jobs, will engender resentment, not a lifetime of love for pro bono work. Pro bono service should be given willingly, with the goal being to genuinely help; not forced, with the only intent being to serve a sentence and then get out.</p>
<p>What counts as pro bono? Also won't be enough opportunities that likely will have nothing edifying for most attorneys.</p>
<p>I believe this proposal places too much burden on law students and new graduates, especially in light of the financial pressures faced by many law graduates with tens of thousands of dollars in debt. Moreover, forcing law students and first year attorneys to perform pro bono or low bono work may negatively impact the clients, as they will likely receive substandard representation. With respect to the urgent need for low-income clients, if there is any requirement that an attorney must complete 50 hours of pro bono or low bono work, this burden should fall on established, competent lawyers who can afford to take the time out of their practice to help those in need and provide competent legal services.</p>
<p>Yes, students should have to do so to graduate.</p>
<p>This requirement would really burden new attorneys who are interested on hanging a shingle. Additionally, it may be a burden for small firms where there is very little resources to dedicate to pro bono work and be able to make ends meet financially.</p>

Forcing lawyers to work for low or no fee is substantial burden when facing student loan debts that have often begun to accrue when they started as undergrads and the high cost of living. Many students already have a mortgage sized student loan debt and the pay for a first year associate for the vast majority of new attorneys is barely enough to cover that expense.

Before this is implemented, it would be important to get the support of firms for whom lawyers in their first year of practice would work. It may not be a possibility.

This should be required during all years of practice, except with a showing of serious financial hardship.

This proposal is absurd. Volunteer activities should be the result of our own free will rather than a requirement. Involuntary servitude is not the way to go. Further, there are many other ways of volunteering without offering our legal skills--there are food banks, crisis hotlines and homeless shelters that need volunteers regardless of their legal education. It is intrusive and absurd to impose a pro bono requirement that narrowly requires the involuntary provision of legal services.

I favor the pro bono/low bono proposal the most. The fact of the matter is that this type of service (with the proper supervision) is really a win-win, for the client and for the lawyer, who will have an improved resume/work experience regardless of whether or not they are currently employed.

You have to get firms on Board to do this! And small and private practitioners too!

requiring a first year attorney to complete pro bono work would interfere with any paid work and may impose a serious hardship as s/he begins her career.

15. Do you believe you would have been able to complete an additional 10 hours of practical skills MCLE credit during the first compliance period following the completion of your first year of practice?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes	67.1%	102	152	5
No	13.2%	20		
Maybe/I don't know	19.7%	30		

16. Assuming you had to pay \$350 for the ten additional hours of MCLE courses, how would that affect you financially (or how would it have affected you)?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Little to No Impact	19.1%	29	152	5
Annoying, but Manageable	46.1%	70		
A Serious Burden	34.9%	53		

17. If you have taken any MCLE courses devoted to practical skills, how did those courses compare with MCLE courses that focused on doctrinal law?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Much more useful to my actual practice	29.3%	39	133	24
Somewhat more useful to my actual practice	25.6%	34		
Just as useful to my actual practice	28.6%	38		
Somewhat less useful to my actual practice	8.3%	11		
Useless	8.3%	11		

18. Do you support the State Bar's proposal to require new attorneys to complete 10 additional hours of MCLE training devoted to practical skills development?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes, Strongly Agree	15.7%	24	153	4
Yes, Agree	26.8%	41		
Maybe/Indifferent	19.6%	30		
No, Disagree	22.9%	35		
No, Strongly Disagree	15.0%	23		
Not Applicable	0.0%	1		

19. Please share any further thoughts regarding the State Bar's third proposal here:

Answer Options	Response Percent	Response Count	Answered question	Skipped question
		51	51	106

The MCLE process is already bloated and not especially helpful. I would support reallocating current hours, but the notion of young attorneys having to pay more money for this is frustrating to even hear about.
It seems that most learn best by doing, and the MCLE courses usually do not provide actual experience unless they are part of a NITA training or some similar training. NITA training is costly.
Again, for those newly admitted attorneys whose employers may not cover the cost for these MCLE courses, the State Bar should offer these at low/no cost if they are going to implement this requirement.
The MCLE programs are mostly useless. They are expensive and only create a market for classes lawyers have to pay to purchase. As a public interest lawyer, I do not have an employer to pay for these things, and it is a huge financial burden.
I don't think that achieves the end goal. Only actual practice (ie, the first proposal) does that.
I think it's not a bad idea, but cost and availability of relevant programs need to be addressed thoughtfully.
This is not enough practical experience. Way too little.
I support this proposal, but believe practical skills MCLE courses should be offered at little or no cost to attendees.
Of the three proposals, this is the most reasonable. That said, MCLE courses are expensive, and this requirement impacts the most cash-strapped cross-section of the legal profession. If this proposal moves forward, it should do so only if the Bar is willing to offer the training at no or deeply discounted cost.
These course could be quite helpful, but it put serious extra pressure on a first-year lawyer and/or his/her employer. It is hard enough for first year attorneys to find jobs, let alone keep them. This requirement places an extra burden on everyone involved. A first-year attorney is already busy enough; they can't afford either the time or the money to leave the office for an extra 10 hours (unless these credits were offered free by the bar). Employers will be even more inclined to cherry pick second-year attorneys (or older) instead of giving first-year attorneys a chance because of this burden.

This seems like another way to force young attorneys to spend more money that they don't necessarily have. If the BAR wants to keep it's new members happy and due paying, they should be making it as easy as possible for new attorneys to settle into their new jobs, not more difficult.

I completed requirements with Oregon State Bar. It is a great program and I the Bar provided the classes at very reasonable rates. Good place to look for a functional model.

More classes does not fix the problem that many graduates have completely no legal work experience. It just exacerbates the problem.

I think that this proposal is reasonable. However, 10 hours of skills training is not going to make an impact on an attorney's ability to perform. I could probably just as easily learn on my own by reading a book. How can you really earn "skills" if you are taking an online course or if you are sitting in a classroom. After how many hundreds of hours spent in law school lectures, how will 10 additional hours have any meaningful impact at all?

I would prefer the 10 hours come out of the current required hours

If this is a requirement, then the MCLE trainings need to be offered at reduced prices for Government or Non-Profit attorneys. For me this would be a financial burden.

This is a good idea

Again, I support learning practical skills but you learn that on the job not in class.

MCLEs are expensive. While I have taken lots of MCLEs myself, and found them very helpful, there are many different ways to gain experience. While MCLEs are a useful supplement to real-world experience, they are not a replacement. We already have to complete quite a few MCLEs. This can be a very significant expense. While I have completed more than the required units, I have only been able to do this because of my flexible schedule and the fact that I am a solo and have needed to since I don't always have someone around to ask. I think that an additional 10 units of MCLE would result in more burden than benefit.

Most MCLE's are offered 1 to 1.5 hours at a time. That's not enough time to learn a practical skill. Practical skills vary on practice and office. Also, the additional financial burden is not fair to unemployed young attorneys who are having a hard enough time finding work, paying student loans, rent, state bar fees, etc.

This is a useless measure. As a solo practitioner barely scraping by with my practice, I found it already a burden to keep up with the current minimum CLE requirements. This is not possible for a new attorney, or at the very least, for those who do not have the sponsorship of large firms behind them, this is going to be a significant financial burden.

How about a hybrid, instead of adding 10 hours extra, remove some of the extraneous ones. Graduates just took a PR course, so having an ethics requirement is unhelpful. Or have the 10 extra be non-participatory. Or have it pro-rated like normal for less-than-3-year compliance periods. Essentially, the phrasing of this proposal makes it seem like the 1-year compliance groups would have 20 instead of the current 10 units, which is not fair.

Simply requiring courses does nothing. Bar association will need to take a more active role in how these courses are administered if the goal is to have better practitioners.

See previous comments. Are you aware of the current employment market for attorneys?

Don't understand the rush. Careers are long. Why burden new grads who are struggling to survive with the additional requirement. Perhaps less onerous if requirement was over the first 3 years

Please. Ethics, practice skills, what's next?

That first compliance period can come around quickly for a substantial cohort of newly admitted lawyers. this may force them to choose skills-based MCLE over much needed substantive law classes. Perhaps the requirement could be satisfied by the end of the first full three-year MCLE period.

I think MCLE training courses are generally pretty useless.

Some people will not acquire the practical skills from these courses.

I think the focus should be on ACTUAL PRACTICE and DOING, rather than reading and testing. Law school takes care of that already. Practical tasks are more important and serve the attorneys and the community better.

The practical skills courses I have taken have been helpful, but often repetitive of what my mentor and other experienced attorneys have told me (I am fortunate to have helpful attorneys around me). Although they are helpful I find there is no way to get around actually doing something (i.e., taking a deposition, appearing in court) to get comfortable at it. A course cannot make up for experience, but if you have no other source for practical tips, it can be helpful

Increasing MCLE requirements for a first year attorney would be expensive and not particularly useful. In my opinion, junior attorneys learn more by working on an actual case or project and under the supervision of an experienced attorney than by sitting in 10 additional hours of classes.

The current MCLE requirement is probably too low when compared with that of other states.

I think this additional requirement should hopefully involve additional funding from firms. I don't believe I would have been able to pay \$350 for the additional hours but if my firm shouldered it, then it would have been fine. So there has to be some sort of fund if this is a requirement for those in non-profits or small firms to be able to complete them without the financial burden becoming a hindrance.

Each additional barrier to creating new attorneys makes it more difficult and expensive for people to obtain legal services. Additionally, I doubt that any problem serious enough to warrant a change in bar admission requirements (if one exists) can be solved by 10 hours of MCLE.

This is a proposal of 40% more MCLEs. That is quite dramatic. MCLEs are great, but it is a burden that falls harder on those not at big firms. At big firms, MCLEs happen in house, saving time and a significant amount of money. Those without jobs, solos, smaller firms, etc have to pay for the MCLEs and take time from their day to do it. This disproportionate burden, from what I can tell, has not been discussed or remedied in any way. A 40% increase will only make this worse.

CLE's rarely provide substantial information that can't be learned on the job.

MCLE is not helpful toward much in general. I find it an annoying requirement that is financially driven by the entities who provide the training, with little benefit to attorneys and the clients we serve.

I'm not sure it would do much good. The practical skills MCLE training I've received has not done me much good.

Of the three proposals, I like this one the most by far. However, it does still put a serious financial burden on those attorneys who are /least/ able to accommodate it. More importantly, MCLE courses devoted to practical skills aren't all that common, because those attorneys who have mastered the skills don't want the competition. I may see twenty MCLE courses discussing esoteric areas of international trademark law, but I've never seen a single one offering to teach how to do a trademark search and file a trademark application. If the State Bar would like to make this a requirement, the State Bar needs to /first/ step up by offering basic, entry-level, affordable practical skills MCLEs. If the State Bar wants to limit access to these entry-level practical skills courses, require CYLA membership for registration.

MCLE's are just classes. Why would students who just completed 3 years of law school need more classes? Have them learn practical skills.

This will be the least effective of the three proposals.

Of the proposals, I believe this most effectively balances the burden on students and new lawyers with the need for such individuals to obtain more practical training.

I'm not convinced that ten more hours, on top of the hundreds of hours already spent in law school will make a difference. Students don't need more schooling, they need more effective use of the school time they are already paying for.

My law firm pays for required MCLE if we obtain it through the service the firm uses, so paying for additional MCLE would not have been a burden. If the commercial usual MCLE services did not offer these additional kinds of credit, it would be a financial burden.

I have taken tons of CLE because my firm pays for it and nearly all of it is completely useless. Requiring people to go to fancy dinners where judges tell funny stories -- or to spend 3 hours watching an online course about alcoholism -- does not help the profession.

The MCLE requirement is already a major nuisance. It is no secret that we attend MCLE events for two purposes: (1) To hand over our hard-earned cash, and (2) To socialize with others. No one learns anything there. Imposing additional MCLE requirements on loan-ridden students is absurd and unreasonable.

Frankly, I think even seasoned attorneys need to brush up on practical skills sometimes, especially client communication.

But then the Bar should offer free MCLEs to meet these requirements. Many firms will pay for the MCLE courses, but if a new lawyer is not at a firm that will cover the cost, this will be a significant burden on them, especially after paying all of the fees to take the Bar (and potentially a review course) and get admitted to the Bar. If the Bar is going to require this, they should offer the MCLEs at little to no cost for first-year lawyers.

it seems a bit unfair to impose those hours in addition to the required hours-- rather, requiring 10 of the already required hours to be practical skills based seems more realistic.

20. Did you work as a solo practitioner within your first five years as a lawyer?

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Yes	15.8%	24	152	5
No	44.1%	67		
I am still within my first five years of practice and might work as a solo practitioner before my sixth year of practice.	12.5%	19		
I am still within my first five years of practice and do not expect to work as a solo practitioner before my sixth year of practice.	27.6%	42		

21. Please indicate the category that best reflects your current practice.

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Solo Practitioner	13.8%	21	152	5
2-5 Attorney Firm	17.1%	26		
6-20 Attorney Firm	9.2%	14		
20+ Attorney Firm	41.4%	63		
Corporate Legal staff	4.6%	7		
Law School Faculty	0.7%	1		
Military	0.7%	1		
Government	3.3%	5		
Have Chosen to Leave the Practice of Law	0.7%	1		
Not Currently Practicing Law But Actively Seeking Attorney Job	8.6%	13		

22. Please check all that apply:

Answer Options	Response Percent	Response Count	Answered question	Skipped question
I attended law school in California.	68.0%	104	153	4
I have been practicing law for less than 10 years	81.7%	125		
I live or practice in the San Francisco Bay Area.	88.2%	135		
I am a member of the Bar Association of San Francisco.	78.4%	120		

23. Background information (optional):

Answer Options	Response Percent	Response Count	Answered question	Skipped question
Your name:	67.9%	38	56	101
Law School:	98.2%	55		
Email address (include if interested in receiving further updates from the Barristers Board of Directors regarding State Bar's proposals):	53.6%	30		



BUSINESS LAW SECTION

THE STATE BAR OF CALIFORNIA
180 Howard Street
San Francisco, California 94105-1639
<http://www.calbar.org/buslaw/>

September 5, 2013

The State Bar of California
Board Committee on Regulation, Admissions & Discipline Oversight ("Board Committee")
180 Howard St.
San Francisco, CA 94105
Attention: Teri Greenman

Re: Proposed Recommendations of the State Bar of California, Task Force on Admissions Regulation Reform: Phase I Final Report

Ladies and Gentlemen:

The Business Law Section of the State Bar of California (the "Business Law Section" or "we") has reviewed the proposed recommendations of the Board of Trustees, Task Force on Admissions Regulation Reform: Phase I Final Report (collectively, the "Admissions Proposals"). The Business Law Section has certain reservations about the Admissions Proposals.

Background. We know that the Board Committee is well aware of the Sections of the State Bar and the valuable educational purpose served by the Sections, and that the Sections are the premier providers of high value, low cost programs to general and specialized practitioners in this State. All of the services of the Sections, including education services, are at no cost to the State Bar, as mandated by state law. (B&P Code Section 6031.5).

The Sections have a large roster of education in all formats available for a reasonable cost. For example, participatory MCLE is available online at <http://calbar.inreachce.com/> and offers hundreds of hours of materials at very reasonable prices (see the attached "Catalog Home – The State Bar of California" screenshot). Additional Section-provided CLE is also available at <http://www.calbarjournal.com/CLECalendar.aspx> (see the attached "CLE Calendar" screenshot).

With the assistance of the State Bar's Office of Section Education and Meeting Services ("SEMS"), the Sections provide a one-year free membership in a Section of choice to all new Bar admittees. This is significant because disciplinary issues disproportionately affect lawyers who are NOT a Section member. By encouraging Section membership, a new lawyer is set on a path that has empirically proven itself as one that avoids disciplinary problems.

Membership in a Section has added benefits reserved for the members. For the price of a year's membership of \$75 in a Section, each Section provides valuable materials from leading practitioners in

the field on that Section's area of specialty, including law practice management. The educational services of the Sections are practical, real world education by practitioners for practitioners.

Business Law Section. The Business Law Section serves its 8,400 members as well as other California lawyers via its extensive online and multi-channel outreach. The Business Law Section has 14 standing committees, representing a wide variety of the leading business sectors in California's economy. We have developed electronic channels as well as traditional printed materials for providing first-rate educational materials to our members, including MCLE. Consequently, the Business Law Section, and all of the Sections, are uniquely qualified to comment on the Admissions Proposals as we are both providers and recipients.

Pre-Admission or Post-Admission Competency Training.

The Business Law Section has significant reservations to the competency training proposed recommendations for the reasons set forth below.

(1) We are aware of only limited data or analysis that supports this recommendation. The Final Report makes the unsupported assertion that more jobs will appear if law students are better trained. However, we do not know of any analysis that shows that more or better legal education will create more legal jobs. The Task Force's view on this matter does not comport with the business and economic realities that members of the Business Law Section face in their daily practice. Further, we do not believe that training law students in the very narrow and specialized areas of pro bono and/or modest means will actually materially help them in their real careers, because the vast majority of students will never practice in those specialized areas.

(2) Another substantial deficiency is that the Task Force has unduly restricted the areas in which law students may obtain their competency training, which will lead to a limited number of opportunities to obtain such competency training. The proposal explicitly restricts all law students to the narrow fields of pro bono / modest means cases. However, few California attorneys are qualified to provide training and supervision on such cases. The overwhelming majority of the Bar, including members of the Business Law Section, could not participate as such specialized areas are outside of their field of practice. We believe that it makes no sense to tightly constrict the supply of training opportunities in this fashion.

(3) The shortage of opportunities is aggravated by the combination of California labor law and American Bar Association ("ABA") accreditation standard 305. Standard 305 prohibits paying work. Yet California law generally makes unpaid internships illegal. As a result, there is no practical way for a 50-hour training program to work outside of a classroom setting in California under existing law and ABA standards.

(4) The Task Force's training requirements shifts the burden of teaching practical legal skills from the law schools to the legal community and pro bono agencies. There is already vigorous debate about revamping law school curriculums to address the same skills as those targeted by the training requirements. A law school clinical program with faculty support and resources is the more appropriate forum for teaching practical skills. Further, the imposition of 50 hours of training (about a week of work) is not enough to allow a young practitioner to obtain real experience, but imposes a significant burden

on new attorneys, their employers, and the pro bono agencies that must now accommodate a weekly influx of “volunteers.”

(5) We do not believe that it is reasonable to require new lawyers, who carry heavy debt loads (as acknowledged by the Task Force) and are most in need of paying work, to shoulder a significant pro bono burden when practicing lawyers are not required to do so. Proposed rule 6.01, cited by the Task Force, is simply a proposed rule and one that does not require pro bono participation. Proposed rule 6.01 is no support at all for shifting pro bono work onto the shoulders of new law graduates.

(6) In today’s economy, new attorneys are finding it very difficult to find jobs, and many are looking for employment in the legal profession. Small law firms especially will find it troubling to have to pay a salary to a new admittee to undertake unbillable pro bono work, and will likely avoid the problem by not hiring new attorneys. We believe that the Task Force and the State Bar should be more sympathetic to the severe economic problems faced by new attorneys, who represent the future of the State Bar.

Admissions Proposal.

We believe that this proposal raises difficult issues. It is a significant and potentially dramatic reordering of the legal educational system, both pre- and post-admittance. In this regard, we believe that implementation issues could be both material and difficult. We therefore suggest caution and urge the State Bar to proceed at an appropriate pace in considering the proposal, possible amendments to it, and its impact post-adoption. We also suggest that if the proposal is adopted, it would be improved by the addition of a sunset provision after three to five years. The State Bar would therefore be able to gather empirical data and use this data in a final decision to be made later on.

Caveat.

This views contained in this letter are those only of the Business Law Section. The positions expressed herein have not been adopted by the State Bar’s Board of Trustees or its overall membership, and are not to be construed as representing the position of the State Bar of California. There are currently more than 8,400 members of the Business Law Section. Membership in the Business Law Section is voluntary and funding for its activities, including all legislative activities, is obtained entirely from voluntary sources.

We appreciate the opportunity to comment on these very important proposals.

Very truly yours,

James P. Menton

James P. Menton
Chair
Business Law Section



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Information

On Demand CLE - On Demand offerings in this catalog are offered for participatory MCLE credit by the State Bar of California. Refer to each course offering for the specific credit offered.

Webinars - Live CLE presentation using your computer for a real-time visual presentation and audio, delivered on the Web.

NOTE: Registered participants who login at the time of the program will receive participatory CLE credit. Others in your office may listen in, but they must register and watch separately if they wish to receive credit.

CLEtoGO (Podcasts) - Downloadable audio seminars you can listen to on your portable MP3 player or on your computer. In order to receive credit, you must verify your participation. During each quarter of the program, a unique code in the form of an individual letter will be announced. When you have completed the program, return to your online CLE account and click on the certificate link associated with the program. You will then be required to enter all 4 letter codes before receiving your certificate of participation. CLEtoGo is offered for participatory credit.

Online Articles - Online articles from Section publications are available for self-study MCLE credit. Each article is worth 1 hour of self-study credit. It's easy ... read an article and then take a 20 question quiz. The answers and justifications are available immediately upon submitting the quiz. You can earn up to 12.5 hours of self-study credit per reporting period.

The State Bar of California and the Office of Section Education and Meeting Services are State Bar of California approved MCLE providers.

Contact us at (877) 880-1335
[Email Us](#)



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OFFICIAL PUBLICATION OF THE STATE BAR OF CALIFORNIA

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The State Bar Sections have scheduled the following live events:

[September](#) | [October](#) | [November](#)

September

INTER-
NATIONAL

Friday, September 6, 2013: State Bar [International Law Section](#) presents [International Arbitration Conference](#), State Bar of California, 180 Howard Street, San Francisco, 415-538-2380. [6 Hours of Participatory MCLE Credit]

WORKERS'
COMP

Saturday, September 7, 2013: State Bar [Workers' Compensation Section](#) presents [Second Annual Rating Extravaganza](#), Marriott Renaissance Long Beach, 111 E. Ocean Blvd. Long Beach, 415-538-2256. [6 hours participatory MCLE credit and 6 hours legal specialization credit in the area of Workers' Compensation Law]

CRIMINAL
LAW

Tuesday, September 10, 2013: State Bar [Criminal Law Section](#) presents [Webinar: Conducting Fraud Investigations – Best Practices for Lawyers](#), participation by computer, 415-538-2568. [1 hour participatory MCLE credit]

WORKERS'
COMP

Tuesday, September 10, 2013: State Bar [Workers' Compensation Section](#) presents [Webinar: Avoiding the Money Pit: Good Faith Terminations for Cause and Temporary Disability](#), participation by computer, 415-538-2256. [1 hour participatory MCLE credit, 1 hour legal specialization credit in Workers' Compensation Law]

TRUSTS
AND
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Wednesday, September 11, 2013: State Bar [Trusts and Estates Section](#) presents [Webinar: The Marriage Cases – Ramifications for Planning after the Supreme Court's Decisions on DOMA and Prop 8](#), participation by computer, 415-538-2206. [1 hour participatory MCLE credit]

Mandatory
Fee
Arbitration

Thursday, September 19, 2013: The State Bar's [Committee on Mandatory Fee Arbitration](#) and [San Luis Obispo County Bar Association](#) presents [Basic Fee Arbitrator Training](#), The Madonna Inn, 100 Madonna Rd., San Luis Obispo. 619-231-0781. [1.75 hours of participatory MCLE credit, including 1 hour in the area of Legal Ethics]

Mandatory Fee Arbitration **Thursday, September 26, 2013:** The State Bar's Committee on Mandatory Fee Arbitration and Silicon Valley Community Foundation presents [Advanced Fee Arbitrator Training](#), The Madonna Inn, 100 Madonna Rd., San Luis Obispo. 619-231-0781. [1.75 hours of participatory MCLE credit, including 1 hour in the area of Legal Ethics]

October



Thursday-Sunday, October 10-13, 2013: The State Bar of California presents [The 86th Annual Meeting of the State Bar of California](#), San Jose. 415-538-2210. [MCLE and legal specialization credit to be determined]

Mandatory Fee Arbitration **Tuesday, October 22, 2013:** The State Bar of California Committee on Mandatory Fee Arbitration presents [Basic Fee Arbitration Training](#), The Ventura County Bar Association 4475 Market Street, Suite B, Ventura [1.75 hours of participatory MCLE credit, including 1 hour in the area of Legal Ethics]

ANTITRUST **Thursday, October 24, 2013:** The State Bar of California presents [Golden State Antitrust and Unfair Competition Law Institute and Antitrust Lawyer of the Year Reception](#), Julia Morgan Ballroom, Merchant's Exchange, 465 California St., San Francisco. 415-538-2594. [MCLE and legal specialization credit to be determined]

ENVIRONMENTAL LAW **Thursday-Sunday, October 24-27, 2013:** The State Bar Environmental Law Section presents [2013 Environmental Law Conference at Yosemite](#), Tenaya Lodge, 1122 Highway 41, Fish Camp,. 415-538-2582. [12 Hours MCLE Credit, including 1 Hour in the area of Prevention, Detection & Treatment of Substance Abuse or Mental Illness.]

Mandatory Fee Arbitration **Wednesday, October 28, 2013:** The State Bar's Committee on Mandatory Fee Arbitration and Sonoma County Bar Association present [Basic Fee Arbitrator Training](#). The Sonoma County Bar Association, 37 Old Courthouse Square, Suite 100, Santa Rosa, 415-538-2020. [2.75 hours of participatory MCLE credit, including 1 hour in the area of Legal Ethics] Registration will be available at www.sonomacountybar.org.

WORKERS' COMP **Tuesday, October 29, 2013:** State Bar Workers' Compensation Section presents [Webinar: Regs, Rules and Impact of SB863 – Annual Update](#), participation by computer, 415-538-2256. [1 hour participatory MCLE credit, 1 hour legal specialization credit in Workers' Compensation Law]

November

LABOR **Tuesday, November 5, 2013:** State Bar Labor and Employment Law Section presents [Webinar: Ethical Minefields and eDiscovery: A Perfect Match](#), participation by computer, 415-538-2590. [1.5 hours of participatory MCLE credit, including 1.5 hours in the area of Legal Ethics]

SOLO & SMALL FIRM **Wednesday, November 6, 2013:** State Bar Solo and Small Firm Section presents [Webinar: Health Care Reform for the Small Employer](#), participation by computer, 415-538-2350. [1 hour of participatory MCLE credit]

IP **Thursday-Saturday, November 7-9, 2013:** State Bar Intellectual Property Law Section presents [38th Annual Intellectual Property Institute](#), Claremont Resort and Spa, Berkeley, 415-538-2375. [MCLE credit to be determined]

TAXATION

Thursday-Saturday, November 7-9, 2013: The State Bar Taxation Section presents [The 2013 Annual Meeting of the California Tax Bar & California Tax Policy Conference](#), Fairmont Hotel San Jose. 415-538-2580. [MCLE and legal specialization credit to be determined]

FAMILY
LAW

Thursday, November 14, 2013: State Bar [Family Law Section](#) presents [Webinar: Untangling Reimbursement Claims: Analyzing Them, Making Them and Defending Against Them](#), participation by computer, 415-538-2238. [1 hour participatory MCLE credit, 1 Legal Specialization credit in Family Law]

WORKERS'
COMP

Tuesday, November 19, 2013: State Bar [Workers' Compensation Section](#) presents [Webinar: IMR - How is it Working so Far?](#), participation by computer, 415-538-2256. [1 hour participatory MCLE credit, 1 hour legal specialization credit in Workers' Compensation Law]

September 5, 2013

Teri Greenman
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**RE: Comments in Response to Task Force on Admissions Regulation Report by
Berkeley Law**

Dear Ms. Greenman and Members of the Board of Trustees, Committee on Regulation,
Admissions & Discipline Oversight, and Taskforce on Admissions Regulation Reform:

Dean Christopher Edley previously communicated with the Chairman of the Task Force,
Jon Streeter, with respect to the Task Force Phase I Final Report ("Report"), and to offer
our assistance as the Bar considers how to implement the recommendations in the Report.
We now write on behalf of U.C. Berkeley School of Law to express our concern that the
recommendations may have a substantial and unintended impact upon foreign-trained
lawyers and our LL.M. (Master of Laws) Program. We hope that the Bar may address
these narrowly-focused comments.

We too understand that the Task Force did not have LL.M. students in mind when drafting
the Report. Indeed, it would be impossible for LL.M. students, who are enrolled for an
academic year or its equivalent, to complete 15 units in courses recommended by the Task
Force. There are similar difficulties with the 50 hours of service to pro bono or modest
means clients. While the recommendations in the Report are clearly aimed at J.D. students,
the Report does not specifically address or exempt LL.M. students whose first law degree
is from a foreign country. It may be that the Bar intends to exempt these students at a later
point in the process. But we are extremely concerned about the application of the
recommendations to them. We respectfully urge the Bar to amend its Report at this time—
before the process goes any further—and to clarify that the Task Force's recommendations
do not apply to LL.M. students whose first law degree is from a foreign country.

By way of background, and to explain the reasons for our interest, Berkeley Law
has two LL.M. programs, the traditional nine-month track and a professional-
track that spans two consecutive summer terms. The programs have identical

degree requirements and lead to the same LL.M. degree. Berkeley Law graduates roughly 250 LL.M. students from these two programs combined each year. Overwhelmingly, these students have earned their first degree in law from a law school in a foreign country. Over 98% of our LL.M. students come from outside the United States and return to their home countries after graduating.

Despite these high numbers, some of our students do choose to take a Bar exam in the United States, either because their employers require them to or because it gives them a strategic advantage in their home countries. For example, from February 2010 to February 2012, 7 of our LL.M. students were admitted to the California Bar (though 90 were admitted to the New York Bar). As we explain, while the California numbers are small, it is very important to our students that they have the option of seeking membership in the California Bar. For the reasons set out below, we believe that the recommendations should not apply to students whose first law degree is from a school in a foreign country.

1. Foreign-Educated LL.M. Students Could Not Fulfill Both the California Bar Examination's Requirements for Courses and the Task Force's Recommendations.

LL.M. students could not, as a practical matter, fulfill the recommendation that students enroll in 15 units of practice-based experiential course work or its equivalent. The LL.M. program spans one academic year or two summer semesters. In both programs, Berkeley Law limits students to a maximum of 16 units per semester and 32 units from start to finish. We also require all LL.M. students to take the following courses: Legal Research and Writing (2 units), Introduction to U.S. Law (1 unit) and Fundamentals of U.S. Law (2 units). Pursuant to the California Bar's current eligibility requirements, LL.M. students must already fulfill 12 units of bar exam courses. If we add the Task Force's 15 recommended practice-based units, all of the 32 units would have to be dedicated to mandatory courses. Given that class times often conflict and LL.M. students have just two semesters instead of three years, even the most diligent student could not manage a schedule that would comply with the Task Force's recommendations. Nor do they have the same clinical opportunities as J.D. students, since LL.M. students are typically unable to be certified under California's Student Practice Rules. And, unlike J.D. students who may substitute summer internships for some of the 15 units, LL.M. students do not have a summer in-between school terms. We believe that the 15-unit requirement cannot reasonably be applied to these LL.M. students, and they should be wholly exempt from it.

Moreover, given the limited time that LL.M. students are in school, and given that foreign-educated students generally arrive without a basic knowledge of U.S. law and institutions, it would be very challenging for them to complete a 50-hour requirement of pro bono or

modest means assistance while they are in school. We urge the Bar, likewise, to exempt them from this recommendation.

Please note that we are seeking to exempt only LL.M. students whose first law degree is from a school in another country. Students who first earn a J.D. degree from a U.S. law school, and who then seek an LL.M. degree, would be subject to the Task Force's recommendations to the same extent as other J.D. graduates.

2. Berkeley Law's LL.M. Program Would Suffer If California Imposed the Recommendations on LL.M. Students.

Although our LL.M. students tend to prefer the New York Bar Exam, the *opportunity* to take the California Bar Exam is vital to our ability to attract competitive students. We hear this time and time again from our LL.M. students. It is *very* important to prospective students that Berkeley Law's LL.M. programs provide a pathway for California Bar eligibility, even if most students elect not to become members of the Bar. If the Task Force's recommendations are applied to our LL.M. students, prospective students would immediately perceive that this pathway is closed to them. Imposing these recommendations on our LL.M. students would deliver a severe blow to our programs, especially our Professional LL.M. Program, which is relatively new (6 years), but rapidly growing. In addition to the effect on our students, we are concerned about the fiscal impact on Berkeley Law. As state support for the University has decreased, Berkeley Law has come to rely upon revenue from its LL.M. program.

3. The Policy Reasons Supporting the Recommendations Would Not Be Furthered by Imposing Them on LL.M. Students.

The Task Force drafted its recommendations to foster "new lawyers with opportunities to develop competency skills" and as a "public protection measure" to protect Californians from attorneys who are not sufficiently trained. Applying the Task Force's recommendations to foreign-educated LL.M. students would not further these policy reasons.

First, the students are small in number and they practice in settings much different from most members of the California Bar. As noted above, few LL.M. students seek admission to the California Bar. Fewer remain in California permanently, even those who are admitted to the Bar. Due to visa restrictions, international LL.M. graduates tend to return to their home countries within one year of their graduation date. Nonetheless, admission to the California Bar is a well-regarded credential internationally that, for the students who are admitted, will preserve the option of advising U.S. clients domestically or abroad. This is an important point, because even those international students who are admitted to the Bar

tend to practice in international settings that are fundamentally different from those who are admitted after earning a J.D. degree in the United States. The concerns that motivated the Task Force do not apply to international LL.M. graduates to the same degree as J.D. students.

Moreover, the overwhelming majority of these students have prior experience serving clients in their home countries. Therefore, they are not "new lawyers" who are seeking to become, for example, solo practitioners, as some J.D. graduates are.

* * *

For the reasons above, Berkeley Law respectfully requests that the Task Force add the following language to its Report to clarify that LL.M. students are exempt from the Task Force's recommendations:

Attorney applicants admitted in jurisdictions outside the United States or general applicants with a first degree in law, acceptable to the Committee, from a law school located in a foreign state or country are exempt from all of the recommendations in this Report.

Thank you for your time and for considering our request. We remain grateful for the important work of the Task Force and we look forward to working with the Bar as this project moves forward.

Respectfully submitted,



Gillian Lester

Acting Dean and Morrison Professor of Law, Berkeley Law



Andrew Guzman

Associate Dean, International & Advanced Degree Programs



Amelia Miazad

Executive Director, International & Advanced Degree Programs



ASIAN AMERICANS
**ADVANCING
JUSTICE**
LOS ANGELES

September 5, 2013

Teri Greenman
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**Re: Comments on Task Force Recommendations on Admissions Regulation Reform,
Phase I Final Report**

Dear Board of Trustees:

This letter is respectfully submitted in response to the request for comments on the Phase I Final Report ("Report") issued by the State Bar of California's Task Force on Admissions Regulation Reform ("Task Force") on June 24, 2013. Asian Americans Advancing Justice - Los Angeles ("Advancing Justice - LA") appreciates the Task Force's commitment to practical skills training for new lawyers as well as its desire to address the unmet legal needs of low- and moderate-income individuals. We urge the State Bar to consider the fiscal and personnel impacts of the Task Force's proposals on nonprofit legal services organizations. We also urge the inclusion of nonprofit legal services organizations in the implementation of the Task Force's recommendations, should they be adopted.

Advancing Justice - LA is the nation's largest legal and civil rights nonprofit organization for Asian Americans, Native Hawaiians, and Pacific Islanders (NHPI). Founded in Los Angeles in 1983 as Asian Pacific American Legal Center, Advancing Justice - LA serves more than 15,000 individuals and organizations every year. Through direct services, impact litigation, policy advocacy, leadership development, and capacity building, Advancing Justice - LA focuses on the most vulnerable members of Asian American and NHPI communities while also building a strong voice for civil rights and social justice. Advancing Justice - LA is an IOLTA-funded organization.

Every year, Advancing Justice - LA attorneys work with numerous volunteer law clerks, legal fellows, and recent law graduates to provide legal services to our clients in the areas such as immigration, civil rights, domestic violence, family law, and housing. Our attorneys endeavor to identify opportunities for law students and recent graduates to participate in our work, supervise their work, and provide meaningful feedback. We do this to engage future lawyers and members of the Bar in our efforts to increase access to justice for the communities we serve, and we consider volunteers to be critical partners in our work.

Administering the volunteer program requires us to shoulder costs. Providing adequate training, supervision, and resources (i.e., ensuring that an individual has a work station complete with a computer, phone, and access to online research materials) requires expenditure of resources and personnel time. The Task Force recommends a pre-admission or post-admission competency training requirement, where 50 hours of legal services is specifically devoted to pro bono or modest means clients. The Report indicates

that students and recent admittees should look to legal services organizations to fulfill the proposed 50 hour requirement and gain important practical skills. We can expect that the costs of our volunteer program will increase with a rise in the demand for pro bono opportunities. Further, the students and recently admitted attorneys who constitute the focus of the Report generally require significantly more training and mentorship than seasoned attorneys. At the same time, legal services organizations have experienced years of funding decreases, including a 10% cut to IOLTA grants in the next funding cycle and a projected 40% cut to grants in the 2014-15 funding year.

Advancing Justice - LA therefore strongly believes that the Implementation Committee must consider how increased resources will be made available to legal services organizations in order to ensure the development of meaningful, substantive experiences that afford individuals the opportunity to gain the much needed practical skills outlined in the Report, without diverting resources from client services.

Should the State Bar approve the Task Force's recommendations, Advancing Justice - LA also requests that representatives of nonprofit legal services organizations be appointed to the Implementation Committee. Specifically, we reiterate the request made by the Southern California Pro Bono Managers for at least two (2) full-time pro bono coordinators from legal services nonprofits, one from Southern California and one from Northern California, to be included as members of the Implementation Committee.

Advancing Justice - LA appreciates this opportunity to provide comments to the Board of Trustees and the Task Force. Thank you for your consideration.

Sincerely,



Nisha N. Vyas
Pro Bono Director
Asian Americans Advancing Justice - Los Angeles



CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California – 180 Howard Street – San Francisco, CA 94105 – (415) 538-2251 – (415) 538-2524/fax

September 5, 2013

Teri Greenman
Staff, Task Force on Admissions Regulation Reform
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Ms. Greenman:

The California Commission on Access to Justice, hereby submits these comments to the Phase I Final Report of the Task Force on Admissions Regulation Reform, dated June 2013.

The Commission appreciates the extensive work of the Task Force in addressing the need for well-trained new lawyers, while also acknowledging the Justice Gap and ways that it can be reduced significantly. We look forward to working on implementation with the State Bar, as it considers increasing MCLE requirements for new lawyers, expanding clinical training, and developing mentoring and modest means programs. Our comments below are focused on the pre-admission/post-admission requirement of 50 hours of pro bono service devoted to legal services clients, or clients of modest means who do not qualify for legal services representation.

The Legal Services/Pro Bono Community Will be Important to Implementation.

Legal aid programs and pro bono programs have been providing training and supervision in exchange for pro bono work on behalf of their clients for many years. They are knowledgeable about the cost and staff time required to use pro bono attorneys because of their experience with training young attorneys on subject matter and lawyering, screening for appropriate cases, supervising throughout the representation process, and documenting and assessing cases on conclusion. Likewise, pro bono partners with private firms also have a tremendous amount of experience that can be valuable to the implementation phase.

Also, there are model local pro bono programs in California, New York, and other regions that provide supervision and training, and use volunteers for good client outcomes in ways that should be replicated. The Commission will be glad to help identify and study those programs for information about costs, best practices, and realistic expectations, so that the implementation process reflects the experiences of programs that have been engaged successfully in training lawyers and addressing the justice gap.

HON. RONALD B. ROBIE
Chair
*Court of Appeal, Third Appellate District
Sacramento*

JOANNE E. CARUSO
Vice Chair
*Jacobs Engineering Group, Inc
Pasadena*

MARY LOU ARANGUREN
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HON. STEVEN K. AUSTIN
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Pittsburgh*

MARCIA BELL
San Francisco Law Library

CATHERINE BLAKEMORE
Disability Rights California

KRESTA DALY
*Barth, Tozer & Daly LLP
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MEERA E. DEO
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ERIKA FRANK
*California Chamber of Commerce
Sacramento*

HON. ANDREW J. GUILFORD
*U.S. District Court, Central District of California
Santa Ana*

HON. JAMES E. HERMAN
*Superior Court of Santa Barbara County
Santa Maria*

JANIS R. HIROHAMA
Manhattan Beach

VENUS D. JOHNSON
*Office of the Alameda County District Attorney
Oakland*

HON. MARK JUHAS
Los Angeles County Superior Court

MARY E. KELLY
*California Unemployment Insurance Appeals Board
Los Angeles*

MICHAEL LEVY
*California Energy Commission
Sacramento*

HON. GOODWIN LIU
California Supreme Court

PAUL MARKS
*Neufeld Marks Gralnek & Maker
Los Angeles*

HON. DOUGLAS P. MILLER
*Court of Appeal, Fourth Appellate District
Riverside*

DEBORAH MOSS-WEST
*Santa Clara University School of Law
Santa Clara*

ANNE MARIE MURPHY
*Cotchett, Pitre & McCarthy
Burlingame*

PAUL TEPPER
*Western Center on Law & Poverty
Los Angeles*

EDWARD THOMAS UNTERMAN
*Rustic Canyon Partners
Santa Monica*

DIAN M. VORTERS
*Office of Administrative Hearings, State of California
Sacramento*

MARY LAVERY FLYNN
*Director, Office of Legal Services
State Bar of California*

Members of the Access to Justice Commission and our partners in the legal services community, as well as pro bono partners with private firms, look forward to the opportunity to work with the State Bar to share relevant knowledge and experience, as well as to help identify best practices that might be included in the implementation plan for these Admissions proposals.

As was pointed out in an earlier comment submitted by the Pro Bono Coordinating Committee, which is a joint entity between the Access Commission and the Bar's Standing Committee on Delivery of Legal Services, one of the myths about pro bono is that there is no cost to pro bono, because the attorneys do not charge for their time. In fact, the legal services provider trains, supervises, and mentors the volunteer. Also, legal services programs provide volunteers with office space, phones, computers, and access to legal research databases, so that they can assist clients. Cases placed with volunteers must be screened by staff, to confirm eligibility and appropriateness for pro bono representation. At the conclusion of each case, legal services staff devote time to documenting results and ensuring that the case was concluded appropriately.

Law students and newer attorneys need more supervision, oversight, and training than experienced attorneys need, as the Task Force Report states. Therefore, if legal services programs will be called upon to provide that supervision, oversight, and training when this program is implemented, their already scarce resources will be taxed. As most Task Force members are aware, legal services funding has been significantly reduced in recent years. In this era of extensive cut-backs, legal services staff are already working long hours under great pressure with their current work. Therefore, they lack the ability to increase their staffing levels to the level that would be ideal to work with thousands of new law students and new lawyer volunteers. These are clearly issues that need to be addressed in the implementation phase.

The Modest Means Program Should Incorporate “Incubator” Concepts and Begin as a Pilot Project.

The Access Commission has an Incubator Project Committee that is studying current incubator programs and looking for ways to support the concept on a broader scale in California. The aims of the Committee are consistent with the aims of the Pro Bono Modest Means portion of the proposal: both seek to address the Justice Gap and to provide young lawyers with practice skills. The Commission also hopes that the incubator experience will encourage young lawyers to pursue careers in neighborhood-based, modest means law practices.

At the same time, the Commission is concerned that any requirement that encourages new attorneys to work with modest means programs should only be developed when there is an adequate infrastructure in place to support modest means programs. Therefore, we recommend that any modest means proposals begin as a pilot program.

The Commission appreciates the opportunity to submit these comments, and looks forward to working with the State Bar during the implementation phase.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald B. Robie". The signature is fluid and cursive, with the first name "Ronald" and last name "Robie" clearly distinguishable.

Hon. Ronald B. Robie, Associate Justice
California Court of Appeal, 3rd Appellate District
Chair, California Commission on Access to Justice

cc: Members, California Commission on Access to Justice



THE STATE BAR OF CALIFORNIA

180 Howard Street, San Francisco, California 94105

OFFICE OF LEGAL SERVICES
Standing Committee on the Delivery of Legal Services
Chair, S. Lynn Martinez, Los Angeles

Telephone (415) 538-2267 Fax (415) 538-2552

September 9, 2013

Teri Greenman
Staff, Task Force on Admissions Regulation Reform
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Ms. Greenman:

The Standing Committee on the Delivery of Legal Services ("SCDLS") believes that law students and recent graduates can greatly benefit from increased practical training and skills for the purpose of public protection. We thank the Task Force on Admissions Regulation Reform ("Task Force") for its investment of time and thoughtful approach to admissions reform. From its beginning, SCDLS has observed the evolution of thinking and consideration of comments and ideas taken by the Task Force. We hope that as implementation of the admissions reforms moves forward, the concerns and comments herein (directed both at the Phase I Final Report and implementation) are fully considered.

SCDLS, whose members include representatives from legal service providers, law schools, court-based self-help centers and the private bar, looks forward to working closely with the State Bar of California on implementation of the recommendations issued by the Task Force. Under separate letter dated August 29, 2013, SCDLS requested that a member of our Committee, William Tanner, be appointed to the Implementation Committee for continued involvement. Previously SCDLS commented by letter dated April 18, 2013 on the March 22, 2013 draft report issued by the Task Force. For your convenience, a copy of that letter is attached hereto. These comments reiterate our previous concerns raised in our April 18th letter to the Task Force and raise additional concerns for the Implementation Committee as it contemplates next steps of admission reforms.¹

Overall Comments and Questions

Consideration of Burden on Legal Services Providers, Government Offices and the Courts

The final report considers in detail the impact on law schools with regards to the recommendations. However, the report is noticeably silent as to the impact on legal services providers, government offices and the courts. As noted in our letter dated April 18th, we reiterate that the recommendations in the final report may result in an increased burden on legal services providers, government offices and the courts. Many of these offices are experiencing financial and staffing short falls. Smaller organizations that already work with law students may lack capacity if they have increased administrative responsibilities and supervision requirements. Law students and recent graduates will likely need more supervision, oversight and training. In an era in which cut-backs are problematic within the legal services and government communities, our committee is extremely concerned about the impact on the providers whether they be legal services, government offices or the courts. While it is

¹ We realize that prior to the Implementation Committee, there is an intervening step (adoption of the Task Force Report by the Board of Trustees). We write this letter in anticipation that the Board of Governors will likely adopt in whole or in part the Task Force Report and that after adoption, concerns raised by SCDLS will be considered by the Implementation Committee.

true that these offices often accept students for externships or recent graduates for volunteer positions, the proposed requirements will likely increase the number of students/graduates who seek placements with these offices. With that in mind, SCDLS poses the following questions and concerns and requests that the Implementation Committee consider:

1. Will additional funding for legal services be ascertained to ease the burden faced by providers? Without additional funding, many providers will find their already scarce resources to be further strained.
2. If additional funding is not provided, will the committee consider providing other types of support to legal services, government offices or the courts to help administer these new requirements?
3. Will rural areas be able to capture a population of students/graduates that urban areas can attract? A constant concern in this state is access to legal services in the rural areas. Can the State Bar help implement programs in rural areas so that rural areas do not become further disenfranchised as a result of these reforms?

Mentorship

In Recommendation C of the Task Force report, the idea of mentorship is suggested as a way for recent graduates to fulfill the post-admission skills development requirements. To date, the State Bar of California has not implemented a mentorship program and while various local bars may have such programs, the State Bar should evaluate their effectiveness before proceeding with this recommendation. For an effective mentorship program, SCDLS recommends the following for the Implementation Committee's consideration:

1. Mentorship programs should be approved only after undertaking a comprehensive certification program to be developed by the State Bar.
2. To establish such a program on a wide-scale, we would suggest that the State Bar look to other states that currently use mentorship programs to ensure proper program development and quality control. The topics covered by mentorship programs and the duration of the mentorship relationships should be analyzed in its review of other programs. The State Bar might consider a pilot program to determine the effectiveness and efficacy of a mentorship program as it relates to goals of the Report.

Practical Training of Law Students

The State Bar's Practical Training of Law Students (PTLS) is a vehicle in which students/recent graduates could fulfill the objectives as outlined in the Task Force Report's first and second recommendations. The PTLS program allows participants to engage in activity similar to a licensed attorney under the supervision of an attorney. The allowed activities of a PTLS fall within the skills sets the Task Force Report intends for recent admittees to have as practical training. Currently, the forms are not in line with the current PTLS rules. Moreover, the current rules do not allow extension of certification for a graduate who has failed the first General Bar Examination (GBE) for which s/he is eligible or does not take the first GBE when offered. We would recommend changes to the PTLS program so that recent graduates could utilize and develop practical skills as considered by the Report including:

1. Clarification of the PTLS rules and ensuring that the forms are consistent with the rules. For example, there is confusion as to whether graduates who did not participate in the PTLS program as students can obtain certified status and operate under the PTLS rules once they are graduates. The rules seem to indicate postgraduate certification is allowed but the forms are unclear.

2. Allow recent graduates the ability to participate in the PTLs program past the expiration of taking the first General Bar Examination (GBE) for which s/he is eligible if the student fails or does not take the first GBE.
3. Renaming of the PTLs program to include the possibility of recent graduates.

Making the changes recommended above would fulfill the goals of practical skills training as recommended by the Task Force. In addition, it would serve to encourage mentorship between an attorney and soon to be member of the Bar in a real-world setting.

Out of State Issue

SCDLS reiterates its concerns regarding graduates of out of state law schools or attorneys licensed in other states and the application of the practical skills training requirements to these populations. The June 24, 2013 Report is silent on both issues, and SCDLS requests that the Implementation Committee address these two significant issues.

Issues Relating to Students

SCDLS urges the Implementation Committee to consider additional issues relating to students and the recommendations set forth in the final report:

1. SCDLS notes that if students satisfy all or part of Recommendation A through a volunteer internship/externship with a legal services/pro bono program, they may in effect be satisfying Recommendation B at the same time by conducting at least 50 hours of pro bono work. The committee requests clarification as to whether the intent of the Task Force was to permit students to satisfy both concurrently
2. Considering the large debt loads that students/recent graduates carry in support of their education, SCDLS recommends to the Implementation Committee to consider and include a section for deferment or waiver of such requisites for students who are unable to complete part or all of the pre/post requisites for admissions due to extenuating circumstances, including but not limited to coming from impoverished or disadvantaged backgrounds. The proposal should not result in denying these individuals the opportunity to enter the practice of law.
3. SCDLS recommends that the Implementation Committee establish a corresponding scale of time served in the field to time in the classroom where the 15 units can be satisfied. Recommendation A envisions such a mix and match type of arrangement but rules need to be set in place to effectuate usefulness to agencies and meaningful placements to students.
4. As mentioned in our April 18, 2013 letter, we urge the Implementation Committee to clarify whether law students or graduates can be paid if they are in a clerkship/apprenticeship when otherwise satisfying the requirements under Recommendations A and/or B. For example, if a student or

graduate receives pay while working at a law firm and performs pro bono work that is assigned as part of their paid employment, will such pro bono work satisfy Recommendations A or B.

Pro Bono and Modest Means

We appreciate that the Task Force has almost eliminated the phrase “low bono².” While the final report acknowledges that the potential in providing legal services to those whose income puts them above income guidelines set by agencies serving the poor, we encourage the Implementation Committee to consider:

1. The meaning of “pro bono” and “modest means” by defining or providing parameters as to what qualifies as pro bono or modest means.
2. What type of an agency qualifies or how an entity is certified by the State Bar as a provider of pro bono legal services or legal services to people of modest means.

Conclusion

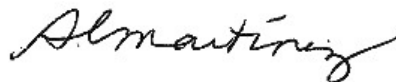
We remain concerned that the Recommendations communicate that pro bono matters are treated as training exercises. The Implementation Committee can combat any misperception caused by the Recommendations by acknowledging and mitigating the burden placed on those who train and supervise new attorneys, and who ensure that pro bono and modest means clients are equally protected as consumers of law. Furthermore, efforts should be made to highlight to law students and new attorneys the many benefits of engaging in pro bono work. This will ensure that the State Bar continues to send its message that pro bono service to the community is a positive experience. We recommend every effort to avoid the disservice that would be caused by “forcing” unwilling pro bono volunteers to assist clients who are often the most vulnerable and disenfranchised individuals in our communities.

SCDLS appreciates the opportunity to provide comments on the Final Report. Most of our comments are intended for the Implementation Committee. We look forward to reviewing the work of the Implementation Committee and are looking forward to working with the State Bar on implementation. If you have any questions, please contact SCDLS member, Rachel Kronick Rothbart, rrothbart@law.usc.edu, or 213 740-7397 or Staff Liaison, Sharon Ngim, at Sharon.ngim@calbar.ca.gov or 415-538-2267.

Disclaimer

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Sincerely,



S. Lynn Martinez
Chair, Standing Committee on the Delivery of Legal Services

Attachment: Previous comments dated April 18, 2013

² The Report continues to use “low bono” in its Final Report, e.g. see page 16. Again, SCDLS urges the Task Force and the accompanying Implementation Committee to eradicate usage of this word. Such nomenclature is confusing and is disfavored because it devalues the importance of providing legal services to an underserved and often overlooked community. .



THE STATE BAR OF CALIFORNIA

180 Howard Street, San Francisco, California 94105

OFFICE OF LEGAL SERVICES
Standing Committee on the Delivery of Legal Services
Chair, S. Lynn Martinez, Los Angeles

Telephone (415) 538-2267 Fax (415) 538-2552

April 18, 2013

Teri Greenman
Staff, Task Force on Admissions Regulation Reform
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Ms. Greenman:

The Standing Committee on the Delivery of Legal Services ("SCDLS") believes that law students and new law school graduates can greatly benefit from increased practical training and skills for the purpose of public protection. SCDLS also supports the Bar's efforts to expand pro bono and "low bono" services to low-income and moderate-income Californians.

SCDLS, whose members include representatives from legal service providers, law schools, court-based self-help centers and the private bar, looks forward to working closely with the State Bar of California on any proposal intended to address these areas. With that said, SCDLS would like to present comments and issues for clarification found below regarding the Task Force on Admissions Regulation Reform Discussion Draft Phase I, March 22, 2013 version ("Draft Proposal"). While some of the issues presented may be addressed at the implementation stage, SCDLS believes it is important to raise them generally here so that they can be addressed in more detail at the next level.

Overall Comments and Questions

Consideration of Burden on Legal Services Providers and Educators

SCDLS supports additional training for new attorneys and additional opportunities for pro bono service. However, SCDLS is concerned that the Draft Proposal may result in an increased burden for additional training and service provision on law schools and nonprofit legal services providers, many of which are experiencing financial and staffing shortfalls. Smaller organizations that already work with law students may also lack capacity if they have increased administrative responsibilities and supervision requirements.

Absent appropriate resources: training, supervision, mentorship, office space, use of computers and legal software programs, support staff, etc., the assignment of pro bono and "low bono" matters to unskilled attorneys does not serve the best interests of California's many pro bono clients. While law schools and legal services providers do their best to meet this need—and take great care in training students and new attorneys—the Draft Proposal does not propose additional funding, let alone consider how the new requirements will dramatically expand the number of law students and law graduates approaching legal services providers.

SCDLS wants to ensure that the Draft Proposal's benefits of additional training, pro bono service and continuing legal education are not outweighed by the burdens of increased economic and other costs. With that in mind, SCDLS poses the following questions and suggestion:

- Has the Task Force considered whether agencies—including courts, non-profit legal services providers, and government offices—are prepared to provide adequate resources to properly train, supervise, and house the additional law students/graduates who will very likely approach them to find a way to fulfill the obligations of pro bono/"low bono" under the Draft Proposal?
- What additional resources—including financial and otherwise—will be needed by legal services providers to provide constructive and meaningful pro bono experiences, clerkships and/or mentorship opportunities, and is there a role for the Bar to help?
- Will increased economic and other costs result in an adverse impact on the pipeline to increasing diversity in the legal profession? Will there be an opportunity for law students and attorneys who may not be able to complete part or all of the post- or pre- requisites for admission due to extenuating circumstances to apply for a deferment or waiver?
- If law schools bear the cost for creating more pro bono opportunities for their students, most are not set up to conduct client intake on a massive scale. If they do set up an intake infrastructure, it may be duplicative of already-existing intake resources administered by legal services providers. In order to prevent duplication and to make use of limited resources in a more efficient way, SCDLS encourages more partnerships and coordination between law schools and legal services providers.

Consideration of Out-of-State Law Graduates and Licensed Attorneys

Has the Task Force considered how the practical skills training requirements will apply to graduates from out-of-state law schools and attorneys licensed in other states who apply for admission in California?

Implementation

While the Draft Proposal includes a general timeline for a staged implementation of the requirements, SCDLS suggests that thought be given in the implementation phase to the role of law schools and facilitation of partnerships between them and pro bono service providers. In so doing, the Task Force is more likely to meet its intended objective, while reducing inefficiency and committing resources where they are most needed. SCDLS believes that a more detailed timeline overall would help identify other potential problems and allow drafters to address those problems in advance of passage.

Recommendations: Comments and Questions

A. Pre-Admission Practical Skills Training Requirement

- The Draft Proposal provides that the practical skills requirements can be completed through coursework. The practical skills requirement has eleven (11) subject areas. Has

the Task Force considered recommending a specific number of subject areas in which a law school graduate must complete coursework?

- In addition to the eleven (11) subject areas, SCDLS suggests adding a bullet point that reads “Appearance on behalf of a client” with a footnote referencing Rule of Court 9.42 and the rules governing the State Bar’s Practical Training of Law Students Program.
- Does “employment” in a six-month clerkship or apprenticeship program approved by the Bar refer to both paid and non-paid situations?

B. Pre- or Post-Admission Pro Bono or “Low Bono” Requirement

- Negative Misperception about Pro Bono Service: SCDLS is concerned that the Draft Proposal might communicate—unintentionally—that pro bono matters are being treated as training exercises. The Draft Proposal can combat this misperception by acknowledging the burden placed on those who train and supervise new attorneys and who ensure that pro bono and “low bono” clients are protected just like the paying public. Furthermore, efforts should be made to highlight to law students and new attorneys the many benefits of engaging in pro bono work to ensure that their pro bono service to the community is positive. It would be a disservice to “force” unwilling pro bono volunteers to assist clients who are often the most vulnerable and disenfranchised individuals in our communities.
- Definition of Pro Bono and “Low Bono”: SCDLS recommends that the Draft Proposal define, or give some parameters, as to qualifying pro bono and “low bono” service. SCDLS requests further clarification in this area as it relates (1) to the definitions of pro bono and “low bono,” (2) whether such services can be provided the first year of licensure if performed within the scope of employment, either in the public or in the private sector, (3) whether students/graduates can receive academic credit, stipend or salary while providing such services, (4) whether an employee of a firm can fulfill the requirement of providing pro bono/low bono services while receiving a salary and (5) how students/graduates might be able to provide “low bono” services (through a legal referral service, incubator, etc.?). In addition, The Task Force should consider what kind of practical skills can be taught or learned within the required service period. On this point, SCDLS recommends that the Task Force seek input from legal services providers regarding their experiences working with law students and new lawyers.
- Because many legal services providers supervise rising second-year students, SCDLS believes that law students should be able to satisfy the pro bono requirement during the summer before her/his second year. SCDLS suggests using parallel language for both the skills requirement and pro bono requirement such that the pro bono requirement could be satisfied “following the first year of law school, post graduation, and during the first year of licensure.”
- The Draft Proposal also provides that for anyone who chooses to fulfill the pre-admission practical skills requirement through a year’s employment in a clerkship or apprenticeship program with a court, governmental agency or legal services provider, the 50 hour pro bono/“low bono” requirement would be deemed automatically satisfied. Would employment in a Bar approved clerkship or apprenticeship program for less than one year be proportionally applied to the pro bono/“low bono” requirement? (e.g. a six-month clerkship would count as 25 hours or half of the 50 hour requirement)

SCDLS understands that the Pro Bono Coordinating Committee ("PBCC"), a joint committee of SCDLS and the Access to Justice Commission that focuses specifically on issues relating to pro bono, has provided more detailed comments on this section of the Draft Proposal, which expand on some of the issues raised above. SCDLS supports the PBCC's comments and hopes that the Task Force will consider its input when developing the final proposal.

C. Post-Admission Practical Skills MCLE or Mentoring Requirement

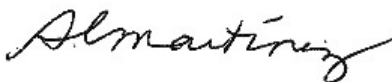
- Incentives for Mentorship and Training: The Draft Proposal appears to rely on the assumption that all attorneys will more actively mentor and train new attorneys. SCDLS believes that the Draft Proposal should offer incentives for such mentorship and training. One possible incentive is to offer MCLE to mentors in exchange for providing this supervision. The Bar is currently convening comments about changes to the MCLE rules, and SCDLS believes these efforts should be coordinated with the work of the Task Force.
- The Draft Proposal permits a new admittee to choose to be mentored by a member of the bar in lieu of performing 10 hours of additional MCLE. If a new admittee opts for mentorship instead of additional MCLE, will certain topics be required as part of a mentorship program?
- Has the Task Force considered qualifications for a mentor and the scope/extent of a mentor's responsibilities (e.g. will a mentor personally assume professional liability for any activity performed by a mentee, similar to an attorney supervising a certified law student enrolled in the State Bar's Practical Training of Law Students Program?

SCDLS appreciates the opportunity to provide comments on the Draft Proposal, and looks forward to providing more formal comments when the final proposal is distributed for public comment. In addition, SCDLS stands ready to work with the Bar on implementation, and to coordinate with the PBCC on implementation of the pro bono requirement. If you have any questions, please contact SCDLS members Leeor Neta, lneta@ggu.edu or 415-369-5391, Rachel Kronick Rothbart, rrothbart@law.usc.edu or 213-740-7397, or Staff Liaison Sharon Ngim at Sharon.ngim@calbar.ca.gov or 415-538-2267.

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Sincerely,



S. Lynn Martinez
Chair, Standing Committee on the Delivery of Legal Services

From: [Donna Lewis](#)
To: [Greenman, Teri](#)
Subject: Mandatory pro bono: late comments
Date: Sunday, September 15, 2013 7:07:49 PM

The following barriers to pro bono are even more difficult for new attorneys:

- Ethical requirements not to practice in an area in which one is not competent. According to Legal Aid Foundation of Santa Barbara, the demand is for legal help in these areas: bankruptcy, child support, government benefits, income, shelter, utilities, physical protection. Most practitioners do not know these areas.
- Expenses of representation (e.g. court & other fees, investigation costs, deposition costs, office costs, paralegal & tech support) paid by attorney if not the client? About 60% of attorneys are solo practitioners and so have no cushion if pro bono expenses increase beyond expectation.
- Employer expectations, such as billable hour requirements and resistance to undertake pro bono work as a firm.
 - The former creates life balance issues because attorneys cannot bill clients for timekeeping, client development, MCLE, admin activities, etc so these hours, when added to the billable requirements, substantially exceed 40 hrs/week.
 - The latter leaves the attorney to acquire his/her own practice tools and support because he/she cannot use the firm's.
- For lawyers who undertake pro bono on cases outside their firms, firm malpractice coverage does not cover them unless the attorney works for a local insured Legal Aid nonprofit.

Greenman, Teri

Subject: RE: new requirements for new admittees

From: Alan Sarkisian [<mailto:ahsark@gmail.com>]

Sent: Tuesday, October 01, 2013 12:21 PM

To: Greenman, Teri

Subject: new requirements for new admittees

Dear Ms. Greenman:

I don't believe that the changes are necessary. You can't legislate common sense. Addressing the lack of employment opportunities would be a better method of assisting new admittees.

Very truly yours,

Alan H. Sarkisian
ahsark@gmail.com

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Beverly Hills Bar Association

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Orlan S. Friedman*

*Deceased

October 9, 2013

Teri Greenman
Staff, Task Force on Admissions Regulation Reform
State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Task Force Members:

The Beverly Hills Bar Association has almost six thousand members who practice all aspects of law primarily, though not exclusively, in the western portion of Los Angeles County. The following comments are offered by the Beverly Hills Bar Association in response to the State Bar of California Task Force on Admissions Regulation Reform: Phase I - Final Report.

The task force states, "Many new lawyers, in fact, are now entering the profession as solo practitioners, without the solid foundation necessary to represent clients in a competent manner and with nowhere to turn to build that foundation." Based on this premise, the task force sees an urgency to act for the protection of the public. However, nowhere in the report are specific examples supporting the premise that these lawyers are currently harming the public. Approximately half of the lawyers in California are in small or solo practice, yet where is the statistical data indicating that those lawyers are causing public harm? No information has been provided that the bar is receiving an unusual amount of complaints with new attorneys. Actually, there is a "discipline" profile, and it generally involves lawyers who have been practicing for ten to fifteen years.

While acknowledging the tremendous debt and financial pressure these attorneys are under, the task force proposes a burdensome and expensive plan that will affect those with the most limited resources. It is estimated that law school students are graduating with approximately \$150,000 in debt, and many because of the changed economic circumstances, will be unable to obtain employment in the profession.

The Task Force's Report is seeking to impose additional requirements on new admittees, which is antithetical to the American Bar Association's Task Force on the Future of Legal Education. We realize the State Bar's proposal is not about implementation, but it is difficult not to realize that the law schools will play a major role in the implementation, and according to the ABA Report, they must modernize in order to remain relevant.

Fundamentally, the California State Bar is increasing the barriers to practice when the ABA is calling for more relaxed barriers and most importantly, many are calling for less legal education, including President Obama, who has spoken favorably about two-year legal education programs.

One common theme concerns the extraordinary cost that these requirements will generate for applicants and the State Bar itself. Ultimately, the costs will be borne by the applicants, through added law school expense, paying agencies to provide them with supervised "volunteer" work, and paying for more CLE during their first year in practice. The Task Force's Proposal has not discussed the bureaucracy that will be necessary to police the law schools, "volunteer" organizations and mentorships. There are only two conceivable revenue sources for these expenses: the candidates (through higher admission fees) and current State Bar members (through higher dues). Without addressing how this proposal will be funded, and instead pushing the issue off to an "implementation committee," the Task Force is asking the State Bar Board to avoid its responsibility.

9420 Wilshire Boulevard, 2nd Floor, Beverly Hills, California 90212

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Teri Greenman
Task Force on Admissions Regulation Reform
Page 2

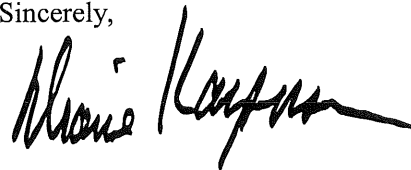
This is a program that will create substantial expense for both applicants and the State Bar. Quantifying those expenses and ensuring that they are necessary is the State Bar's responsibility. Imposing a policy without considering the practical reality (or kicking that practical reality to an amorphous "implementation committee") is simply not appropriate and not a proper way to make a fundamental change to the admissions process. Law school applications are down for the third year in a row, and the media is repeatedly reporting that larger law firms are cutting back on traditional programs which lead to young lawyer employment. There are less entry level jobs in the marketplace and yet the Bar is calling for great impediments to entry in the profession.

The mentoring aspect of this requirement raises many issues. Will this create such a burden on law firms that they just won't hire attorneys that have not fulfilled this requirement? Will law firms with "mentoring" programs be regulated by the State Bar and subject to discipline if their program is below the standards set by the bar? What will the cost be for the administration and regulation of this program? Once again, the practical realities of these proposals create logistical, administrative and financial roadblocks. There can be no doubt that the vast majority of new attorneys (who neither work for large firms nor the government) will comply with this requirement by taking ten additional MCLE hours which they will be forced to pay for themselves.

Prior to imposing this financial burden on the most vulnerable in our profession, we believe that there must be some empirical evidence that this extraordinary cost will, in fact, create more capable, more ethical and more responsible attorneys.

These additional burdens were unsupported by any evidence of need when initially proposed, and now with the ABA Report on Law School, they have become even more unrealistic. Given the potentially extraordinary costs that this proposal may impose on students, applicants, pro bono legal service agencies, the State Bar itself, and ultimately the members of the bar and the public, we believe more study is necessary. While we appreciate the altruistic goals and intuitive appeal of the Task Force's proposal, these very real practical issues should be thoroughly reviewed and resolved prior to imposing this as the policy of the State Bar of California.

Sincerely,



Diane Karpman
President, Beverly Hills Bar Association