

TFARR: Summary of Official Public Comment
As of 11/4/14

	Date	Individual/Organization	Summary of Comments	Support/Oppose
1.	10/1/14	Steve Boster	Strongly supports the practice-based training and MCLE requirements. "The more law schools and the Bar can do to prepare an attorney...the better the community will be served." Believes the 50 hour pro bono requirement could be difficult for attorneys to meet, especially in small town where pro bono opportunities are few.	Support
2.	10/1/14	Stephanie Doucette	The 15 units and pro bono requirements will provide necessary legal training. Recommends that the additional 10 hours of MCLE is not necessary.	Support, with changes.
3.	10/1/14	James R. Ebert	Recommends all candidates for admission graduate from an ABA accredited law school. Believes the pro-bono requirement will not improve competency.	Neutral
4.	10/1/14	Josh Effron	Recommends applicants that choose the apprenticeship option to complete their 15-units be compensated. Alternatively, the apprenticeship option should replace law school electives taken in the third year of law school. Opposes the pro bono requirement given students are saddled by high student loan debt and this work amount to involuntary servitude. Opposes the additional MCLE because an attorney's time is better spent practicing law.	Support, with changes.

	Date	Individual/Organization	Summary of Comments	Support/Oppose
5.	10/1/14	Stuart Flashman	Recommends a minimum of 100 hours of practical training, and a quarter of that experience be in a pro bono environment.	Support, with changes.
6.	10/1/14	Michael Friedman	Recommends young lawyers complete a total of 100 hours of experiential based training in prior to admission to the Bar in any setting – moot court, law firms, government agencies, pro bono or supervised training.	Neutral
7.	10/1/14	Paul Genaro	Suggests imposing requirements after five years of practice with a focus on “real world training.”	Neutral
8.	10/1/14	Walter Hackett	While valuable, the proposed requirements may not be enough. Recommends law practice management training.	Support, with changes.
9.	10/1/14	William Hansult	Recommends that the 15 units be taught by practicing attorneys that takes a case from beginning to end. The pro bono requirement should include applicants becoming In his experience, volunteering at low cost clinics is “a complete waste of time” but becoming a certified law student was beneficial. MCLE courses should be specific and not chosen by new attorneys.	Support, with changes.
10.	10/1/14	Geoff Hayden	“MCLE requirements are a waste of ...time.”	Neutral

	Date	Individual/Organization	Summary of Comments	Support/Oppose
11.	10/1/14	Pia Johnson	Critical that law students were not on the Task Force. Supports the 15 units and additional MCLE, but questions the 50 hour requirement. Does not see how pro bono work is more beneficial than paid work. Concerned that applicants will have a hard time finding pro bono work.	Support, with changes.
12.	10/1/14	Alan M. Lurya	Believes students should learn substantive law, as they will have time to do casework later. Students should not “be used as free labor for some non-profit.” MCLE is valuable. Additional MCLE should apply to all attorneys and not just new attorneys.	Oppose
13.	10/1/14	Charlene McKinley-Powell Deputy Public Defender San Bernardino County	Applauds the practical skills training requirement but opposes the pro bono and MCLE requirements. Concerned that the pro bono requirement would hurt clients given that these are new attorneys. Additionally, 50 hours of unpaid work could be a financial burden.	
14.	10/1/14	Frances Mullane	The apprenticeship program is essential. Believes the pro bono requirement should be tied to the apprenticeship program. Courses for the additional MCLE requirement should be specific to new attorneys.	Support. with changes.
15.	10/01/14	Teresa Straley	Add more pro bono hours over a two-year period and more legal experience units in law school	Support
16.	10/01/14	Eric Wanger	General statements of support	Support
17.	10/02/14	Timothy Davis	Recommends mentorships and apprenticeships for new lawyers.	Neutral

	Date	Individual/Organization	Summary of Comments	Support/Oppose
18.	10/02/14	Lauri Lewis	Proposed requirements create barriers to admission. Recommends limiting the proposed requirements to attorneys who are not already licensed in another state. Also concerned about additional CLE requirements.	Oppose
19.	10/02/14	John Loughman	Skills training would be helpful but should also give credit for law related experience.	Support
20.	10/02/14	Gary Waldron Professor, JD, MS Nova Southeastern University	Recommends requiring law school court room training. Pro bono requirement could harm the public. Supports the 10 hour CLE competency proposal only if these hours are not in addition to the current CLE requirements.	Support, with changes.
21.	10/03/14	Michael Flaherty	Specific training may be impractical because new law graduate do not know the area they will practice. General internships may help but there should be careful thought about whether internships will be paid or unpaid and the content.	Support
22.	10/05/14	Jonathan Levy	The proposed pro bono requirement is a tax on new applicants without just compensation. Supports some sort of apprenticeship with the option of performing work either under supervision of another lawyer or law school. Concerned MCLE requirements will enrich providers with questionable competency.	Support
23.	10/07/14	Roy Glickman	50 hours of pro bono should be changed to 50 hours of performing legal services that can be charged at market rates.	Support, with changes
24.	10/14/14	Aaron Anguiano	Recommends civility training.	Neutral

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25.	10/14/14	Eric Biber Professor of Law UC Berkeley School of Law	Proposed rule 4.34(C) could be interpreted to exclude certain types of experiential learning such as administrative law and legislative and regulatory law. Proposed rule 2.151(A)(3) should include environmental practice. Definition of “supervising attorney” should be clarified.	Support, with changes
26.	10/16/14	Jon R. Williams President San Diego County Bar Association	Urges reconsideration and reinstatement of the mentorship option in recommendation “C.” The bar exam should also be evaluated in light of the post admission changes.	Support, with changes
27.	10/20/14	Melvin K. Patterson General Counsel Cedrus Investments Ltd.	Does not support the 50 Hour Pro Bono requirement. MCLE is ineffective in competency training.	Oppose
28.	10/22/14	Mani Arabi	Supports practical training but not law school “practical skills classes.” Supports the pro bono requirement only if the burden is on the school to find placements for students. Supports additional MCLE requirement only if there is no additional cost to the attorney but would prefer a larger pro bono requirement over additional MCLE. Recommends practical “how-to” guides for new attorneys. Recommends also like either a mandatory mentor program or a residency requirement.	Support
29.	10/24/14	Ashley N. Emerzian Board Member State Bar’s California Young Lawyer’s Association	The proposal will help law students and post-graduates make connections in the legal field and explore a variety of legal work. CYLA is prepared to assist the State Bar in implementing the program should the changes be approved.	Support

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30.	10/24/14	John M. Mola Program Attorney/Director of California Operations Practicing Law Institute	PLI's Board approved expansion of its pro bono initiatives and provide free programs and training resources. Working with the Bar's Office of Legal Services, PLI currently provides program resources available at no cost to those representing low-income and modest means clients. PLI is pleased to provide professional resources in support of the admission regulations reform.	Support
31.	10/28/14	Hon. Ronald B. Robie Chair California Commission on Access	Believes that it is not necessary or appropriate to mandate two years of practice for supervising attorneys under proposed rule 2.155. There is undue emphasis on compliance with the labor laws in rule 2.155(B)(2). Rather, the definition should reflect the general requirement that organizations comply with all state and federal laws. The Bar should adjust the eligibility criteria for the State Bar's Wiley W. Manuel Certificate for Pro Bono Legal Services. The award recognizes a volunteer who engages in 50 hours of pro bono work.	Support, with changes
32.	10/31/14	Catherine Rucker Law Student, 3L Golden Gate University School of Law	Deferred completion of the pro bono/modest means requirement post admission creates enforcement problems and cause reputational harm to an attorney that does not complete the requirement. The proposed pro bono definition will exclude many organizations and government entities leaving existing organizations to not have the capacity to take on volunteers. With respect to the MCLE requirement, the proposed rules should specify the conditions that permit a "modification for good cause."	Support, with changes

	Date	Individual/Organization	Summary of Comments	Support/Oppose
33.	11/3/14	Kenneth W. Babcock Executive Director and General Counsel Kirsten Kreymann Pro Bono Director Public Law Center	Legal services organizations will need increased funding to hire more staff to engage law students and new attorney in pro bono or reduced-fee legal services opportunities. Recommends removing requirement of two-years of practice for supervising attorney. It is not necessary for supervising attorneys to be required to have practiced law for two years. Recommends adjusting the eligibility criteria for the Wiley W. Manuel Certificate.	Support with changes
34.	11/3/14	Salena Copeland Executive Director Legal Aid Association of California	Recommends that “until legal services nonprofits are fully funded, limiting the increased demands on [the legal services] community is essential.” Request that the two-year requirement for immediate supervising attorneys be struck or addressed in an FAQ that the two-year requirement does not apply to legal services nonprofits with attorneys having more than two years’ experience in the relevant practice area. Recommends lessening the administrative burden on legal services program.	Neutral

	Date	Individual/Organization	Summary of Comments	Support/Oppose
35.	11/3/14	UC Berkeley School of Law UCLA School of Law Stanford Law School Harvard Law School New York University School of Law Yale Law School University of Pennsylvania Law School University of Chicago Law School Columbia Law School University of Michigan Law School	<p>Recommends that “experiential education be defined very broadly and flexibly so that schools have the ability to develop their experiential offerings.”</p> <p>Recommends retaining specific features of Rule 4.34.</p> <p>Recommends an amendment to permit law students to obtain credits for experiential education from other graduate and professional programs.</p> <p>Recommends the 15 unit requirement be phased in. 10 units would apply to students entering law school in 2017-2020; 15 units would apply to students entering law school following 2021. Between the shift of 10 units to 15 units, the Bar should review the requirement.</p>	Support, with changes
36.	11/3/14	Patricia P. White Chair State Bar’s Committee of Bar Examiners	<p>Concerned that admission requirements could burden new attorneys and law students with additional costs, especially students that attend California accredited and unaccredited law schools.</p> <p>Rules create a distinction between out of state attorneys with less than one year of experience having to complete the proposed requirements, compared to the current procedures where out-of state attorneys can take the bar exam based on their admission in another jurisdiction. Rules also create a distinction between LLM students and U.S. law graduates.</p> <p>There is insufficient information about the Committee’s role in administering the new requirements.</p>	Support

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37.	11/3/14	Robert R. Kuehn Professor of Law Washington University School of Law	Empirical evidence shows that implementing a 15-credit based experiential training requirement will not burden students with higher tuition. States that law schools lag behind other professional school in clinical educational requirements. Surveys of judges, practicing attorneys, recent law graduates, current and prospective law students and law school admission official overwhelmingly support the need for more practice-based coursework.	Support
38.	11/3/14	Maria Livingston Chair State Bar's Standing Committee on the Delivery of Legal Services	Recommends modifying the rules governing the Practical Training of Law Students to permit graduates to maintain certification status until they are admitted to the Bar, instead of terminating their certification if they do not pass the Bar exam on the first try, don't take the first bar exam for which they are eligible, or pass the Bar exam but their admission is delayed pending their moral character determination. Recommends a statewide training program and data base to connect law students with pro bono or reduced-fee opportunities.	Support, with changes

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39.	11/3/14	Sebastian Kaplan Chair, Ad Hoc Committee on TFARR II Recommendations Immediate Past President Barristers Club	<p>Recommends a modification provision for the 15 unit requirement. Proposes limiting the requirement to academic courses and extend completion of the 15 units by the end of the first year of admission. Believes the two-year requirement for a supervising attorney to be insufficient.</p> <p>Recommends including government agencies for dual credit and expand breadth of pro bono opportunities. Seeks clarification whether the 50 hour requirement include contingency fee work. Also seeks guidance of what constitutes “hardship” or “good cause.”</p> <p>Additional costs from MCLE should not be borne by new attorneys. Recommends that credit be given to all training completed after an applicant has completed the bar exam.</p>	Neutral
40.	11/3/14	Bay Area Pro Bono Managers	<p>“Until legal services are fully funded, however, the Bay Area Pro Bono Managers appreciate efforts by the Task Force to balance its commitment to promoting pro bono participation with the need to temper the increased demand for pro bono opportunities that our nonprofits will undoubtedly experience.”</p>	Support
41.	11/3/14	Southern California Pro Bono Managers	<p>“Until legal services receive increased funding, the Southern California Pro Bono Managers will try to balance the increased demand for pro bono opportunities with ensuring that a disproportionate amount of resources earmarked for legal services for the poor are not diverted to the training and supervising of short-term volunteers. We appreciate efforts by the Task Force to balance its commitment to promoting pro bono participation with the need to temper the increased demand for pro bono opportunities that our nonprofits will undoubtedly experience.”</p>	Support

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42.	11/4/14	Larry Barlly	Does not believe that any other profession requires its members to work for free or at a reduced rate. Believes that the rules are cheapening legal services. Believes requiring pro bono/modest means services is a 13 th amendment violation.	Oppose

**List of Public Comment Received
As of 11/4/14**

1. 10/01/14

Steven Boster

2. 10/01/14

Stephanie Doucette

3. 10/01/14

James R. Ebert

4. 10/01/14

Joshua Effron

5. 10/01/14

Stuart Flashman

6. 10/01/14

Michael Friedman

7. 10/01/14

Paul Genaro

8. 10/01/14

Walter H. Hackett

9. 10/01/14

William Hansult

10. 10/01/14

Geoff Hayden

11. 10/01/14

Pia M. Johnson

12. 10/01/14

Alan M. Lurya

13. 10/01/14

Charlene McKinley-Powell
Deputy Public Defender
San Bernardino County

14. 10/01/14

Frances Mullane

15. 10/01/14

Teresa Straley

16. 10/01/14

Eric Wanger

17. 10/02/14

Timothy L. Davis

18. 10/02/14

Lauri Lewis

19. 10/02/14

John Loughman

20. 10/02/14

Gary Waldron, Professor, JD, MS, Nova Southeastern University

21. 10/03/14

Michael Flaherty

22. 10/05/14

Jonathan Levy

23. 10/07/14

Roy Glickman

24. 10/14/14

Aaron Anguiano

25. 10/14/14

Eric Biber, Professor of Law, UC Berkeley School of Law

26. 10/16/14

Jon R. Williams, President, San Diego County Bar Association

27. 10/20/14

Melvin Patterson, General Counsel, Cedrus Investments Ltd.

28. 10/22/14

Mani Arabi

29. 10/24/14

Ashley N. Emerzian, Board Member, State Bar's California Young Lawyer's Association

30. 10/24/14

John M. Mola, Program Attorney and Director of California Operations, Practising Law Institute

31. 10/28/14

Hon. Ronald B. Robie, Chair, California Commission on Access to Justice

32. 10/31/14

Catherine Rucker

33. 10/31/14

Kenneth W. Babcock, Executive Director and General Counsel, Public Law Center

34. 11/03/14

Salena Copeland, Executive Director, Legal Aid Association of California

35. 11/03/14

Law School Deans Response:

UC Berkeley School of Law

UCLA School of Law

Stanford Law School

Harvard Law School

New York University School of Law

Yale Law School

University of Pennsylvania Law School

University of Chicago Law School

Columbia Law School

University of Michigan Law School

36. 11/03/14

Patricia P. White, Chair, Committee Bar Examiners

37. 11/03/14

Robert R. Kuehn, Professor of Law, Washington University School of Law

38. 11/03/14

Maria C. Livingston, Chair, Standing Committee on the Delivery of Legal Services, The State Bar of California

39. 11/03/14

Sebastian Kaplan, Immediate Past President, Bar Association of San Francisco

40. 11/03/14

Pro Bono Managers, Bay Area

41. 11/03/14

Pro Bono Managers, SoCal Area

42. 11/04/14

Larry Barlly

From: Steve Boster [mailto:bostersf@gmail.com]
Sent: Wednesday, October 01, 2014 1:30 PM
To: Greenman, Teri
Subject: Admission Requirements

As a relatively new (8 years) attorney I strongly support much of the proposed new admission requirements. In particular the practice-based training. I entered the law practice with virtually no idea how to file a civil case with a court, how to know if any of the needed civil forms were completed correctly and so on.

Like wise with the added MCLE in the first year. The more law schools and the Bar can do to prepare an attorney for more than just becoming an entry level associate with "big law" the better the community will be served.

I do have a concern about the 50 hours of pro bono requirement. I am in a small town with only half a dozen attorneys have a local office. When I was first admitted I look for pro bono opportunities, but found that other than in the area of family law, which I have never practiced, there wasn't much known need for pro bono work. I did find some non-profit groups that could use legal advise and was able to some pro bono, but 50 hours in 1 year in my locale would be a challenge.

Steven Boster
Bar # 244227

From: Stephanie Doucette [mailto:stephd@thealmanac.com]
Sent: Wednesday, October 01, 2014 7:30 PM
To: Greenman, Teri
Subject:

Re: New Bar Admission Requirements, the proposal calls for:

- 15 units of practice-based experiential training during law school/apprenticeship option
- 50 hours of pro bono/reduced fee legal services
- 10 hours of additional competency training MCLE (minimum continuing legal education) in the first year of admission

The first two seem to be a very sensible amount of necessary legal training/practice. I wish we'd had it when I went to law school...I'd have been less of a deer in the headlights when venturing into the real world of practicing law.

I don't think you need to add another 10 hours of MCLE in the first year of admission, though. These folks have likely undergone interminable weeks of bar review, and additionally have just finished years of instruction, so this might be overkill, yes?

Sincerely,
Stephanie Doucette

From: James R. Ebert [mailto:jre@japanuslaw.com]
Sent: Wednesday, October 01, 2014 3:22 PM
To: Greenman, Teri
Subject: Admission Requirements

PLEASE require that all candidates for admission to the California Bar graduate from an ABA accredited law school. The pro-bono requirement does NOTHING to improve competency.

Sincerely,

James R. Ebert
KITAGAWA & EBERT, P.C.
8001 Irvine Center Drive, Suite 960
Irvine, CA 92618
(949) 788-9980
jre@japanuslaw.com

From: Joshua Effron, Esq. [mailto:effron@immigrantrep.com]

Sent: Wednesday, October 01, 2014 2:46 PM

To: Greenman, Teri

Subject: Comments on Draft Plan to Implement New Competency Skills Training Requirements

To Whom It May Concern:

I understand that the Board of Trustees is proposing to add:

- 15 units of practice-based experiential training during law school/apprenticeship option
- 50 hours of pro bono/reduced fee legal services
- 10 hours of additional competency training MCLE (minimum continuing legal education) in the first year of admission

Regarding the **15 units of practice-based experiential training**, I would only favor this **if the law students are allowed to be compensated** should they opt for the apprenticeship (rather than courses in law school). After all, law school is already quite expensive, and law students are graduating with ever-increasing student loan debt. The last thing that they need is to have yet one more graduation requirement that will delay the period in which they can earn money - or worse yet, have the law schools charge additional fees for this apprenticeship/training while preventing the students from recouping any of the costs through payment during this training period.

Even better, I would suggest having the apprenticeship/training replace some of the electives that many law school students currently take in their third year of law school. This way, this new requirement will not add any additional time to the period that a student must spend in law school.

Regarding the **50 hours of pro bono/reduced fee legal services**, I am opposed to this for several reasons, most importantly because lawyers have bills to pay - especially with the ever-increasing student loan debt with which so many are saddled - not to mention mortgages/rent, insurance premiums, State Bar dues, employee salaries, etc.

Requiring lawyers to give away their services for free/reduced fees would not only pose an undue hardship on many lawyers but **may also be a violation of the Thirteenth Amendment to the United States Constitution**, which prohibits involuntary servitude.

Regarding the **10 hours of additional competency training MCLE in the first year of admission**, I oppose this, because the time spent taking these courses is time taken away from the actual practice of law, which is the best possible training that a new lawyer can receive. This is particularly so if new lawyers will have already had **15 units of practice-based experiential training** before beginning the practice of law, as the new proposal seeks to implement.

In other words, they will have already taken all of the courses/had all of the initial training necessary *before* beginning the practice of law. By the time they graduate from

law school, pass the Bar Examination, etc., the student will have had all of the theoretical training necessary to begin to practice law, and at that point, further learning will come "on the job," through the actual practice of law (in addition to the MCLE courses already required of all attorneys).

Thank you for your time.

Josh Effron
Attorney at Law
Immigrant Rep, Inc.
<http://www.immigrantrep.com>

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From: Stuart Flashman [mailto:stu@stuflash.com]
Sent: Wednesday, October 01, 2014 3:51 PM
To: Greenman, Teri
Subject: Competency requirements for bar entry

Dear Ms. Greenman,

I would like to strongly encourage the state bar to require more practical experience with lawyering by law students before they are admitted to the bar.

I did my law school at New College of California School of Law, graduating in 1990 and passing the bar that same year. Sadly, New College School of Law was forced to close because of problems with federal student aid, but it had a good and innovative program that included a major requirement (800 hours over three years) for apprenticeship training during law school, as well as practical content in its Law School course, and an in-house housing law clinic (which has now moved over to JFK University's Law School and is celebrating its 20th anniversary this year). In my opinion, that apprenticeship work was worth at least as much to me in getting me ready to practice law as any course I took in law school.

Perhaps not all law schools want to put as much emphasis on practical real-world experience as New College did. (New College also strongly encourage that the experience be done in a public interest environment, which, I believe made it especially worthwhile.) Nonetheless, I believe that the California Bar should require significant real-world law experience before an attorney is given their bar card. I would suggest at a minimum 100 hours of practical internship/apprenticeship experience working directly with an attorney should be required. I believe a higher standard, such as 250 hours, would be that much better. The State Bar should also consider requiring that at least 1/4 of that experience be gained in a public interest or pro bono environment.

Most sincerely,

Stuart Flashman
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fax: (510) 652-5373
stu@stuflash.com

From: michael friedman [mailto:mefriedman91@sbcglobal.net]
Sent: Wednesday, October 01, 2014 3:26 PM
To: Greenman, Teri
Subject: Practice based training for Bar Admission

10/1

My suggestion is that young lawyers be requested to complete a total of 100 hours of experience based training prior to Bar admission. Rather than dictate the nature of such training, the new law school grad can meet this requirement by clinics, work at law firms or government agencies, pro bono work or supervised training or any combination of such work.

Some people need the money, some are opposed to pro bono work on philosophical grounds, and others prefer a clinic setting. There is no need to require a certain form of practice based training to fit an ideological bias. Many new grads have heavy school loan burdens which may preclude providing free legal service.

My estimate is that many young lawyers worked part-time during law school, participated in law school clinics, practiced moot court and law review. All are worthwhile experience based training. I did all these activities before I graduated in June 1976.

Michael Friedman

-----Original Message-----

From: Paul Genaro [mailto:xhtc@yahoo.com]

Sent: Wednesday, October 01, 2014 3:18 PM

To: Greenman, Teri

Subject: Board seeks input on admissions requirements

Hello,

Perhaps just my twisted opinion, but it seems most new "bars to the bar"- are to protect practicing attorneys from the glut of folks vying for limited jobs.

As a new attorney not from a wealthy family- most are already burdened with huge debt and a difficult job market- why not make these (well intentioned I am sure) requirements kick in after 5 years of practice? Or for all attorneys? Some are probably pretty rusty.

Starting the practice of law is a daunting experience -perhaps a little less on the books (theory) and more real world training, would serve all.

Thank you,
Paul Genaro
Inactive 157903

From: Walter Hackett [mailto:whhackett3@yahoo.com]
Sent: Wednesday, October 01, 2014 3:43 PM
To: Greenman, Teri
Subject: New Bar Admission requirements

Ms. Greenman,

While I believe the enhanced admission requirements are appropriate and valuable and, having graduated from a school that required students to acquire practical skills, my one comment is that they may not be enough. While my current health issues preclude me from actively practicing law they have not resulted in me forgetting the very costly lessons I learned when I decided to open my own practice

It is my belief that a substantial minority, if not a majority, of law students intend to open their own practice at some point. It was my experience that the vast majority of them will either fail or will have something less than good experiences. It is, accordingly, my belief that any attorney who opts to open his or her own practice receive practical training relative to the business acumen required to manage a successful law office. I learned that regardless of one's intelligence or legal skills the abilities required to manage a law practice are such that without them both the attorney and his or her clients will suffer in one of a number of ways. In my case I had to start turning away potential clients approximately 2 years after I opened my office because I found out I was not highly skilled at intelligently and objectively assessing how, or if, there was a reasonable way for me to be paid vis a vis a given case. I also learned that potential and new clients were often less than truthful about their financial positions. The net of all of this was the loss of over \$200,000 in savings in approximately 29 months which constituted all of my savings at that time. While it is quite possible my health issues had some impact on my ability to be objective and appropriately discerning I am very certain that had I received meaningful training in the management of a successful law practice my odds of success would have gone up substantially.

While I was ultimately able to find an employer who allowed me to serve more or less the same group of people the restrictions set by their funding sources also resulted in me turning away what I believed to be excellent cases because the individuals who had them did not qualify for services. I believe if I had been more fiscally prudent in managing my practice I might very well have been able to help a greater number of individuals.

Please feel free to contact me if you have any questions regarding my comments or experiences.

Regards,

Walter Henry Hackett
Attorney and Counselor at Law

Personal address - PO Box 1357, Walnut, CA. 91788

From: HansultLaw@aol.com [mailto:HansultLaw@aol.com]
Sent: Wednesday, October 01, 2014 4:51 PM
To: Greenman, Teri
Subject: Additional requirements

I completely agree with the concept of additional requirements, but the devil is in the details.

So, concerning the 15 units of practice based training, this should be classroom training, taught by a practicing attorney (1 civil and the other criminal) and the training should be book learning based of what happens in a lawsuit from taking and evaluating new cases/clients, to the filing of a complaint and the pre-trial motions, including discovery and ending with summary judgment. And then after the book training, then the class is given assignments using real world examples and taking this thru (1 student a P and the other a D). The teacher acts as judge in ruling on motions and the grading will be how each student performed (did they bring or defend motion correctly etc.) Obviously, the use of Procedure Before Trial practice guides will be the text books.

The 50 Units of pro bono/low cost legal work can be good and could be a waste depending how it is set up. If you will be sending students to work in low cost clinics (like my school did), it will be a complete waste of time. Nothing is learned, and all you do is work small claims and no fault divorces in which you are checking Judicial Council Form boxes. What was much more beneficial and what really taught me many things was becoming a certified law student on my own and working under the supervision of an attorney. So if you set up the 50 hours as pro bono work in different law firms working under the supervision of an attorney in which the attorney is giving assignments and having the student be second chair in a case or two. This is what will benefit the students.

The extra 10 hours can be beneficial if there are specific courses set forth for which to choose, rather than leaving all the choices to the newbie (as he/she could then opt for a lunch listening to a lawyer or politician pitch his/her latest book or publication). Thus, it is the quality of the MCLE credits which is important, otherwise it could/would be a waste of time.

That's my 6 cents worth.

William Hansult

From: Geoff Hayden [mailto:glh61@live.com]
Sent: Wednesday, October 01, 2014 4:35 PM
To: Greenman, Teri
Subject: MCLE

I have practiced Social Security law for the last 20 years. None of the courses offered under the MCLE programs apply to my practice. MCLE requirements are a waste of my time and money. I comply because I am required too.

From: Pia Johnson [mailto:piamjohnson@gmail.com]
Sent: Wednesday, October 01, 2014 3:55 PM
To: Greenman, Teri
Subject: Re: New Bar Admissions Requirements

Dear Task Force on Bar Admissions Reform,

This is a public comment on the new bar admissions competency requirements,

Before I get to the proposal, I would like to note the absence of a law student representative on the Task Force. Law students already have a number of high barriers to cross before they become attorneys while the members of the task force may not recall how intense the law school experience is. Since law students are the people who will be most impacted by these new requirements, it would be appropriate to get input from them.

As to the requirements themselves:

- 15 units of practice-based experience: This is an excellent idea. Practical knowledge of how a legal practice functions is a critical piece of knowledge that is currently absent from law school requirements. Law school is wonderful for teaching the foundations of legal thought, but students also need to learn their craft before they find themselves in the real world. Other professions, from medicine to auto mechanics, require a significant amount of supervised practical experience before a practitioner is permitted to be fully responsible for his or her own work. However, law schools must take responsibility for ensuring that every student has an opportunity to complete this requirement.

- 50 hours of pro bono work: First, it is unclear as to whether the 50 hours could be satisfied as part of the 15-unit practice-based requirement or whether the two would have to be done separately. Second, It is also unclear as to how pro bono as opposed to paid work enhances a law student's understanding of law or ability to practice law. Third, there would have to be a way to ensure that every student could find an opportunity to do pro bono work. Non-profit organizations are limited by how many students their paid attorneys can supervise, and I question whether there are enough private practitioners who are willing to supervise students. Finally, this requirement reflects admirable sentiment, but it may place a significant burden on students who have to work to meet expenses or whose expenses are being paid by families. The Task Force should clarify how this requirement would be met and should also seek input from current law students as to how such a requirement would impact them.

- 10 hours of post-admissions MCLE: This seems like a reasonable requirement. 10 hours is not so much as to be an onus and could be completed in a weekend. Some practical information about a student's chosen area of practice is likely to be valuable.

In conclusion, I whole-heartedly support the requirement for 15 units of practical experience, I question the requirement for 50 hours of pro bono work, and I support the requirement for 10 hours of post-admission MCLE.

Thank you for your time and attention,

Pia M. Johnson, Attorney-at-Law

License# 298229

pjamjohnson@gmail.com

From: Alan Lurya [mailto:alanlurya@yahoo.com]

Sent: Wednesday, October 01, 2014 1:24 PM

To: Greenman, Teri

Subject: COMMENTS ON PROPOSED CHANGES TO BAR ADMISSIONS REQUIREMENTS

I oppose **all** the proposed changes to the admissions requirements. I was admitted to the California Bar in 1975.

Here are my comments:

1. **15 units of "experiential" training;** These 15 units are the equivalent of an entire semester of law school. This training will come at the expense of important training in substantive law. Lawyers need to be well educated in the law, and there will be plenty of time for doing casework later. Students in law school already take trial practice courses and other "hands on courses". The proposed change is harmful.

2. **50 hours pro bono/reduced fee services;** A young lawyer will have plenty of time to do "reduced fee" work while in practice. He or she needs the time in law school to learn the vast subject matter of the law, not to be used as free labor for some non-profit. There is an unfortunate trend in government to believe that vulnerable individuals, such as law students seeking admission to the bar, can be enslaved for the good of someone else.

3. **10 hours of additional competency training;** If more MCLE is so valuable, then increase the MCLE requirements for every lawyer. Don't just stick an easy target, which are the young lawyers. Considering that the new graduate has just undergone three years of law school, there is no need to burden this individual with another bureaucratic requirement. There is no study that I am aware of that demonstrates a problem with lawyers, out for only one year, who commit acts of malpractice that some random, unspecified MCLE classes would have prevented.

I have been a lawyer for almost 39 years, and I have noticed that the State Bar regularly considers proposals which unfairly burden lawyers in private practice, and new lawyers, who they see as politically weak. These types of proposals show that the State Bar does not represent the practicing lawyer.

ALAN M. LURYA, Attorney at Law

**Law Offices of ALAN M. LURYA
18662 MacArthur Blvd., Suite 200
Irvine, California 92612**

Voice: (949) 440-3230 Fax: (949) 440-3231

From: Powell, Charlene [mailto:cpowell@pd.sbcounty.gov]
Sent: Wednesday, October 01, 2014 2:47 PM
To: Greenman, Teri
Subject: Comment on new bar admission requirements

Good afternoon,

While I applaud the Bar for trying to require law schools to provide practical training, the other proposed requirements are terrible ideas. The requirement that brand new lawyers perform 50 hours of pro bono work would hurt both themselves and their clients. To mandate that a brand new lawyer handle cases is setting that lawyer up for allegations of malpractice and incompetence. Clients will suffer because the lawyer would not have the proper experience to competently represent them. Additionally, 50 hours of unpaid work is entirely too much for a beginning lawyer to take on, especially since the chances are high that the new lawyer is financially struggling.

With regard to the extra hours of MCLE credits, these too would impose an unduly harsh financial burden. Especially given the current state of the economy, the limited job opportunities for lawyers, and the burdensome debt that most new lawyers carry, requiring additional hours of credits, and paying the attendant fees, only harms beginner lawyers. The other problem with this proposal is that all the MCLE classes in the world do not substitute for on the job experience. And how, exactly, would the subject matter be determined? Would criminal defense attorneys be required to take classes on property law? Or wills and trusts attorneys attend seminars on family law? Given that most new lawyers are fresh out of law school any additional training on topics covered by the Bar exam is needlessly repetitive and a waste of both time and money.

Sincerely,
Charlene McKinley-Powell
Deputy Public Defender
San Bernardino County

From: FRANCES MULLANE [mailto:FHMullane@comcast.net]

Sent: Wednesday, October 01, 2014 4:24 PM

To: Greenman, Teri

Subject: Bar Admission Requirements

I definitely think an apprenticeship program is essential. I was a sole practitioner right out of law school. I graduated Magna Cum Laude and I was sharp enough to wade through it and not make any mistakes. I was fortunate enough to practice in Riverside County in the late 70's when it was not so chaotic and attorneys were not barbarians. But I lost a ton of sleep and had a lot of anxiety to be sure I had it right. Now, ramp up to 2014 and let's talk about big counties.. LA, Orange, SF... I don't know how a new attorney can do it and do it right.

The 50 hours of pro-bono/reduced fee services is fine as long as it is tied to the apprenticeship program in some way. But once an attorney starts to incur expenses that is difficult right out the gate. I assume new attorneys charge considerably less to begin with. I felt that I provided services at a reduced rate for at least a year. I was quite a bit less than seasoned attorneys. I just didn't feel right charging more per hour when I felt I was working slower for one thing.

If you want to do another 10 hours of MCLE in the first year it needs to be geared for a recent admittee or it is a waste of time. I am sure you can figure out what is most needed in the basic areas of practice for the newbie. I know that it should include plain practice of law courses at least one. Just to make sure they understand what is expected... the simple stuff... not the other. I always had trouble grasping the simple things and not the complicated stuff. Just how to handle yourself when your case is called ... dealing with clients.

I am basically retired... I live in FL.

From: Teresa (Straley) Silverlight [mailto:teresa@tstraleylaw.com]
Sent: Wednesday, October 01, 2014 4:37 PM
To: Greenman, Teri
Subject: New Requirements- Comment

Ms. Greenman: I support the new requirements for new bar admits. The only change I would suggest would be to add more pro bono hours over a two year period and more legal experience units in law school.

Regards,

Teresa Straley
5556 South Centinela Ave.
Los Angeles, CA 90066
310 339-8815 Direct Office

From: Eric Wanger [mailto:eric@edw.com]
Sent: Wednesday, October 01, 2014 1:10 PM
To: Greenman, Teri
Subject: suggestions for lawyer training

Clearly, internship and real-world experience is more critical than ever.

Representing clients pro bono is great.

Interning with a law firm, a private firm legal department, a public official, a district attorney or a non-profit is important.

In Sweden, I believe it takes five years to become a lawyer. They alternate book learning with practicum. In fact, some law students actually act as municipal judges (!!!) to take the most minor cases and motion hearings off the dockets of the actual judges.

-eric wanger, jd
stanford law school, '99
inactive member california bar

From: Timothy Davis [mailto:timothyleedavis@gmail.com]
Sent: Thursday, October 02, 2014 5:55 PM
To: Greenman, Teri
Subject: Competency Skills

Hi Teri:

This is an unbelievably important issue here in California. I was admitted to the Wisconsin Bar in 1984, Illinois in 1985 and California in 1989. Each jurisdiction required me to graduate from an ABA school and pass a test.

When I got out of law school, I joined the Navy. The Navy knew something I knew - that I didn't know where a courthouse was. Before I was permitted to handle any case in the Navy, I first had to complete a three-month program which was then called "Naval Justice School." Still, upon graduation, I didn't know how to represent any client.

When I arrived at my first duty station, Naval Legal Service Office (NLSO) Great Lakes, Illinois, I was shown to my office and my desk. On my desk were 14 case files for disability hearings which hearings were scheduled for the following week. "My" desk was also the desk of the departing disability lawyer, Janet Muller. She tried her best to bring me up to speed in helping my first clients. The other desk in "my" office was occupied by another Navy lawyer who had been doing that work for about 3/4 of a year. Between these two officers, I was able to start to get ready to do good work. Nevertheless, I didn't feel like I was yet able to do a good job.

Fortunately, my first case also had a civilian, non-lawyer, from DAV (Disabled American Veterans). The administrative hearings I was to represent clients before DID NOT require the client to have a lawyer. DAV representatives there were the finest representation that the clients could get. Janet and the other more senior officer also told me that they learned what they knew from DAV non-lawyer representatives. I embraced the help and soon felt like I was doing a great job for my clients. From time to time, I ran across civilian lawyers hired by clients - and I worked closely with them - some knew more about Navy disability law than I did and some knew less. I was always able to benefit from the collaboration.

Each time the Navy shifted me to a new job, I had a mentor who had been working in the field for a year or two before me. That was a huge help. Sometimes it exacerbated bad practice habits because "...We've always done it that way..." and I was able to resist those mistakes when I recognized them. I was never shy and I was aggressive about corralling senior lawyers to make sure I was on the right track.

When I got out of the Navy, I hung out my shingle in California in 1989. One of the first cases who walked through my door was a fellow with a bizarre medical malpractice case. I'd heard from an old law school friend who had screwed up his first medical malpractice case soon after our graduation, so I didn't want to make a similar error. After listening to the bizarre story from my client, I was certain he had a viable, and valuable, medical malpractice case. I told him so and then I said, "But I don't know how to do it. I'm new to California law. What I CAN do is find the best med mal lawyer for you and take you to the office to seek help for you." He

agreed. I called around and found out that, by reputation, Cynthia Chihak in Del Mar was an excellent med mal lawyer. I took my client there and sat patiently with him in her office while he told her his story. She said, "I'll take the case." My client said, "I'll let you have it on ONE condition." Cindy rolled her eyes and said, "What?" He pointed at me and said, "You can have it if he sits 2nd Chair." He was a sophisticated client and knew the parlance.) Cindy agreed and I worked with her for the next 18 months.

The windup of this story is that today I consider myself a very fine lawyer. I've known and associated myself with other fine lawyers over the last 30 years; however, I've known and associated myself with lawyers who can only be best described as total clowns. The people who have fewer skill sets than do I are the lawyers who harm clients and get into more trouble themselves than I do. A close friend of mine was disbarred about 10 years ago. I'd worked with him as co-counsel on multiple-client criminal cases and I knew he was a horribly deficient lawyer but there wasn't much I could do. His clients didn't complain and I didn't have my fingers directly in his files. But I knew. And when he asked me to help him get his license back, it wasn't difficult for me to tell him that the People of the State of California were better off with him not having his license to practice law. I do know why he was so awful. In a word, he was lazy. But I think that came from NOT having the experience I had working with more experienced lawyers. He graduated from law school and hung out his shingle. That was it. I'm pretty confident in saying that he never knew what he was doing. While I was in law school, I let him represent me in a P.I. case and only after a few years of practice did I realize what an awful job he did for me.

I know that the State Bar long ago quit allowing nepotism to rule admission to practice. But testing and granting a license upon a successful test was a move in the wrong direction.

I think that the State Bar should find a way to evaluate CURRENT practitioners. Once the State Bar has identified the best lawyers around the state, I think they should then require new graduates to work for those lawyers, at some set pay scale that will make both of them happy (I mean, really, law students have big bills and haven't worked for \$25 an hour yet and lawyers are used to paying more than \$25 an hour for good paralegals and secretaries) in some sort of "carry your briefcase" scenario where the lawyer has to certify the recent graduate as ready to practice. A civil trial in California can take a couple of years to get to trial - but a law student graduate might be able to review finished case files and jump into a case that is currently on-going and be interviewed by the lawyer and work with the lawyer in court.

I recently did a Petition to Expunge a criminal case for a client. That Petition was opposed by the D.A. I was surprised because most criminal cases MUST be expunged by law after the successful completion of probation. When I got to the hearing I understood. The opposition arguments were drafted and orally argued by law students being supervised by practicing prosecutors.

I worked for the San Diego City Attorney's Consumer Fraud Division when I was a law student as part of a practicum I took as an elective. It was good, but I still didn't know how to file a motion or a Complaint.

I hope that what I've written will help you sort out ways to improve practical legal skills among law students. Perhaps we can't have students working for lawyers and certified as I proposed. But we may be able to require students to work in practicums in law school. The only problem I see with that is that many students don't go to work in the city where their law school is located. I did. But with local rules so different, I think it would be most helpful if a new graduate could work with experienced lawyers in the same courtrooms that they will work. I just don't see how you can test this stuff. The lazy lawyer like my friend, would have become a philosopher, perhaps, had he seen how much hard work the real practice of law was, had he not been able to merely hang out his shingle after successfully passing the bar examination.

If I can be of further help or information, please don't hesitate to call or write to me.

--

Timothy Lee Davis
Attorney & Counselor at Law
3498 Collier Ave
San Diego, CA 92116-1964
(619) 630-1715 San Diego Landline
(619) 756-1418 cell phone

From: L Lewis [mailto:lewislauri1@gmail.com]
Sent: Thursday, October 02, 2014 7:43 AM
To: Greenman, Teri
Subject: RE: Public Comment On New Bar Admissions Requirements

Teri,

I appreciate again having the opportunity to comment. A problem I see with the new admissions requirements is that it creates additional barriers to the admission of the practice of law, increase cost, and delaying admissions and increasing the cost of admissions, which is already high. As I stated in my prior response this year, I am okay with lower legal services fee requirement if proof of such fee/services can be provided within 1-2 years post admission. The other requirements create more hardship, especially those who already have multiple bar admissions which is now becoming more and more of a requirement for law firm and corporate lawyers, and as a result I would urge the CA Bar reviewing committee to limit such additional course/CLE requirements to just those who have not been licensed to practice in any state. As I have 3 state bar CLE requirements to juggle and in the future could consider even more, I feel I'm doing more CLE than I would like to do just to meet the applicable state bar association requirements, and I can't imagine adding even more CLE requirements than what I have. Additionally, not all lawyers practice the same areas of law or do the same legal work so any one size fits all approach would be problematic, and to the extent such requirement is approved I would urge the CA Bar reviewing committee to allow the new applicant attorney to decide what practical course training such attorney needs to take.

Kind Regards,

Lauri Lewis, JD

From: John Loughman [mailto:jploughman01@yahoo.com]
Sent: Thursday, October 02, 2014 1:19 PM
To: Greenman, Teri
Subject: Competency Skills

Now retired and on Inactive List.

When I graduated from Law School and Passed the Bar Exam, there was no such requirement but I had been working as an Insurance Adjuster for 15 years (law related experience) before that and transacted into private practice rather smoothly. I did have some of my former classmates contact me for help in what to do when they opened their own practices.

Think Skills Training would be helpful for some but think some credit should be given for law related experience.

-----Original Message-----

From: Gary Waldron [mailto:gwaldron@nova.edu]

Sent: Thursday, October 02, 2014 7:56 AM

To: Greenman, Teri

Subject: New competency skills training - comment

I believe that there should be a requirement for practical court environment education at the law school level. When I was in law school at Indiana University, I worked as a law clerk to a trial judge and also in an intern program with the public defender's office. Without these electives, I would have been completely ignorant of any court room experience. The State Bar should adopt a rule for law school court room experience training.

As to the 50 hours of pro bono work, I am against this because it is impractical for every new attorney. Unless they are hired by a law firm, or have "enough skills" to begin private practice, this could do more harm than good for the public at the hands of unskilled new lawyers. The statistics are clear that many new attorneys do not enter direct law practice. They therefore do not have supervisors to guide them in any pro bono work. This is really a bad idea to require new unskilled attorneys to do legal work just to satisfy such a rule.

I believe the CLE requirement for new attorneys to have 10 hours of competency education is very helpful, but not if it is in addition to the already CLE hours requirement. To add on an additional 10 hours to CLE for new attorneys is too burdensome.

Professor Gary Waldron, JD, MS
Nova Southeastern University
Davie, Florida

-----Original Message-----

From: Michael Flaherty [mailto:mflahertylaw@aol.com]

Sent: Friday, October 03, 2014 3:50 AM

To: Greenman, Teri

Subject: Competency Requirements

In general I think additional practical training would be helpful, but what subject areas would be covered? Many law school students and new graduates do not yet have a clear idea of the area in which they will practice, and whether that practice may be in the form of private law practice, corporate practice, administrative/government, etc. Therefore, requiring students or new law graduates to submit to specific training may ultimately prove impractical. General internships might provide practical work experience that would be helpful for many students and grads with limited work experience, giving them an opportunity to experience the issues confronting lawyers in any type of legal practice. If a general internship approach is undertaken, careful thought should be given to whether the internships must be paid or unpaid, as well as to what the content of the internship should include.

Michael Flaherty

From: Dr. Jonathan Levy [mailto:jonlevy@hargray.com]
Sent: Sunday, October 05, 2014 9:04 AM
To: Greenman, Teri
Subject: Public Comment - new bar admissions requirements

Dear Ms. Greenman:

My comments are as follows:

50 Hours Pro Bono or Reduced-Fee Legal Services:

The proposed pro bono requirements amounts to a tax on new admitees by compelling them to perform work for which by law they will not receive adequate compensation. I suspect this will result in litigation at the very least. However, I do support the idea that new admitees perform some sort of apprenticeship contract before becoming full members of the bar. They should have the option of performing any sort of post admission legal work, pro bono or otherwise, under supervision of another member of the bar rather than a law school.

**Post-Admission: California's Proposed Recommendation for 10 Hours
Competency Training MCLE**

My concern with post admission MCLE on basics is that this will simply enrich MCLE providers of questionable competency. The Bar should look to the mandatory DC Bar CLE for new admitees that is provided by the DC Bar and ensures that new admitees attend an in person seminar that covers the basics.

Sincerely,

Jonathan Levy
Cal Bar Member No. 158032

From: Roy Glickman [<mailto:rglickman@wgn.net>]

Sent: Tuesday, October 07, 2014 4:04 PM

To: Greenman, Teri

Subject: Comment on proposed competency skills training requirement

- 15 units of practice-based experiential training during law school/apprenticeship option
- 50 hours of pro bono/reduced fee legal services
- 10 hours of additional competency training MCLE (minimum continuing legal education) in the first year of admission

The first and third requirements make sense and seem reasonable. Fifty hours of performing legal services also seems reasonable, but why should it be pro bono or for reduced fees? The quality of the learning experience is not improved by the fact that the work is done for free or at a rate that is less than market value. Any work is entitled to be paid what it is worth. It is inappropriate to demand that someone provide services for free or for less than fair value if they have the opportunity to work at a market rate and wish to do so.

I suggest that the requirement be “50 hours of legal services.”

Roy Glickman

From: Aaron Anguiano [<mailto:aopalaw@sbcglobal.net>]

Sent: Tuesday, October 14, 2014 3:12 PM

To: Greenman, Teri

Subject: training for new lawyers

I think you should require some civility training. There are so many new cocky lawyers. It's ridiculous. Thanks, Aaron Anguiano, Modesto, CA.

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Executive Offices
The State Bar of California
845 S. Figueroa St., 5th Floor
Los Angeles, CA 90017

**Re: Comments on Task Force on Admissions Regulation Reform Phase II
Implementing Recommendations**

October 14, 2014

Thank you for the opportunity to submit comments on the recommendations and proposed rules. I have three specific comments.

- (1) **Clarifying that Administrative and Legislative/Regulatory Practice Counts as Experiential Learning:** I appreciate the task force's efforts to broadly define what qualifies as experiential learning. Given the wide diversity of practice options that our graduates pursue, a broad definition is appropriate. I also agree with the task force's decision to make the list of different kinds of experiential learning options in Proposed Rule 4.34(C) an illustrative list, rather than an exclusive or exhaustive list. However, I am concerned that the list as currently constituted might be interpreted to exclude certain types of experiential learning opportunities that are important to many of our students.

Administrative Practice: Many of the students I teach and mentor will pursue a career in environmental law. This is an area of law where much of the practice work is not before courts, but instead is in front of administrative agencies. This is likewise true for a wide range of other important practice areas (e.g., telecommunications, energy, and land-use law). However, the illustrative list of experiential learning areas in Proposed Rule 4.34(C) does not have any examples from the area of administrative practice. I would encourage the addition of an additional example that would make clear that administrative practice is an important and appropriate area for experiential learning. One example of language that could be added is: “(20) written and oral submissions to administrative agencies, such as comments on proposed rules, and participation in agency hearings”

Legislative and Regulatory Drafting and Policy Work: Another area in which our graduates regularly work is advocacy and counseling in the legislative and regulatory context. This work might involve drafting proposed legislation or regulations and providing information, counseling or advice to legislators or agency decisionmakers. Our graduates do this kind of practice in a range of roles, including as legislative staffers, agency counsel, and lobbyists or legislative affairs staff for private organizations (both for-profit and non-profit). Again, the illustrative list of experiential learning areas in Proposed Rule 4.34(C) does not have any examples from this area of practice. I would encourage the addition of an additional example that would make clear that legislative and regulatory drafting and policy work is an important and appropriate area for experiential learning. One example of language that could be added is: “(21) drafting of legislative or statutory text and policy, and legal counseling for government decisionmakers.”

An alternative option to address these concerns would be to build administrative and legislative practice examples into the existing categories. For instance (1) could be amended to read “oral presentation and advocacy (including, but not limited to, appearances before courts and administrative agencies)”. Likewise, (7) could be amended to read “applied legal writing such as drafting of contracts, pleadings, comments on proposed rules, legislative or regulatory text, or other legal instruments.”

- (2) **Clarifying that Environmental Practice Qualifies for Pro Bono and Reduced-Fee Legal Services:** I also appreciate the task force’s efforts to encourage participation by law students and bar members in the provision of pro bono and reduced-fee legal services. The current definitions in Proposed Rule 2.151 build off of the existing ABA definitions of pro bono work. However, I have concerns about the narrowness of the current definition as it relates to environmental law practice. As a law professor who teaches and mentors many law students focused on a career on environmental law, and who himself practiced in an environmental non-profit organization, I firmly believe that environmental law practice can be a form of public service that warrants support from the bar through pro bono and

reduced-fee legal service. However, the current definition does not mention environmental practice at all. Proposed Rules 2.151(A)(1) and (2) focus on the provision of services to persons of limited means. However, much environmental practice is often focused on the protection of resources shared by the entire public (e.g., water, air, wildlife) and not simply by persons of limited means.

It is possible that this kind of practice would be covered within Proposed Rule 2.151(A)(3), which allows for pro bono work to support organizations “seeking to secure or protect . . . public rights,” or pro bono work for “charitable . . . civic, community, governmental, and educational organizations . . . where the payment of standard legal fees would significantly deplete the organization’s economic resources or would otherwise be inappropriate.” However, this requires a particular interpretation of the relevant language. It would be a shame if a narrow interpretation of that language were to exclude environmental practice from the pro bono provision. For instance, I supervise students here at Berkeley Law who have formed a student-initiated legal services project that provides legal advice and guidance to environmental organizations seeking to protect public wildlife, water, and air resources. This is the kind of work that I believe falls well within the spirit of the proposal for pro bono service, and I would hope that my students’ hard work would satisfy the requirement.

I recommend the addition of specific language to Proposed Rule 2.151(A)(3) that makes clear that public rights include environmental resource. For example one could amend the proposed rule to read “public rights (including in environmental and natural resources)”. Failing that, I encourage the Bar to issue clarification (perhaps through the proposed FAQs for the skills requirement) that indicates that environmental practice falls within the scope of Proposed Rule 2.151(A)(3).

- (3) **Clarifying the Definition of Supervising Attorney:** Finally, I welcome the efforts by the task force to encourage engagement by attorneys in the experiential training of law students and young attorneys through the pro bono and reduced-fee legal services program. However, the current definition of who is qualified to be a “supervising attorney” that can oversee pro bono and reduced-fee legal services is quite vague. The current Proposed Rule 2.155(A) requires membership in good standing in a state bar, and that the attorney “has practiced law for at least two years immediately preceding the time of supervision.” However, there is no definition of what “practiced law” means.

It seems plausible that the definition of “practiced law” should not be limited to full-time practice. Not only would this substantially narrow the number of lawyers eligible to provide supervision, but it would also be in tension with an earlier provision in the proposed rules that would allow an inactive attorney to be the supervising attorney. (Proposed Rule 2.30(D)) The spirit of the task force’s proposal appears to be encouraging as many attorneys as possible to provide supervision, and to make it as easy as possible for law students and young attorneys to receive this important training.

I encourage clarifying language (either in the proposed rules, or in interpretive language like FAQs) to define what “practiced law” means. Given the spirit of the task force’s proposal to expand pro bono and reduced-fee legal services work, I also encourage any clarifying language to create a broad definition of “practiced law” (e.g., part-time practice should qualify).

My comments are in my individual capacity, and do not reflect the position of the University of California.

Please do not hesitate to contact me with any questions about these comments. I am very happy to follow-up with members of the task force or the state bar about these comments and engage in a constructive manner in any efforts to address them.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Biber", followed by a vertical line.

Eric Biber
Professor of Law

San Diego County Bar Association

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October 16, 2014

Teri Greenman
Executive Offices
The State Bar of California
845 S. Figueroa St., 5th Floor
Los Angeles, CA 90017

Dear Members of the Task Force on Admission Regulation Reform:

The San Diego County Bar Association (SDCBA) greatly appreciates the opportunity to provide comment on the final draft recommendations proposed by the TFARR Phase II Working Groups. We would like to begin by thanking the Phase II working groups for their time and attention to these important matters and their diligence. We are confident that our law schools will be prepared to provide any necessary changes in curriculum, pro bono and externship opportunities and that our legal community will be able to provide the post-admission opportunities needed for continuing education, within the timeline proposed by the rules.

We do have comments in two particular areas that we would like to offer for TFARR's consideration. The first is related to the 10 Hours Competency Training MCLE, that has been proposed in Draft Recommendation "C." We were pleased to see *Mentoring* included as part of the initial recommendations. However, we are very disappointed to learn that the Committee is now recommending that *Mentoring* not be implemented in conjunction with the mandatory first-year MCLE requirements at this time. The SDCBA is committed to providing meaningful opportunities for mentorship of our new emerging lawyers. If the goal of the new admission requirements is to help ensure that our new lawyers are successfully transitioned into practice and have the opportunity to develop competency skills, then we believe that mentorship is a critically important element of the training phase. We agree with the Committee that a mentorship component is desirable to further the goals of public protection and enhance the practice of law in our state. Therefore, the SDCBA strongly urges the Committee to reconsider and reinstate the mentorship option in recommendation "C."

Furthermore, we understand that while the Committee is proposing new Admission requirements, there has been no discussion or consideration in Committee regarding the bar examination. We believe this is a critically important component that is being overlooked and which complements the philosophical shift the recommendations otherwise represent. Changing the admission requirements without making appropriate changes to the bar examination falls short of the goals that the Committee is otherwise trying to meet. If the new approach to educating and training attorneys is to place a greater emphasis on experiential learning, then it seems necessary to also revise the bar examination to reflect the evaluation of related skills. At a minimum, the Committee should remove some of what is currently being tested to

free up law schools to devote more time and attention to clinical programming and practical skills development. Since the admissions exam is squarely in the State Bar's purview, it seems lopsided for the State Bar to only address post admissions issues without looking at the bar examination as well. The SDCBA supports the consideration of these changes to the exam, and while we understand that to be a separate and distinct undertaking than the Committee's charge, we strongly urge the State Bar to take this opportunity to critically review the doctrinal aspects of the exam as well as the length of the exam, to ensure that it is in step with the changes being made to educating our community's future lawyers.

If you have any questions, please feel free to contact me at 619-238-0370.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon Williams", with a stylized flourish at the end.

Jon R. Williams, Esq. President

San Diego County Bar Association

From: Mel Patterson [<mailto:MPatterson@cedrusinvestments.com>]
Sent: Monday, October 20, 2014 11:22 AM
To: Greenman, Teri
Subject: Task Force on Admissions Regulation Reform Phase II Implementing Recommendations

My comments are as follows:

- Pre-Admission: 15 Units of Practice-Based Experiential Training in Law School/Apprenticeship Option

I think this is fine so long as it's available to students. In a bad economy finding firms and lawyers to provide such training will be difficult and unless law schools will enter into agreements with firms or companies to provide such training I don't think this kind of requirement should be imposed.

- California's Proposed Recommendation for 50 Hours Pro Bono/Reduced-Fee Legal Services

No. No student should be forced to work for free. Law school is expensive and time consuming and students should not be forced into such an arrangement – especially in difficult economic times. This is a bad idea.

- Post-Admission: California's Proposed Recommendation for 10 Hours Competency Training MCLE

MCLE is really not an effective tool in competency assurance. Most of the lawyers who are disciplined aren't disciplined because they didn't know their jobs (although there clearly are a few), but because they had other problems going on in their lives that would not have been addressed by competency training. I don't think it makes much of a difference.

Melvin K. Patterson
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From: Mani Arabi [<mailto:mani.arabi@gmail.com>]
Sent: Wednesday, October 22, 2014 12:42 PM
To: Greenman, Teri
Subject: Future attorney requirement changes

Hello,

I wish to submit my comments on the proposed changes. I believe it may make more sense if I establish my general background first:

As a relatively new attorney (admitted Dec 2012) who has -absolutely no idea how to practice law- I am very glad to see some of these proposed changes. I went to an awful law school that did not, in the slightest bit, prepare for actual practice (maybe none of them do?). I self-studied and passed both CA and NY bars on my first try without any issues.

I tried to practice law for the first year and a half or so, but having absolutely no idea what I'm doing and being in debt beyond belief, I have no resources or direction. My school did not aid in any meaningful way. I tried spending some money I don't have on advertising, but I have no idea what to do or where to go even when a client calls me. Law school trained me on how to do substantive legal research, but I have never been exposed to practical procedural matters.

I have more or less given up at this point. I am now back in community college.

One should not "need" to get a crappy law job for 2 years before they can "actually" begin being a lawyer. This type of necessary training should be included in the requirements for license. It is absolutely mind-boggling that I am licensed in the two "hardest" states, yet I don't have the slightest idea how to actually be a lawyer.

In my opinion, the proposed options are both good and bad.

OPTION 1) The hands-on practical training. YES YES YES. Do not make this an "option" make it MANDATORY.

As an aside, "practical skills classes" are a complete waste of time. It needs to be in the real world environment; those classroom simulations never amount to anything.

OPTION 2) The pro-bono hours. NY has implemented this as of 2014. I'm not sure how I feel about it as it would require the student to have access to an attorney under whom they could do such pro-bono work. Had this been a requirement during my attendance, I believe I would have had an **incredibly** difficult time meeting this requirement, especially due to the poor support received from my law school. However, if this is implemented, the school's may be forced to incorporate such programs which would then in turn be a huge improvement.

If, and only if, the burden is on the SCHOOL to provide a practically accessible route to do the pro-bono work would I support this one.

OPTION 3) The MCLE requirement is BAD. As a newly licensed attorney I am CRIPPLED with debt and unable to find a job. I already live with my mom and I am having a very hard time

finding ways to pay the annual bar registration fee and my regular MCLE classes (mine are due this year but I still haven't taken them because I have no way to pay for them).

Adding another 10 unit requirement that the new attorney must PAY for is a ***really bad idea***. If the State bar would FULLY subsidize these 10 units (aka absolutely no cost to the attorney) then this is ok, but in my experience with other professional continuing-education courses, they give very little return for the time investment. Hands-on, real work (aka option 1 or 2) are MUCH better.

Perhaps implement an additional 25 hour pro-bono requirement for the first year, rather than an MCLE that will COST the attorney more and more money they don't have.

ADDITIONAL THOUGHTS) It would be really great if the state bar provided new attorneys with practical "how-to" guides on performing the most basic of legal actions. *You know, those things that every lawyer should know how to do but that no law student or day 1 attorney has experienced.* Things like "how to file a lawsuit"; "how to find pending or active cases against a person/entity"; "how to find outstanding judgments against a person/entity"; etc.

I personally don't know how to do most of the above and I don't know how to find out the answers. Google does not suffice and fastcase leads to substantive legal answers but not answers to questions such as these. Everyone else's response is to "just ask your mentor" but I don't have a mentor...

...which leads to another suggestion: Instead of an MCLE or other 1st year requirement, how about a requirement to have a mentor for the first year of practice (and perhaps for older attorneys to "be" mentors as well)?

Finally, one thing I have never understood:

Why doesn't law have a residency requirement?

It seems to me a residency requirement would fix the 0-3 year experienced lawyer employment problem (lets face it, nobody wants to hire an attorney with less than 3 years experience because everybody knows that they don't know how to be an attorney yet!), would fix the hands-on training problem, would fix the need for a mentor, and would likely substantially lower the number of ethical or professional complaints received against new attorneys once they start their own practices. This would also streamline the process for placing new attorneys into legal jobs and would not impact any current part of the legal industry.

Personally, I believe removing the 3rd year of law school completely and replacing it with a TWO year residency program (for a total 4 year program) would change the entire industry for the better.

In any case, any change is a good change at this point.

Thanks,

--

Mani Arabi, Esq., A.P.
(657) 333-MANI
mani.arabi@gmail.com

The State Bar of California
California Young Lawyers Association

October 24, 2014

VIA EMAIL (teri.greenman@calbar.ca.gov)

ATTN: Teri Greenman

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

Re: CYLA Public Comments to State Bar of California Proposed Changes To Pre-admission Competency Training Requirements for Law Students & Recent Law School Graduates

Dear Ms. Greenman:

The Board of Directors of the California Young Lawyers Association (CYLA) writes in support of the proposed changes to the pre-admission competency training requirements for law students and recent law school graduates. CYLA recognizes a number of benefits to both pre-admittees and the public as a result of implementation of the proposed competency training requirements. For the reasons stated below, CYLA fully supports implementation of these new requirements. A copy of this comment was previously submitted during the informal public comment period and is being resubmitted for formal consideration.

I. SHORT-TERM AND LONG-TERM IMPACT ON LAW STUDENTS AND FUTURE CYLA MEMBERS

At the outset, we recognize that most law schools state-wide already have clinical, externships and other practical skills courses in place to accommodate this new requirement. Some already require law students to take a certain number of units of such courses in order to graduate. Accordingly, CYLA sees the competency training requirements as easily accomplished within the framework already in place at most law schools.

With regard to post-graduate pre-admittees, many law schools coordinate post-graduate clerkships with legal employers on behalf of their students. Further, the public interest sector contains many fellowship programs that may also provide opportunity for compliance with the competency training requirements. Additionally, in recent years, local bar associations and sections of the state bar have begun laying the ground work for strong mentorship programs that could easily provide a pathway to apprenticeship and other clerkship opportunities for post-graduates as well. Therefore, CYLA recognizes that a variety of opportunities already exist and can be enhanced to provide opportunities for meeting these requirements after graduation as well as during law school.

Lastly, requiring participation in such training opportunities not only develops skills necessary for practicing law as an attorney, but also has the added benefit of: (a) helping law students and post-graduates make connections in the legal field that may assist them in finding their first attorney position; and (b) allowing law students and post-graduates to more fully explore the variety of

options available for work in the legal field. CYLA appreciates that such benefits have become increasingly important in recent years in light of the economic recession and the difficult job market new attorneys are still facing.

II. THE PROPOSED CHANGES REGARDING COMPETENCY TRAINING REQUIREMENTS ARE CONSISTENT WITH THE STATE BAR'S MISSION AND VALUES

At its core, the competency training requirements reflect a need for well-trained, skilled and competent attorneys. This, of course, is in line with the State Bar's mission of public protection. Additionally, requiring students to move from the classroom into a workplace setting while still in law school provides increased opportunity for supporting work in the public interest and public service areas of law. This supports the State Bar's mandate to improve the administration of justice and increasing access to justice for all Californians.

II. CYLA CAN ASSIST WITH THE IMPLEMENTATION OF THE PROPOSED CHANGES ONCE THEY ARE APPROVED.

Should the proposed changes be approved, CYLA is prepared to assist the State Bar in implementing the competency training requirements. Part of CYLA's work includes outreach to law schools and young lawyer organizations state-wide. CYLA can marshal its connections and partnerships to increase awareness about the new requirements and provide information on how to fulfill them through local opportunities in a pre-admittee's geographic region.

Additionally, CYLA hopes that the State Bar will broadly publicize the new competency training requirements to schools out-side the state of California, as many Californians choose an out-of-state law school education. CYLA is willing and able to utilize its nationwide connections to help accomplish this goal.

We are also willing to assist in any other appropriate ways the State Bar sees fit. Please contact me if you have any questions. If invited, CYLA Board Members can also participate in future hearings about the proposed changes.

Respectfully submitted,

Ashley N. Emerzian
CYLA Board Member 2013 - 2016

CC: Emily Aldrich, CYLA Chair
Laila Bartlett, CYLA Coordinator
Pam Wilson, Senior Director Office of Education

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October 24, 2014

Teri Greenman
Executive Offices
The State Bar of California
845 S. Figueroa St., 5th Floor
Los Angeles, CA 90017

Re: TFARR Proposed Implementing Recommendations

Dear Ms. Greenman:

PLI is a non-profit legal seminar provider and legal publisher chartered by the New York Board of Regents in 1933 with headquarters and training center in New York City and an office and training center in downtown San Francisco (PLI California Center). Key to PLI's mission is to increase access to justice throughout the United States. This year, for example, PLI will provide more than 50,000 scholarships to pro bono attorneys.

PLI supports the proposed admission regulations reforms and is pleased to provide professional development resources at no cost that will be useful to all those affected by the new rules once adopted. In fact, the PLI Board of Trustees has approved increasing staff resources in California to expand free programs needed to ensure the success of the admission reforms once the new rules are adopted.

Since 2008, PLI has collaborated with The State Bar of California and access to justice entities statewide to produce professional development training resources for legal aid staff attorneys, pro bono attorneys and law students who represent low-income and modest-means clients. PLI has also provided Train the Trainers programs for these stakeholders to allow them to develop and present more effective training programs on their own.

PLI offers a diverse curricula of more than 50 free pro bono programs, from basic to more advanced programs in major public interest practice areas including: family law; housing; entitlements; consumer law; and veterans benefits to name a few. PLI also develops programs in legal ethics; professional responsibility; and limited scope representation. The PLI curriculum is continually updating and expanding to include new skills topics and programs on new or fast-changing areas of law. All of these trainings are available on multiple platforms, including live programs at the PLI California Center, live webcasts and archived On-Demand programs, to make the content easy to use and accessible to the community. Similar programs are also presented in PLI's New York City training center. All of PLI's pro bono programs are free and thousands each year take advantage of PLI's curated pro bono programs.

In addition to pro bono programming, PLI also supports the access to justice community by making our facility available to the community to present their own programs at the Center free of charge.

PLI is working closely with The State Bar to further expand the availability of our training resources for the access community. With the assistance of The Bar's Office of Legal Services staff, many IOLTA grantees and other access to justice entities, including law school clinics and solo incubators, have taken advantage of PLI's free Pro Bono Privileged Membership. The Pro Bono Privileged Membership is an all-access pass to all PLI program resources (over 3,000 hours of content) available at no cost to those representing low-income and modest-means clients.

There are hundreds of organizations in California and across the country who benefit from these no-cost Privileged Memberships and PLI has served tens of thousands of access to justice staff advocates and pro bono lawyers each year.

PLI's pro bono work has been immeasurably enhanced by the help of The State Bar's Office of Legal Services, legal aid and pro bono advocates, and law firm and corporate legal department pro bono coordinators, who help identify the most critical training needs and serve as faculty to assist in the development and presentation of the zero dollar pro bono programs. We look forward to continuing our collaboration with the community to design programming and resources to address the regulations reforms.

The work of the Task Force is critical and changes made here in California will benefit our state and will continue to reverberate across the country.

The work of the Task Force has attracted the keen interest the PLI Board of Trustees which met in San Francisco in March 2014 to learn more about these developments. At this meeting, the Trustees explored how PLI could increase its work in support of your efforts to improve the practical professional development of law students and new admittees and in the process increase access to justice for low-income and modest-means clients who desperately need our legal help. At the meeting, the Board expressed support for expanding PLI's California pro bono initiatives.

Thank you for your leadership. PLI is pleased to be able to provide professional development resources to support your efforts.

Sincerely,

John M. Mola
Program Attorney and Director of California Operations

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California · 180 Howard Street · San Francisco, CA 94105 · (415) 538-2352 · (415) 538-2524/fax

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Western Center on Law & Poverty
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KELLI M. EVANS
Senior Director Administration of Justice
State Bar of California

October 28, 2014

Teri Greenman
Executive Offices
The State Bar of California
845 South Figueroa Street, 5th Floor
Los Angeles, CA 90017

Dear Ms. Greenman:

The California Commission on Access to Justice is pleased to submit comments on the recommendations included in the Phase II Final Report of the Task Force on Admissions Regulation Reform, dated September 25, 2014.

The Commission commends the Task Force for recognizing the need for well-trained lawyers and proposing new admissions requirements that focus on increasing competency and professionalism for new lawyers while helping to address the justice gap. We appreciate the significant effort involved in both Phase I and Phase II of the Task Force's work.

While the Access Commission supports the overall purpose and general direction of the recommendations, we have three specific comments related to Recommendation B, the proposed requirement that all new members provide 50 hours of pro bono or reduced-fee legal services.

1. Requirement to Provide Supervised Pro Bono or Supervised Reduced Fee Legal Services: Supervising Attorney Qualifications.

Proposed Subsection (A)(2) of Rule 2.155 'Supervising attorney' states that a supervising attorney must have "practiced law for at least two years immediately preceding the time of supervision."

The Access Commission understands and shares the Task Force's goal of ensuring that students and new lawyers receive appropriate supervision while performing pro bono and/or reduced fee legal services. Appropriate supervision is necessary for the professional development of new attorneys and is critical for ensuring that clients receive accurate and high quality legal services. In our experience, these values are embraced firmly by legal services organizations and other non-profits likely to supervise students and new attorneys under the new admissions standards.

While the Commission supports the goal of ensuring quality supervision, we do not believe that it is necessary or appropriate for the rules to mandate a specific minimum number of years of practice for supervisors. In our view, such micromanagement is not necessary and may have an undue impact on legal services providers and others who otherwise would be willing and able to provide high-quality and structured supervision of law students and new attorneys to assist them in meeting the new admissions standards.

Legal services organizations and other non-profits often employ newer attorneys and law fellows who may not have practiced law for two years immediately preceding the time of supervision. Based upon the type of work being performed and the training and qualifications of these individuals, they often are well-suited for supervising law students. It is important to recognize that such attorneys generally are working within an organizational structure where more experienced supervising attorneys are available as mentors and to answer any questions and provide additional guidance when needed.

Not allowing students or new attorneys to meet the new admissions requirements under these circumstances would be counter to the goals of the new program and may unnecessarily limit the participant pool.

As New York has recognized in implementing a similar new admissions requirement, “[i]n large measure, the means and extent of required supervision are dependent on the nature of the pro bono services.”¹ New York provides participating entities with flexibility and discretion by requiring simply that the supervisor be an instructor or member of a law school faculty, an attorney admitted to practice and in good standing in the jurisdiction where the work is performed, or by a judge or attorney employed by the court (for clerkships and judicial externships).²

We recommend that the Task Force retain a requirement that participating students and new attorneys receive appropriate supervision while performing pro bono and reduced fee legal work. In order to allow for greater flexibility, however, we recommend that the Task Force provide participating organizations with discretion in the manner in which such supervision is provided.

2. Requirement to Provide Supervised Pro Bono or Supervised Reduced Fee Legal Services: Supervising Attorney Duties.

Proposed Subsection (B)(2) of Rule 2.155 ‘Supervising attorney’ states that a supervising attorney must “ensure that the relationship between the supervising attorney and supervisee is in compliance with current state and federal labor laws.”

¹ New York State Bar Admission: Pro Bono Requirement FAQs (September 17, 2014 rev.).

² Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, Rule 520.16(c).

The Commission strongly supports the goal of ensuring that students and new attorneys are not subjected to any unlawful practices while performing pro bono or reduced fee legal services. As drafted, however, we believe that the provision places undue emphasis on individual attorney supervisors and focuses too narrowly on compliance with labor law.

We recommend that the definition be amended to reflect a more general requirement that participating organizations ensure that they comply with all state and federal laws when supervising students or new attorneys under this program.

3. Eligibility Criteria for the State Bar of California Wiley W. Manuel Certificate for Pro Bono Legal Services.

The Wiley W. Manuel Certificate for Pro Bono Legal Services was created in 1989 to recognize the contributions of the many lawyers, law students, paralegals and secretaries in California who volunteer their time and expertise on behalf of low-income clients. Volunteers who perform at least 50 hours of pro bono services annually are eligible to receive this special recognition.

Under the new proposed rules, many new attorneys would qualify for the Wiley W. Manuel Certificate for Pro Bono Legal Services because of the new admission requirement of 50 hours of pro bono services. The Commission recommends the State Bar of California review and consider adjusting the eligibility criteria for the Wiley W. Manuel certificate to recognize those individuals who provide an additional significant level of pro bono services to qualify for the special recognition that the certificate provides.

The Commission appreciates the opportunity to submit these comments, and looks forward to working with the State Bar to develop a more prepared and professional group of new lawyers, while also addressing ways to close the justice gap.

Sincerely,

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

Hon. Ronald B. Robie
Chair, California Commission on Access to Justice

Comments on the CA Bar's Task Force on Admissions Regulation Reform (TFARR) Phase II Recommendation B: 50-Hour Pro Bono Requirement

by: Catherine Rucker¹

Interest Statement

I am a law school student at Golden Gate University School of Law in San Francisco, and I will earn my Juris Doctorate in December 2014. Practical skills training for law students is critical, and I fully support the concept for the Recommendation B requirement for 50-hours of pro bono service.

I have experience in drafting statutes and regulations because I have served as a Student Delegate to the Conference of California Bar Associations (CCBA) for the past three years. The CCBA is a group of attorneys and law students who work to improve the California laws and the California Rules of Court. See www.calconference.org.

I have lived in California my entire life, and my goal is for California to have a set of pro bono rules that will allow law students to apply their skills to assist persons of limited means, a wide variety of non-profit organizations, government entities, where the rules will not also cause unintended consequences.

Comments

I. The Recommendation B proposals will Cause Major Problems Because (1) the Post-Admission Deferral Option Requires Enforcement Measures, and (2) the Rule to Describe the Organizations and Government Entities is too Narrow.

First, because the Business & Professions Code will allow the pro bono requirement to be completed after Bar admission, then enforcement measures are necessary. See proposed Business & Professions Code § 6060.4; and CA rules 2.152(A), 2.158 (non-compliance), and 2.159 (enrollment as inactive for non-compliance).² Second, because proposed rule 2.151 (A), to describe the types of organizations and government entities that will qualify as service providers, is too narrow, then there will not be enough

¹ J.D. Candidate, Dec. 2014, Golden Gate University School of Law.

² CA Business & Professions Code § 6060.4.

capacity for service providers and for supervising attorneys to meet the demand.³ The demand will be that approximately 7,000 individuals will pass the California Bar exam each year, and each of them will have to complete the 50-hour pro bono requirement.⁴

A. The 50-Hour Pro Bono Requirement Should be Completed Prior to Bar Admission, and Should not be Deferred

New York will require all Bar applicants to complete the pro bono requirement prior to admission.⁵ Because New York placed the entire burden on the Bar applicant, then the New York rules do not contain any enforcement measures.⁶ Because there are no enforcement measures, then the New York pro bono program will not harm the reputation of any new Bar member.⁷

In contrast, California intends to allow deferral for the 50 hours of pro bono for up to one year after Bar admission.⁸ As a result, the CA rules must include enforcement measures.⁹ In turn, the CA Bar will create an expensive administrative oversight program to track whether each new Bar member has completed the requirement before the one-year deadline.¹⁰ Once the deadline has passed, then the CA Bar will apply the enforcement measures for “non-compliance” and “enrollment as inactive for non-compliance.”¹¹

The enforcement measures in the CA rules will be applied “automatically.”¹² Apparently, there will be a computer program to determine when a Bar Member is “non-compliant.”¹³ Next, the computer program will enroll the Bar Member as “inactive,”

³ See CA rule 2.151 (2) & (3).

⁴ See CA Bar passage statistics, *available at* <http://admissions.calbar.ca.gov/Examinations/Statistics.aspx>. CA rule 2.152 (A) (the requirement); CA rule 2.151 (A) (describing service providers); CA rule 2.155 (requirements for supervising attorneys).

⁵ NY rule § 520.16 (a) (beginning on January 1, 2015).

⁶ NY rule § 520.16 (a) – (g). Advisory Committee on New York State Pro Bono Bar Admission Requirements, 9 (Sept. 2012) (warning: “[T]he deferral proposal not only would impose a new and impractical administrative burden on the Appellate Divisions but also raises the difficult question of appropriate enforcement.”).

⁷ NY rule § 520.16 (a) – (g) (containing no enforcement measures).

⁸ CA Business & Professions Code § 6060.4 (A member must provide fifty hours of pro bono no later than one year following admission.); CA rule 2.152 (A) (The pro bono requirement can be completed between the commencement of law school and by the end of one year following admission.).

⁹ CA rules 2.152 (A), 2.158, and 2.159.

¹⁰ CA rules 2.152 (A).

¹¹ CA rule 2.158 (non-compliance) & 2.159 (enrollment as inactive due to non-compliance).

¹² CA rules 2.158 & 2.159.

¹³ CA rule 2.158.

because this is an administrative action that requires no hearing.¹⁴ Even though these enforcement measures will be automatic, it will cost money to create and to maintain the computer system.¹⁵ Thus, the CA Bar estimates that it will cost “\$464,000 per year, primarily in the added staff resources that will be needed to monitor compliance” for Recommendations A, B, & C.¹⁶ In contrast, New York’s “administrative oversight program” will only consist of ensuring that each Bar applicant has filed an Affidavit of Compliance.¹⁷

At the moment when the CA Bar first applies the enforcement measures to a new Bar Member, then there will be negative publicity about the California pro bono program.¹⁸ And there will also be litigation, which will involve the court system. The CA Bar can avoid all enforcement measures, negative publicity, and litigation by requiring that the pro bono requirement be completed prior to Bar admission.¹⁹

A One-Year Post-Bar Deferral is Not Necessary

It is not necessary to allow a one-year deferral after Bar admission.²⁰ This is because the pro bono requirement can be completed at any time during law school.²¹ And then there is more time during the period between taking the Bar exam and waiting for the exam results. A three-and-a-half-year time period is sufficient, and there is no need for an additional year.

If the CA Bar wants to provide “flexibility” for Bar applicants, then it should propose that when Recommendations A, B, & C are implemented, then the CA Bar exam should be reduced from 3 days to 2 days.²² According to a 2011 study, the CA Bar knows how to construct a 2-day exam that will replicate the results of a 3-day exam without discriminating against anyone.²³ All the CA Bar has to do is to get approval to apply the

¹⁴ CA rule 2.159.

¹⁵ Compare CA rules 2.158 & 2.159, with Advisory Committee on New York State Pro Bono Bar Admission Requirements, 9 (Sept. 2012).

¹⁶ Notice: Task Force on Admissions Regulation Reform Phase II Implementing Recommendations (deadline of Nov. 3, 2014), available at <http://www.calbar.ca.gov/AboutUs/PublicComment/201411.aspx>

¹⁷ NY rule § 520.16 (f) (proof required).

¹⁸ See CA rules 2.158 & 2.159.

¹⁹ See CA rules 2.152 (A), 2.185 (non-compliance), & 2.159 (enrollment as inactive for non-compliance). See also NY rule § 520.16 (a) – (g) (containing no enforcement measures).

²⁰ See CA Business & Professions Code § 6060.4; CA Rule 2.152 (A).

²¹ CA Rule 2.152 (A).

²² See Comments from Dean Stephen Ferruolo, University of San Diego School of Law, item 20 (that the California Bar Exam should be shortened to two days).

²³ Committee of [CA] Bar Examiners, Open Session Agenda Item: May 2013 — O-200, Two-Day Examination Proposal (Apr. 24, 2013) (Recommendation: Pending, Proposed Motion: Pending); Stephen P. Klein, Ph.D. & Roger Bolus, Ph.D., The Estimated Effect

changes to the Bar exam format.

B. The Rule to Define the Types of Organizations and Government Entities is Too Narrow

Another major problem is that the CA rules do not clearly define which types of organizations and which types of government entities will be included as pro bono service providers.²⁴ This is because CA rule 2.151(A), for organizations and government entities, was based on the proposed California Rules of Professional Conduct, Rule 6.1, from 2010 (which was directly copied from ABA Rule 6.1, from 1983).²⁵

Although it is called a “rule,” and although it defines the term “pro bono,” CA / ABA Professional Conduct (PC) Rule 6.1 is a “guideline.” PC 6.1 is a guideline because it was written to encourage more attorneys to perform pro bono work, and because it could not require the attorneys to perform the work.²⁶ In contrast, the CA (pro bono) rules will be binding “rules” because they create a Bar admission requirement.²⁷

Some Important Distinctions Between Rules and Guidelines (FAQ’s)

“Rules” and “guidelines” have different purposes. “Rules” are binding, and they can define what is included and what is excluded.²⁸ For example, the set of proposed statutes in the CA Business & Professions Code, and the proposed regulations in the Rules of the State Bar of California (CA rules) are “rules” that must be approved by the California Supreme Court.²⁹ The CA rules will define the types of legal services that will qualify as “pro bono.”³⁰

on Examination Quality and Passing Rates of Different Ways of Modifying California’s Bar Examination, 4 (Dec. 12, 2011) (“Table 6 shows that reducing test length does not affect overall passing rates or exacerbate the differences in rates that are typically found among racial / ethnic groups.”).

²⁴ CA rule 2.151 (A)(2)&(3).

²⁵ TFARR Phase II, Recommendation B, Summary of Rules, 2 (Sept. 25, 2014); CA Proposed Rules of Professional Conduct, Rule 6.1: Voluntary Pro Bono (2010); ABA Rule 6.1, *available at* http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct.html

²⁶ CA Proposed Rules of Professional Conduct, Rule 6.1: Voluntary Pro Bono (2010).

²⁷ CA rule 2.151 (A).

²⁸ See CA Business & Professions Code § 6060.4; CA rules 2.150 – 2.160.

²⁹ Notice: Task Force on Admissions Regulation Reform Phase II Implementing Recommendations (deadline of Nov. 3, 2014).

³⁰ CA rule 2.151(A).

In contrast, a guideline, such as an “FAQ” is persuasive.³¹ An FAQ can supplement a rule by providing explanations and examples. For example, the TFARR intends to publish a set of FAQ’s to support the CA pro bono rules, and the CA Bar will be able to unilaterally update the FAQ’s as needed.³² However, an FAQ cannot supplement a rule by including additional rules – after the approving body has adopted the main set of rules.

In general, it is not practical to convert a guideline into a rule because guidelines and rules have different purposes. For example, when a rule is written, then the drafter must consider *expressio unius est exclusio alterius*, where the inclusion of one thing excludes something else.³³

CA Rule 2.151 (A), to Describe the Types of Organizations and the Types of Government Entities

CA rule 2.151 (A) describes the types of “organizations” that will qualify as pro bono service providers.³⁴ Subsection (A)(2) includes organizations that assist “persons of limited means, and subsection (A)(3) includes the “other” types of organizations and government entities that do not directly assist “persons of limited means.”³⁵ Because 2.151(A) is a rule, then anything not described by it will be excluded.³⁶

CA rule 2.151 (A)(3), to describe the “other” organizations and the government entities, is not broad enough for the pro bono requirement.³⁷ The rule is not broad enough because it does not specify that “all” non-profit organizations are included, and that “all” government entities are included.³⁸ Because (A)(3) is not broad enough, then the law students will focus on the organizations in (A)(2), that directly support persons of limited means.³⁹ Because approximately 7,000 individuals pass the CA Bar Exam each year, then the rules must create enough pro bono service providers and willing supervisors to enable each Bar applicant to fulfill the pro bono requirement.⁴⁰ To ensure maximum

³¹ See NY FAQ’s for pro bono.

³² TFARR Recommendation B transcripts (Sept. 16, 2014), p 57, line 23 (indicating that the TFARR will draft a set of FAQ’s).

³³ Black’s Law Dictionary.

³⁴ See CA rule 2.151 (A)(2)&(3).

³⁵ CA rule 2.151 (A) (2)&(3).

³⁶ See CA rule 2.151 (A)(3).

³⁷ CA rule 2.151 (A)(3).

³⁸ CA rule 2.151 (A)(3).

³⁹ See Comments from: Gary F. Smith, Legal Services of California, (that the rules will cause the no-fee “IOLTA community [to] be inundated and overwhelmed with requests from legal graduates” to satisfy the pro bono requirements; and Linda Curtis, LACBA, (stating, “[T]here does not seem to be a sufficient number of qualified pro bono agencies with the capacity and funding to train and adequately supervise the flood of newly admitted members who will now be required to fulfill their pro bono hours.”)

⁴⁰ See CA Bar passage statistics, *available at*

capacity, the NY rules include “all” not-for-profit organizations and “all” government entities.⁴¹ To ensure enough capacity, then CA rule 2.151 (A)(3) should be just as broad.

Besides the capacity issues, CA rule 2.151 (A)(3) is ambiguous for describing government entities.⁴² For example, three of the comments asserted that the rule will exclude several types of government entities.⁴³ In response, several of the TFARR Pro Bono Committee Members opined that certain types of government entities should be excluded.⁴⁴ This is because some TFARR members have the myopic goal to support organizations that provide “access to justice.” As a result, the TFARR decided to exclude government entities that do not directly support persons of limited means by writing an FAQ with a specific list of “approved” government entities.⁴⁵

The TFARR’s decision to write an FAQ with a specific list is problematic because the “inclusions” and the “exclusions” must be in the rules.⁴⁶ For example, the NY rules include a wide range of pro bono service providers, and they only exclude participation in “political activities.”⁴⁷

If the CA Bar places a specific list of “approved” government entities within an FAQ, then that will cause serious problems.⁴⁸ First, the CA Bar will have to maintain a very long list of approved government entities.⁴⁹ Second, the CA Bar will be able to amend the list within the FAQ whenever it wants to, without the approval of the California Supreme Court.⁵⁰ This is problematic because there must be certainty. The Bar

<http://admissions.calbar.ca.gov/Examinations/Statistics.aspx>

⁴¹ NY rule § 520.16 (b)(1)(ii) (including all “not-for-profit” organizations); NY rule § 520.16 (b)(2) (including “public service for a judicial, legislative, executive or other governmental entity”); and NY FAQ 12 (listing examples of the types of organizations and government entities that will qualify).

⁴² CA rule 2.151 (A)(3).

⁴³ Comments from: Zach Cowan, City of Berkeley, (“The definition should make clear beyond cavil that this includes governmental organizations.”); Thomas J. Kensok, Contra Costa County DA’s Office, (that if the rules intended to “include district attorney and public defender offices as beneficiaries,” then these types of governmental entities should be specifically included “by name.”); Sebastian Kaplan, Bar Association of San Francisco Barristers, (that “public service constitutes an equally important and worthy aspect of lawyers’ work as *pro bono* service.”).

⁴⁴ TFARR Recommendation B transcripts (Sept. 16, 2014), page 53-57.

⁴⁵ TFARR Recommendation B transcripts (Sept. 16, 2014), page 57-58.

⁴⁶ CA rule 2.151 (A)(3).

⁴⁷ NY rule § 520.16 (b) (describing organizations and government entities that are included); NY rule § 520.16 (g) (excluding political activities).

⁴⁸ Sept 16 transcripts, page 57, lines 22-25 (a suggestion for the FAQ’s to list the government entities to be included).

⁴⁹ See Sept 16 transcripts, page 57, lines 22-25 (a suggestion for the FAQ’s to list the government entities to be included).

⁵⁰ See www.calbar.ca.gov (where the CA Bar periodically updates the FAQ’s for many

applicants must know that when they perform pro bono hours in a certain setting, then the hours will fulfill the requirement.⁵¹ Third, if the list of government entities is specific, then it belongs in the rule, because the rules define what is included and what is excluded.⁵² An FAQ may contain examples, but it cannot contain “inclusions” and “exclusions” – because that is what the rule is for.⁵³ Fourth, if there is a specific list of approved government entities, then the CA Bar staff members will have the power to reject pro bono hours that were performed at “questionable” government entities.⁵⁴ Lastly, as New York Chief Judge Lippman stated in his “Law Day 2012” remarks:

The public interest is served by government;
it is served by government at all levels and in all agencies.”⁵⁵

Serving the government is in the public interest. Thus, serving the government should count as pro bono. For many reasons, the CA rules should simply include “all” government entities as pro bono service providers.⁵⁶ So long as the legal services will support the public interest, then the Bar applicants should decide where to volunteer their services.⁵⁷ Thus, CA rule 2.151 (A)(3) should be amended to include all non-profit organizations and all government entities.⁵⁸

Concurrently Satisfying the Practical Skills Requirement and the Pro Bono Requirement

CA rule 2.152 (B) & (C) allows Bar applicants to fulfill Recommendation A (for 15 units of experiential learning or 6 months of internship) while concurrently fulfilling the pro bono requirement.⁵⁹ But since CA rule 2.151 (A), to describe the types of organizations and the types of government entities, is ambiguous (see above), then rule 2.152 (B) & (C) for “concurrent satisfaction” is also ambiguous.⁶⁰
[The remaining CA rules are addressed in numerical order.]

issues).

⁵¹ CA rule 2.152 (A).

⁵² CA rule 2.151 (A)(3).

⁵³ CA rule 2.151 (A)(3).

⁵⁴ TFARR Recommendation B transcripts (Sept. 16, 2014), page 57, lines 22-25 (a suggestion for the FAQ’s to list the government entities to be included); CA rule 2.151 (A) (the pro bono requirement).

⁵⁵ Advisory Committee on New York State Pro Bono Admission Requirements, 6 (Sept. 2012).

⁵⁶ CA rule 2.151 (A)(3).

⁵⁷ CA Business & Professions Code § 6060.4; CA rule 2.152 (A).

⁵⁸ CA Bar passage statistics available at

<http://admissions.calbar.ca.gov/Examinations/Statistics.aspx>; CA rule 2.152 (A).

⁵⁹ CA rule 2.152 (B)&(C).

⁶⁰ *Compare* CA rule 2.151 (A)(2)&(3) (for organizations and governmental entities), *with* CA rule 2.152 (B)&(C) (for concurrent satisfaction).

II. The CA Rules are Problematic in Several Other Areas

The CA rules will cause other serious problems because they will: (1) force many pro bono clients to pay for services, when they otherwise would not have paid fees, (2) discourage attorneys to serve as supervisors, (3) allow reporting without an oath, and (4) allow modifications and exemptions, which will undermine the program.⁶¹

A. The CA Rules will Force Many Persons of Limited Means to Pay “Reduced-Fees” Instead of “No-Fees”

The CA rules were written to include both “no-fee” services and “low-fee” services.⁶² To that end, CA rule 2.151 relies on two income indices.⁶³ Rule 2.151 (A) uses the “Interest on Lawyers Trust Account” (IOLTA) for no-fee services, and rule 2.151 (B) uses the (58) California County-specific indices for low-fee services.⁶⁴ Rule 2.151 was written in order to define which type of organizations will qualify as pro bono service providers, but it will also cause unintended consequences.⁶⁵

Because rule 2.151 relies on the two income indices, then the rule will also force decisions about which clients will pay “no-fees” and which clients will pay “low-fees.”⁶⁶ Steven H. Schulman, with the Association of Pro Bono Counsel, commented that the proposed rules “could unintentionally result in legal aid-eligible clients being charged fees for services they might have otherwise secured for free from legal aid or pro bono attorneys.”⁶⁷ For example, if a client’s income is above the IOLTA index, then the client will be forced to pay “low-fees” instead of being eligible for “no-fees.”⁶⁸ Because rule 2.151 includes income indices, then the rule will force many pro bono service providers to charge fees.⁶⁹ And then many low-income clients will simply give up on their legal issues.⁷⁰

In order to solve this issue, the CA rules should state that both “no-fee services” and “low-fee services” are included, and the rules should not rely on income indices.⁷¹ To compare, the NY rules include “no-fee” services, and then an FAQ explains that “low-

⁶¹ CA rules 2.150 – 2.156.

⁶² CA rule 2.151 (A) & (B).

⁶³ CA rule 2.151 (A) & (B).

⁶⁴ CA rule 2.151 (A) & (B).

⁶⁵ CA rule 2.151 (A) & (B).

⁶⁶ CA rule 2.151 (A) & (B).

⁶⁷ Public Comment Received as of Sept. 16, 2014, item 14. See *also* Comments from Sebastian Kaplan, BASF Barristers, item 16 (the rule for “reduced fees” may create an “imbalance” between “qualifying and non-qualifying legal work”).

⁶⁸ CA rule 2.151 (A) & (B).

⁶⁹ CA rule 2.151 (A) & (B).

⁷⁰ See CA rule 2.151 (A) & (B).

⁷¹ CA rule 2.151 (A) & (B).

fee” services are included in the rule.⁷² (But is this an expansion of the rule, or is it an explanation of the rule? And is anyone likely to challenge the NY structure?) The CA rules can be written to expressly include both no-fee services and low-fee services, without relying on income indices.

B. CA Rule 2.153 for Exemptions Should be Eliminated

The TFARR claims that the pro bono requirement will:

[I]ncrease practical competency skills in furtherance of the State Bar’s public protection mission, [and] the pro bono aspect will also help inculcate pro bono as a core value of professionalism and help address California’s justice gap.⁷³

But then CA rule 2.153 undermines these goals by providing “exemptions” for experienced attorneys who are entering California and for foreign LLM students.⁷⁴

CA rule 2.153 (A) will cause problems because proving whether someone has “been active” in practicing law for four years is not the same as proving whether someone has “been licensed to practice law” for four years.⁷⁵ As a result, this rule will cause the CA Bar to perform investigations, which will lead to enforcement issues.⁷⁶ Thus, CA rule 2.153 (A) should be eliminated.

CA rule 2.153 (B) exempts foreign LLM students, and this rule should also be eliminated.⁷⁷ Even though several thousand foreign LLM students apply to the New York Bar each year (there were approximately 4,500 foreign applicants in 2011), the NY rules do not exempt foreign LLM Bar applicants.⁷⁸

The entire CA rule for exemptions should be eliminated because exemptions will undermine the pro bono program.⁷⁹ All of the out-of-state transferring attorneys and all of the foreign LLM students should incorporate pro bono service into their practices and these individuals should also help to address the justice gap.⁸⁰ Thus, CA rule 2.153 for

⁷² NY rule § 520.16 (b)(1)(i); NY FAQ’s No. 12 (b)(i).

⁷³ TFARR Phase II, Recommendation B, Summary of Rules, 1 (Sept. 25, 2014).

⁷⁴ *Compare* TFARR Phase II, Recommendation B, Summary of Rules, 1 (Sept. 25, 2014) (why a pro bono requirement is needed), *with* CA rule 2.153 (exemptions).

⁷⁵ CA rule 2.153 (A).

⁷⁶ CA rule 2.153 (A); CA rule 2.158 (non-compliance); CA rule 2.159 (enrollment as “inactive” for non-compliance).

⁷⁷ CA rule 2.153 (A).

⁷⁸ Advisory Committee on New York State Pro Bono Admission Requirements, 4 (Sept. 2012); NY rule § 520.16 (a)–(g).

⁷⁹ *Compare* rule 2.153 (exemptions), *with* TFARR Phase II, Recommendation B, Summary of Rules, 1 (Sept. 25, 2014) (why a pro bono requirement is needed).

⁸⁰ *See* TFARR Phase II, Recommendation B, Summary of Rules, 1 (Sept. 25, 2014)

exemptions should be eliminated.⁸¹

C. CA Rule 2.154 for Modifications Should be Eliminated

CA rule 2.154 offers “modifications” for applicants who claim hardship.⁸² From the “exemption” argument above, a rule for modification will undermine the CA Bar’s goals for the pro bono program.⁸³ Further, CA rule 2.154 does not include the standard to apply, it does not describe what the modifications will be, it does not set out who will make the decisions, and it does not set out an appeals process.⁸⁴ Thus, CA rule 2.154 for “modification” should be eliminated.⁸⁵

VI. CA Rule 2.155, With the Requirements to be a Supervising Attorney Should not Include a “Time” Requirement for Experience

CA rule 2.155 (A)(2) requires that each supervising attorney have a minimum of two years of experience.⁸⁶ This is the same standard that the CA Bar’s “Practical Training of Law Students” (PTLS) program has.⁸⁷ In the PTLS program, certified law students are allowed to assist in litigation under the direct supervision of experienced attorneys.⁸⁸ In the PTLS program, the requirement for two years of experience will never have a negative impact because the goal of the program is to allow the student to perform litigation in order to gain valuable experience.

In contrast, CA rule 2.155(A)(2), for the supervising attorney to have at least two years of experience, will have a negative impact.⁸⁹ For example, if a supervising attorney claims to have two years of experience, but actually has less than two years, then the pro bono hours will not be valid.⁹⁰

The NY rules simply state that each supervisor must be an attorney, a law school

(why a pro bono requirement is needed).

⁸¹ CA rule 2.153 (exemptions).

⁸² CA rule 2.154 (modifications).

⁸³ *Compare* CA rule 2.154 (modifications), *with* TFARR Phase II, Recommendation B, Summary of Rules, 1 (Sept. 25, 2014) (why a pro bono requirement is needed).

⁸⁴ CA rule 2.154.

⁸⁵ CA rule 2.154.

⁸⁶ CA rule 2.155 (A)(2) (requiring two years of experience).

⁸⁷ <http://admissions.calbar.ca.gov/Education/LegalEducation/PracticalTrainingofLawStudentsProgram.aspx>, item 4.

⁸⁸ <http://admissions.calbar.ca.gov/Education/LegalEducation/PracticalTrainingofLawStudentsProgram.aspx>, item 4.

⁸⁹ CA rule 2.155 (A)(2).

⁹⁰ CA rule 2.155 (A)(2) (The supervising attorney “must” have at least two years of experience.).

faculty member, or a judge.⁹¹ Thus, the NY rules do not require the supervising attorneys to have a minimum amount of “time” for experience.⁹² Instead, New York trusts that each attorney who volunteers to supervise a law student will be competent enough to supervise.⁹³ Because New York is willing to trust the attorneys who are willing to supervise, then California should trust them too.

D. Examples of a Supervising Attorney’s Duties Should be in the FAQ’s, and not in the Rules

CA rule 2.155 (B) lists the supervising attorney’s duties.⁹⁴ For example, CA rule 2.155 (B) states that the supervisor must:

- (1) provide or ensure active or timely written or oral feedback; [and]
- (2) ensure that the relationship between the supervising attorney and supervisee is in compliance with current state and federal labor laws.⁹⁵

Even though these requirements are minimal, they should not be in the rules at all.⁹⁶ For example, if the CA rules dictate what the supervising attorney’s duties are, then that could show that there is an “employment relationship,” and the Fair Labor Standards Act wage requirements will apply.⁹⁷ The counterargument is that the list of supervisor duties only shows a “training relationship.” But why invite the FLSA issue at all? Rule 2.155(B)(2) is also problematic because the supervising attorneys will not want to “ensure” that all of the “state and federal labor laws” were followed.⁹⁸

New York avoided FLSA issues by explaining the supervising attorney’s duties within its FAQ’s.⁹⁹ FAQ No. 8 states that the work will qualify, “as long as the work does not violate any of your law school’s regulations or policies about student employment or volunteer activities.”¹⁰⁰ FAQ No. 13 describes what “sufficient” supervision is.¹⁰¹ And FAQ 18 states: “[A]dequate supervision must be provided so that the requisite supervisory certification required by the Affidavit of Compliance can be issued.”¹⁰² The New York FAQ’s will ensure that the students and the supervising attorneys will have a

⁹¹ NY rule § 520.16 (c).

⁹² NY rule § 520.16 (c).

⁹³ See NY rule § 520.16 (c).

⁹⁴ CA rule 2.155 (B)(2).

⁹⁵ CA rule 2.155 (B)(2).

⁹⁶ See CA rule 2.155 (B)(2).

⁹⁷ Compare CA rule 2.155 (B)(2), with Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act, U.S. Dep’t of Labor, Wage and Hour Division (Apr. 2010).

⁹⁸ CA rule 2.155 (B)(2).

⁹⁹ NY FAQ’s 8, 13 & 18.

¹⁰⁰ NY FAQ No. 8.

¹⁰¹ NY FAQ No. 13.

¹⁰² NY FAQ No. 18.

good relationship so that the students will produce quality work.¹⁰³ And California should follow the New York model.

E. CA Should Require an “Affidavit of Compliance,” and not a Simple Report

CA rule 2.156 requires each applicant to make an informal “report” that the pro bono requirement has been completed.¹⁰⁴ Since the CA rules should require the pro bono hours be completed prior to Bar admission, then the report should include an oath.¹⁰⁵ NY requires an “Affidavit of Compliance,” where the applicant makes a sworn oath before a notary and where the supervisor signs.¹⁰⁶ An Affidavit of Compliance requires the applicant to pay an additional fee for a notary.¹⁰⁷ The advantage is that because New York relies on an affidavit, then the burden is on the applicant, and New York will not have a burdensome administrative oversight program.¹⁰⁸

Conclusion

These comments show that each of the proposed CA rules will cause serious problems. The CA rules are especially problematic because:

- CA Business & Professions Code § 6060.4 and Rule 2.152, to allow post-admission deferral creates enforcement measures and creates an administrative oversight program, and the enforcement measures will cause harm when they are applied.
- Rule 2.151 (A)(3) will exclude many organizations and government entities that should qualify as service providers, and it will not provide enough capacity to meet the demand.

In addition:

- Rule 2.151 (A)&(B), to strictly define the terms “no-fee” and “low-fee” will cause low-income people to pay for services when they would otherwise qualify for no fee services.
- Rule 2.153 for modifications should be eliminated because full participation is necessary and because modification requests will require evaluations and

¹⁰³ NY rule § 520.16 (a) – (g); NY FAQ No. 8 & No. 13.

¹⁰⁴ CA rule 2.156.

¹⁰⁵ See CA rule 2.152 (A). See also NY rule § 520.16 (f).

¹⁰⁶ NY rule § 520.16 (f); State of New York, *Form Affidavit as to Applicant’s Compliance with the Pro Bono Requirements, Including Certification by Supervisor* (revised July 1, 2014).

¹⁰⁷ NY Affidavit of Compliance Form.

¹⁰⁸ NY Affidavit of Compliance Form.

decisions.

- Rule 2.154 for exemptions should be eliminated because full participation is necessary and because exemptions will cause enforcement issues.
- Rule 2.155, listing supervising attorney's duties, will likely create issues about hourly wages and it will discourage many attorneys from serving as supervisors.
- Rule 2.156 is inadequate because an "Affidavit of Compliance" with an oath is necessary to ensure truthful reporting.¹⁰⁹

The proposed rules are problematic because they contain enforcement measures, when there is a way to craft the rules without enforcement measures. In addition to the enforcement measures, extra controls spill over into restrictions for the types of service providers and for how the supervising attorneys must act. Although the proposed rules will exert many controls, the rules will also exempt many Bar applicants who should participate.

In a related matter, on October 1, 2014, the Daily Journal reported that the California Supreme Court had rejected the CA Bar's proposed rules for Professional Responsibility.¹¹⁰ The article stated:

[T]he [California Supreme] court asked the bar to appoint a new Commission for the Revision of the Rules of Professional Conduct and recommended the replacement commission start fresh, rather than work from the massive set of rules drafted by its predecessor.¹¹¹

The California Supreme Court rejected the proposed Rules of Professional Conduct because they were too long.¹¹² This set of proposed rules was so problematic that the Court threw out the entire set, along with the Commission members.¹¹³ Similarly, although the TFARR believes that the CA Bar Board of Executives should approve the proposed rules at the meeting on November 6, 2014, the rules are not ready to be approved, and they are not ready to be presented to the California Supreme Court.¹¹⁴

¹⁰⁹ See CA rules 2.151 - 2.156.

¹¹⁰ Don J. DeBenedictis, *Bar to return to the drawing board on rules revision*, DAILY JOURNAL (Oct. 1, 2014).

¹¹¹ Don J. DeBenedictis, *Bar to return to the drawing board on rules revision*, DAILY JOURNAL (Oct. 1, 2014). See California Supreme Court Order S206125 (Cal.Sup.Ct, filed Sept. 19, 2014).

¹¹² Don J. DeBenedictis, *Bar to return to the drawing board on rules revision*, DAILY JOURNAL (Oct. 1, 2014).

¹¹³ California Bar, Proposed Rules of Professional Conduct, Rule 6.1: Voluntary Pro Bono Publico Service (Sept. 22, 2010) (this set of Professional Conduct rules contained "proposed rule 6.1," which is the pro bono rule that the TFARR used to define the pro bono service providers).

¹¹⁴ Board of Trustees and Board Executive Committee Notice and Agenda, Thursday, Nov. 6, 2014, Action Item III. E.: Request for Adoption Following Public Comment.

The NY rules are superior because they have a clear structure, and because they have just enough requirements to carry out the goals.¹¹⁵ The NY rules are also superior because New York placed all of the explanations in the FAQ's.¹¹⁶ Because the New York Advisory Committee drafted the NY rules and FAQ's so carefully, then the NY rules will cause many positive outcomes. The NY rules will help many persons of limited means, organizations, governmental entities, and law students – while avoiding a lot of unintended consequences.¹¹⁷

The pro bono rules must accurately define what pro bono means in order to be approved by the California Supreme Court. In addition, the rules must also prevent unintended consequences. The CA Bar can ask the TFARR to meet until it drafts a set of rules that will accomplish both – by copying the exemplary set of pro bono rules that New York has adopted.

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¹¹⁵ NY rule § 520.16 (a)–(g).

¹¹⁶ NY rule § 520.16 (a)–(g); NY FAQ's.

¹¹⁷ NY rule § 520.16 (a)–(g); NY FAQ's.

[Proposed new language underlined language to be deleted stricken.]

BUSINESS & PROFESSIONS CODE

Division 3. Professions and Vocations

Generally Article 4. Admission to the
Practice of Law

~~§ 6060.4 Provision of supervised pro bono or supervised reduced-fee legal services~~

~~A member must provide fifty hours of supervised pro bono or supervised reduced- fee legal services prior to admission, or no later than one year following admission in accordance with rules adopted by the board. A member who has not completed the legal services within one year following admission is enrolled as inactive until the legal services have been completed.~~

[Comment: If the pro bono requirement is to be completed prior to Bar admission only, then no enforcement measures will be necessary. But if the pro bono requirement can be deferred until after Bar admission, then enforcement measures are necessary.]

BUSINESS & PROFESSIONS CODE

Division 3. Professions and Vocations

Generally Chapter 4. Attorneys

Article 4.8. Pro Bono Services

§ 6073. Pro bono legal services; financial support in lieu of directly providing services

It has been the tradition of those learned in the law and licensed to practice law in this state to provide voluntary pro bono legal services to those who cannot afford the help of a lawyer. Every lawyer authorized and privileged to practice law in California is expected to make a contribution. In some circumstances, it may not be feasible for a lawyer to directly provide pro bono services. In those circumstances, a lawyer may instead fulfill his or her individual pro bono ethical commitment, in part, by providing financial support to organizations described in California State Bar Rule 2.151 (A)~~providing free legal services to persons of limited means~~. In deciding to provide that financial support, the lawyer should, at minimum, approximate the value of the hours of pro bono legal service that he or she would otherwise have provided. In some circumstances, pro bono contributions may be measured collectively, as by a firm's aggregate pro bono activities or financial contributions. Lawyers also make invaluable contributions through their other voluntary public service activities that increase access to justice or improve the law and the legal system. In view of their expertise in areas that critically affect the lives and well-being of members of the public, lawyers are uniquely situated to provide invaluable assistance in order to benefit those who might otherwise be unable to assert or protect their interests, and to support those legal organizations that advance these goals. **This section does not exempt members from, or provide an alternative means of compliance with, the requirements of Business and Professions Code, section 6060.4.**

[Comment: Because the latter part of this rule describes how there are many attorneys who work to support the public interest and the public sector, then the scope of this rule should include both organizations that support persons of limited means, as well as other types of non-profit organizations and all government entities.]

RULES OF THE STATE BAR OF
CALIFORNIA

Title 2. Rights and Responsibilities of
Members, Division 3. Member Status

Rule
2.30

- (A) Any member not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request¹, be enrolled as an inactive member. The Secretary may, in any case in which to do otherwise would work an injustice and subject to any direction of the board permit retroactive enrollment of inactive members.
- (B) No member practicing law, or occupying a position in the employ of or rendering any legal service for an active member, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive member.
- (C) Notwithstanding (A) and (B) a member serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive member if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.
- ~~(D) — Notwithstanding (A), (B), and (C), above, a member placed on inactive status pursuant to Business & Professions Code Section 6060.4 may provide supervised pro bono or supervised reduced-fee legal services solely to comply with the supervised pro bono or supervised reduced-fee legal services requirements of Business and Professions Code, section 6060.4.~~

[Comment: If the pro bono requirement is to be completed prior to admission only, then part (D), for enforcement measures, is not necessary.]

¹ Rule 2.31(A).

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members,

Division 3. Member Status

~~Rule 2.37 Inactive enrollment for failure to comply with supervised pro bono or supervised reduced fee legal services requirement~~

~~(A) — A member who fails to provide the supervised pro bono or supervised reduced fee legal services prior to admission or no later than as required by Business and Professions Code section 6060.4 is involuntarily enrolled inactive.~~

~~(B) — To terminate inactive enrollment for failure to provide the supervised pro bono or supervised reduced fee legal services required by Business and Professions Code section 6060.4, a member must comply with the supervised pro bono or supervised reduced fee legal services rules governing reinstatement.²~~

[Comment: If the pro bono requirement is to be completed prior to admission only, then rule 2.37, for enforcement measures, is not necessary. The proposed California rules to define “pro bono” should be derived from the rules in Section 520.16 of the New York Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law.¹

¹ NY rule § 520.16 (a)-(g).

RULES OF THE STATE BAR OF CALIFORNIA

Title 2. Rights and Responsibilities of Members,

Division 6. New Member Requirement to Provide Supervised Pro Bono Services

Rule 2.150 Purpose

Fifty-hour pro bono requirement. Every applicant admitted to the California ~~New York~~ State bar on or after January 1, 2016 [or 2017] ~~2015~~, ~~other than applicants for admission without examination pursuant to section 520.10 of this Part,~~ shall complete at least 50 hours of qualifying pro bono service prior to filing an application for admission with the California State Bar ~~appropriate Appellate Division department of the Supreme Court.~~

Rule 2.151 Definitions

Pro bono service defined. For purposes of this section, pro bono service is supervised pre-admission law-related work that:

(A) assists in the provision of legal services without charge for

(1) persons of limited means;

(2) not-for-profit organizations; or

(3) individuals, groups or organizations seeking to secure or promote access to justice, including, but not limited to, the protection of civil rights, civil liberties or public rights;

(B) assists in the provision of legal assistance in public service for a judicial, legislative, executive or other governmental entity; ~~or~~

~~(C) provides legal services pursuant to subdivisions two and three of section 484 of the Judiciary Law, or pursuant to equivalent legal authority in the jurisdiction where the services are performed. [Note: Section 484 contains exceptions to allow law school students, who have completed two semesters, and graduates from approved law schools, to perform legal services.]~~

Rule [] Supervising attorney

Supervision required. All qualifying pre-admission pro bono work must be performed under the supervision of:

(A) a member of a law school faculty, including adjunct faculty, or an instructor employed by a law school;

(B) an attorney admitted to practice and in good standing in the jurisdiction where the work is performed; or

(C) in the case of a clerkship or externship in a court system, by a judge or attorney employed by the court system.

Rule [] Location of pro bono service

The 50 hours of pro bono service, or any portion thereof, may be completed in any state or territory of the United States, the District of Columbia, or any foreign country.

Rule [] Timing of pro bono service

The 50 hours of pro bono service may be performed at any time after the commencement of the applicant's legal studies and prior to filing an application for admission to the California ~~New York~~ State bar.

Rule [] Reporting

Proof required. Every applicant for admission shall file with the California State Bar ~~appropriate Appellate Division department~~ an Affidavit of Compliance with the Pro Bono Requirement, describing the nature and dates of pro bono service and the number of hours completed. The Affidavit of Compliance shall include a certification by the supervising attorney or judge confirming the applicant's pro bono activities. For each position used to satisfy the 50-hour requirement, the applicant shall file a separate Affidavit of Compliance.

Rule [] Exceptions

Prohibition on political activities. An applicant may not satisfy any part of the 50-hour requirement by participating in partisan political activities.

[Comment: CA rule 2.152 (B) & (C) to allow the “Recommendation A” practical skills requirements and the “Recommendation B” pro bono requirements to be “concurrently satisfied” can be included.]

Comments on the CA Bar's Task Force on Admissions Regulation Reform (TFARR) Phase II Recommendation C: 10-Units of CLE for the First Licensed Year

by: Catherine Rucker¹

Rule 2.55, of the Rules of the State Bar of California, allows a “modification for good cause” when a Bar Member has not completed the required number of MCLE units by the deadline.² Currently, Rule 2.55 describes the main conditions that should allow the CA Bar to grant a “modification.”³ And then the rule states, “The State Bar must approve any modification.”⁴ As a result, the CA Bar has created two types of modifications, and it has also created a list of exceptions – that it calls “caveats.”⁵ The CA Bar posts the information about the types of modifications and about the exceptions on its “Good Cause Modification” webpage.⁶

Rule 2.55 should be amended so that it describes:

- 1) the main conditions that should allow the CA Bar to grant a modification request (currently described in the rule),⁷
- 2) the two types of modifications that are available (currently described on the webpage),⁸ and
- 3) the main conditions (exceptions) that will cause the CA Bar to deny a modification request (currently described on the webpage).⁹

And then the CA Bar should include the explanations and examples about the “modifications” and the “exclusions” within its webpage for “Report Compliance FAQ’s.”¹⁰ Please refer to the attachment with proposed amendments to Rule 2.55.

Catherine Rucker, law student
Golden Gate University School of Law
catherinerucker@me.com, cell: 415-246-6647

¹ J.D. Candidate, Dec. 2014, Golden Gate University School of Law.

² Rules of the State Bar of California, Rule 2.55: modifications.

³ CA Rule 2.55.

⁴ CA Rule 2.55.

⁵ CA Bar webpage for “Good Cause Modification,” *available at* <http://mcle.calbar.ca.gov/Attorneys/Requirements/GoodCauseModification.aspx>

⁶ CA Bar webpage for “Good Cause Modification.”

⁷ CA Rule 2.55.

⁸ CA Rule 2.55; CA Bar webpage for “Good Cause Modification.”

⁹ CA Rule 2.55; CA Bar webpage for “Good Cause Modification.”

¹⁰ See FAQ’s for MCLE Report Compliance, *available at*

<http://mcle.calbar.ca.gov/Attorneys/FAQ.aspx>

See also FAQ’s about MCLE Compliance, CALIFORNIA BAR JOURNAL (Dec. 2012) (containing an extensive list of FAQ’s) *available at*

<http://www.calbarjournal.com/MCLESpecialEdition2012/TopHeadlines/TH2.aspx>

[Proposed new language underlined, language to be deleted stricken.]

RULES OF THE STATE BAR OF CALIFORNIA
Title 2. Rights and Responsibilities of Members
Division 4. Minimum Continuing Legal Education

Rule 2.55 Modifications for Good Cause

~~A member prevented from fulfilling the any MCLE requirement for a substantial part of a compliance period because of a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply for modification of MCLE compliance requirements. The State Bar must approve any modification.~~

A) If a member has experienced a:

- 1) Physical or mental condition,
- 2) Natural disaster,
- 3) Family emergency, or
- 4) Financial hardship,

and the member is not able to complete the required number of MCLE units by the applicable deadline, either for either the first-year 10-unit MCLE requirement or for the recurring 25-unit MCLE requirement,

B) then the member may pay the required processing fee and apply for a “modification for good cause.” If approved by the California Bar, the modification shall:

- 1) provide a six-month time extension, or
- 2) for the recurring 25-unit MCLE requirement only, allow all of the 25 hours to be completed online.

C) The required processing fees for a “modification for good cause” shall be established in the Rules of the State Bar of California, Appendix A: Schedule of Charges and Deadlines, Member Fees.

D) The following shall not qualify as “good cause”:

- 1) The member is not actually practicing law
- 2) The member is practicing for a limited amount of time
- 3) The member is practicing for a limited client base
- 4) There has been a Waiver or Scaling of the active membership fee (applicable to the 25-unit MCLE requirement only)

Public Law Center
Providing Access To Justice
For Orange County's Low Income Residents

601 Civic Center Drive West · Santa Ana, CA 92701-4002 · (714) 541-1010 · Fax (714) 541-5157

Via e-mail only: teri.greenman@calbar.ca.gov

November 3, 2014

State Bar of California – Task Force on Admissions Regulation Reform
c/o Teri Greenman
The State Bar of California
845 S. Figueroa Street, 5th Floor
Los Angeles, California 90017

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

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

The Public Law Center is pleased to submit comments on the recommendations included in the Phase II Final Report of the Task Force on Admissions Regulation Reform, dated September 25, 2014.

The Public Law Center (PLC) supports the overall purpose and general direction of the recommendations. Instilling an appreciation of pro bono and of the issues faced by low-income persons will greatly help create more life-long supporters of legal services. Below please find three comments specific to Recommendation B--the proposed requirement that all new members provide 50 hours of pro bono or reduced-fee legal services.

1. LEGAL SERVICES ORGANIZATIONS WILL NEED ADDITIONAL FUNDING TO HIRE STAFF TO PROPERLY SUPPORT LAW STUDENTS AND NEW LAWYERS SEEKING TO FULFILL THEIR 50 HOUR REQUIREMENT

Legal services organizations will need increased funding to hire more staff, particularly in light of continued reductions in IOLTA grants and recent cuts in filing fee revenues causing a reduction in Equal Access Fund grants, if we are to help the Task Force realize its goal of engaging every law student and new attorney in pro bono or reduced-fee legal services. Specifically, pro bono opportunities require significant paid staff time to create high-quality experiences for volunteers (and high quality legal services for low-income clients). Among other tasks, staff must screen clients, train volunteers, and provide supervision. Additionally, the law students and new attorneys who will be required to comply with the proposed rule require more supervision and therefore more staff time than more senior, experienced volunteers.

PLC has significant experience working with law students and new admittees. In 2013 alone, we worked with more than 375 law students. There are four ABA accredited law schools in Orange County. PLC is one of two large legal service providers in Orange County. We estimate 250+ additional law student and new attorney volunteers to come to PLC annually

seeking to fulfill Recommendation B. We are extremely concerned at our ability to engage this number of volunteers given our current budget and ask that additional resources be made available to legal services organizations to help fulfill Recommendation B.

2. REMOVE REQUIREMENT OF TWO YEARS OF PRACTICE FOR SUPERVISING ATTORNEY

Proposed Subsection (A)(2) of Rule 2.155 'Supervising attorney' states that a supervising attorney must have "practiced law for at least two years immediately preceding the time of supervision."

While PLC supports ensuring quality supervision, we believe the mandate of a specific minimum number of years of practice for supervisors will ultimately reduce the number of volunteers an organization is able to engage through the proposed rule. It is common for legal services organizations to employ newer attorneys and legal fellows who may not have practiced law for two years. It is important to recognize that such attorneys generally are working within an organizational structure where more experienced supervising attorneys are available as mentors and to answer any questions and provide additional guidance when needed.

Specifically, at PLC, this requirement would mean that half of our attorneys are unable to work with volunteers seeking to fulfill Recommendation B as half of our attorneys have been practicing less than two years. This makes little sense, given that these same junior staff attorneys have no restriction from supervising law students or attorneys who have already met the 50 hour requirement or are exempt due to their length of practice. Moreover, legal services programs already must have supervision systems in place which are subject to review by the Legal Services Trust Fund Commission. Any deficiencies in supervision can be identified and corrected through that process. We therefore ask that this new and unnecessary supervision requirement be removed.

3. ELIGIBILITY CRITERIA FOR THE STATE BAR OF CALIFORNIA WILEY W. MANUEL CERTIFICATE FOR PRO BONO LEGAL SERVICES

The Wiley W. Manuel Certificate for Pro Bono Legal Services is provided to volunteers who perform at least 50 hours of pro bono services annually. Law students and new attorneys who complete Recommendation B will automatically qualify for a Wiley Manuel Certificate. As a legal services organization which provides a large number of Wiley Manuel Certificates for our volunteers on an annual basis, we ask the State Bar to help keep the Certificate a form of special recognition for exemplary volunteerism by adjusting the eligibility criteria to provide for additional pro bono services in addition to what is required through Recommendation B.

The Public Law Center appreciates the opportunity to submit these comments, and looks forward to working with the State Bar to develop a more prepared and professional group of new lawyers, while also addressing ways to close the justice gap.

Sincerely,

Kenneth W. Babcock
Executive Director and General Counsel

Kirsten Kreymann
Pro Bono Director

LAAC
Legal Aid Association of California
“The Unified Voice of Legal Services”

350 Frank H. Ogawa Plaza, Suite 701
Oakland, CA 94612
(510) 893-3000
www.LAACOnline.org

State Bar of California – Task Force on Admissions Regulation Reform
c/o Teri Greenman
The State Bar of California
845 S. Figueroa Street, 5th Floor
Los Angeles, California 90017

November 3, 2014

Subject: Comments on Phase II Final Report of Task Force on Admissions Regulation Reform

On behalf of the Legal Aid Association of California, I am writing to comment on the proposed changes to admission to the State Bar of California. We wish to specifically address the proposed change to instate a 50 hour pro bono/modest means service requirement for bar candidates and recent admittees.

Founded in 1983, the Legal Aid Association of California (LAAC) is a non-profit organization created for the purpose of ensuring the effective delivery of legal services to low-income and underserved people and families throughout California. LAAC is the statewide membership organization for over 80 non-profit legal services organizations.

Our members are the organizations that will receive the bulk of the demand from California law students and new admittees from out-of-state who seek to satisfy the 50 hour requirement. Our members were initially very concerned about the potential “rush” of new volunteers who are unfamiliar with legal services and would be (perhaps) unwilling volunteers. However, after speaking with numerous representatives from New York, a state which has already instated a similar requirement, *LAAC was happy to learn that most admittees were already meeting their required 50 hours through law school clinics, summer placements at nonprofits, and through judicial externships.* California would allow these existing programs to count for the new requirement.

LAAC would like to echo the points made by the Bay Area Pro Bono Managers Group comment, also submitted today. *We agree that until legal services nonprofits are fully funded, limiting the increased demands on our community is essential.* The State Bar’s proposed inclusion of law school clinics, externships, and other opportunities as meeting both the pro bono and practical skills requirements reduces the potential burden on our members. Reducing the burden is very important to programs who are working hard to meet increased demands without the financial means to fully facilitate meaningful pro bono experiences. We encourage the State Bar to continue to support increasing funding for legal services nonprofits, whether through current programs like the Justice Gap Fund on our attorney dues statements or through new and innovative programs to encourage individual and corporate giving.

We would also like to echo the comments made by many of our members at various public conversations and likely also in their submitted public comments. We are concerned with the requirement that immediate supervising attorneys for the purposes of pro bono projects be attorneys with over two years’ experience. Many legal services nonprofits staff their clinics with legal fellows or with attorneys with less

experience, but all within the structure of opportunities for supervision from managing attorneys. ***We would ask either (i) that requirement be struck, or (ii) that the FAQ created to supplement these rules state that the supervision requirement does not apply to legal services nonprofits with attorneys having more than two years' experience in the relevant practice area.*** It would simply be a logistical nightmare for our members to figure out, perhaps more than a year later, if a law student volunteered for a clinic that was supervised by a fellow with less than two years' experience (and therefore would not count) or by an attorney with more than two years' experience (and therefore would count) if the organization ran multiple clinics staffed with different attorneys and numerous volunteers.

We would also urge the State Bar at all stages to minimize the administrative burden on legal services programs. ***The requirement to obtain, submit, and maintain proof of pro bono hours should clearly be the duty of the admittee. There should be no expectation that legal services programs would submit or maintain any documents on the admittee's behalf.***

We ask that the State Bar strike proposed Rule 2.155(B)(2) as it may be confusing to supervising attorneys who are not the employers of the law students or new admittees and may discourage attorneys from verifying pro bono hours. The duty to follow all federal and state labor laws would fall on the business or organization, not necessarily on an individual supervising attorney in a large nonprofit organization, and the State Bar can clarify in a FAQ document what it meant to convey with that 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 comment, please contact me at the below address and number or by email at scopeland@laaonline.org.

Sincerely,



Salena Copeland
Executive Director
Legal Aid Association of California

3 November 2014

Teri Greenman
Executive Offices
The State Bar of California
845 S. Figueroa St., 5th Floor
Los Angeles, CA 90017

By e-mail: teri.greenman@calbar.ca.gov

Dear Ms. Greenman:

Re: Task Force on Admissions Regulation Reform

We are writing in response to the decision of the Executive Committee of the Board of Trustees of the State Bar of California, at its meeting of September 29, 2014, to receive comments on the Phase II Final Report of the Task Force on Admissions Regulation Reform (TFARR). Our comments focus on the TFARR's recommendation that the California Business and Professions Code and the Rules of The State Bar of California be amended to require applicants for admission to practice law in California to have completed 15 units of experiential education, which TFARR refers to as "practice-based experiential coursework."

We agree with the TFARR that experiential education is important and valuable. All of our institutions have long been committed to providing a range of experiential education opportunities of the highest quality, and we are constantly exploring ways to develop new and innovative experiential offerings for our students. Exactly how much experiential education should be required, and precisely how it should be delivered, are matters best left to the judgment of individual law schools. While some of us have substantial doubts about the wisdom of the decision to mandate experiential learning, if the State Bar of California proceeds with a 15-unit requirement, it is important that it attend to some vital matters of implementation. Our comments address two issues: (a) what constitutes experiential education, and (b) the need for a phase-in and assessment period for the proposed mandate.

What Constitutes Experiential Education

It is extremely important that what constitutes experiential education be defined very broadly and flexibly, so that individual schools have the ability to develop their experiential offerings in a manner that makes the most sense for their students.

Our law schools educate students who go on to pursue a wide variety of careers within the law, careers which call for very different skill sets. Although our law schools' approaches to legal education vary – as they should – as a group we offer an extremely broad and varied curriculum that enables our students to tailor their course choices to their diverse needs, interests and backgrounds. Experiential education should likewise be

broad and varied, and not presuppose a particular future career path for law students given the diversity of practice settings in which our graduates will work. Moreover, if legal practice is entering a period of dynamic change driven by structural changes in the market for legal services – which we understand to be one of the primary motivations for the proposals – the proposed rule change must afford law schools the flexibility to quickly adapt our experiential offerings to changing circumstances to ensure that they remain relevant.

Moreover, many of our graduates wish to seek admission to legal practice, but then go on to pursue careers outside the law, in business, real estate, finance, nonprofit organizations, public policy and academia. These students greatly enrich our school and must continue to see a law degree as being a stepping stone to a broad variety of careers. We must retain the ability to offer experiential education opportunities that cater to the needs and interests of these students as well.

In addition, although our law schools have distinct missions and identities, we are research-intensive law schools that are integral components of the nation's leading research universities. This will necessarily shape our approach to experiential education. We will search for opportunities to offer experiential education opportunities that have synergies with, and indeed deepen, our existing areas of scholarly excellence. In addition, we have exciting opportunities to offer experiential opportunities in partnership with other professional programs at our respective universities, as well as with graduate programs. The proposed mandate should ensure that we are able to leverage these institutional assets to harness them for the benefit of our students.

If the State Bar of California adopts the TFARR's recommendation regarding experiential education, it should do so in way that promotes flexibility, deference, self-certification, and experimentation, that acknowledges the diversity of career paths of our graduates, and that enables us to leverage our unique institutional strengths.

The proposed Rule 4.34 ("Practice-Based Experiential Competency Training") for the Rules of the State Bar of California has some of these features. It defines competency training abstractly and provides an illustrative but non-exhaustive list of specific competencies. It leaves it to law schools to self-certify whether a course provides competency training. It permits law schools to offer hybrid courses that blend "doctrinal" and skills-based education. It is essential that these features of the proposed rule be retained.

Additionally, we would propose that the draft rule be amended to permit law students to obtain credits for experiential education in courses offered by other graduate and professional programs, or jointly by law schools and other graduate and professional programs. As a corollary, the faculty who offer these courses may hold university appointments, but not necessarily at law schools.

Phase-in and Assessment of Experiential Education Requirement

TFARR's proposals on experiential education represent the largest change to the regulatory framework governing legal education in California in fifty years. The ambition is to change legal education – indeed, if this were not its goal, it is not clear why the proposed changes are needed.

However, as legal educators, we have learned from hard experience that it is *never* possible to foresee all the implications of curricular changes with complete certainty. When we implement curricular changes of this magnitude, the basic principles of academic planning require that we do so through a phase-in process that is built around a process of review and assessment to enable us to measure success, identify difficulties, and adopt modifications in a manner that is transparent, measured, and rooted in objective, empirical evidence. Like any other curricular change of this magnitude, TFARR's recommendations should be subject to the same process of phase-in, review and assessment by the law schools that will be implementing them.

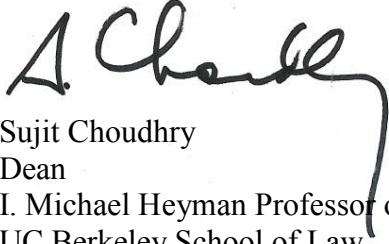
Specifically, the 15 unit requirement should be phased in according to the following schedule: a) 10 units of experiential education would apply to students entering law school in 2017, 2018, 2019 and 2020 (who would most likely seek admission to practice in 2020, 2021, 2022 and 2023, respectively); b) the full 15-unit requirement would apply to students entering law school in 2021 onward (who would most likely seek admission to practice beginning in 2024), subject to the review and assessment process spelled out below.

In addition, the shift from 10 units to 15 units should occur after a process of review and assessment. By way of illustration, and subject to feasibility, this process could, *inter alia*, examine the quality of the experiential offerings based on student feedback and other methods of assessing our instructional programs; the impact on students' ability to pursue other curricular offerings, such as bar courses and specializations; the impact on readiness for practice upon graduation, perhaps based on surveys of select employers; and the impact on bar passage success, if any, for students. This review would take place in 2020, on the basis of data collected from the previous three years (2017, 2018, and 2019). Conducting the review in 2020 would ensure that we have data from at least one graduating class that sits for the bar exam after the ten-unit requirement has been in effect for their entire time in law school.

We note with interest that the TFARR's report states that it will review the new experiential education requirement "in 3 years" (p. 4). Our proposal, in essence, bundles this existing commitment to a review with a phase-in to ensure for a careful, thoughtful implementation process.

We would be pleased to answer any questions you have about the above comments. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Choudhry". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sujit Choudhry
Dean
I. Michael Heyman Professor of Law
UC Berkeley School of Law

A handwritten signature in black ink, appearing to read "Rachel F. Moran". The signature is cursive and elegant, with a large initial "R".

Rachel F. Moran
Dean
Michael J. Connell Distinguished Professor of Law
UCLA School of Law

A handwritten signature in black ink, appearing to read "M. Elizabeth Magill". The signature is cursive and somewhat stylized, with a large initial "M".

M. Elizabeth Magill
Dean
Richard E. Lang Professor of Law
Stanford Law School

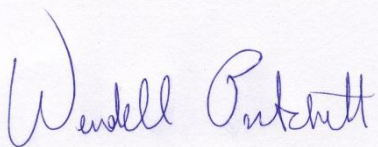
A handwritten signature in black ink, appearing to read "Martha Minow". The signature is cursive and somewhat stylized, with a large initial "M".

Martha Minow
Morgan and Helen Chu Dean and Professor
Harvard Law School

Trevor W. Morrison
Dean
Eric M. and Laurie B. Roth Professor of Law
New York University School of Law



Robert Post
Dean
Sol & Lillian Goldman Professor of Law
Yale Law School



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Interim Dean
Presidential Professor
University of Pennsylvania Law School



Michael H. Schill
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The University of Chicago Law School



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Interim Dean
Alfred McCormack Professor of Law
Columbia Law School

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Dean
Nippon Life Professor of Law
University of Michigan Law School



**THE STATE BAR OF CALIFORNIA
COMMITTEE OF BAR EXAMINERS/OFFICE OF ADMISSIONS**

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Director, Operations & Management

MEMORANDUM

Date: October 31, 2014

To: Officers and Members of the Board of Trustees

From: Patricia P. White, Chair, Committee of Bar Examiners

Re: COMMENT IN RESPONSE TO TFARR PROPOSALS

The Committee of Bar Examiners (Committee) considered the Task Force on Admissions Regulation Reform (TFARR) proposals for new pre- and post-admission requirements during its October 17 and 18, 2014 meeting.

As you may know, one former and three current Committee members were selected by the former State Bar president to serve on related Board of Trustees' task forces. However, the full Committee did not have an opportunity to formally consider TFARR's initial recommendations and accompanying implementation plans until TFARR's proposals were released for a 35-day public comment period on September 29, 2014.

The Committee unanimously endorsed the concept of requiring practical lawyering skills for new attorneys entering the profession. This is consistent with our longstanding position on the issue, which dates back to proposing that all applicants after January 1, 1992, as a condition for admission to practice law in California, have formal training in lawyering skills. This included pre-trial, trial and other litigation skills, in one or more courses of a content and quality approved by the Committee. The Committee proposed that all applicants for admission be required to complete at least three semester units of practical skills training and outlined what it believed the lawyering skills should encompass. But for various reasons, the new lawyering skills requirement never made its way into implementation.

The Committee is grateful TFARR spent so many volunteer hours considering these very important matters and appreciates that TFARR members periodically briefed the Committee regarding the task force's progress and recommendations.

The Committee, however, did express some concerns during its October meeting, which are summarized below.

Additional Burdens

Current burdens on law school students are already immense. Taking additional courses not provided by their law schools to meet the 15 units of practice-based experiential training, working in non- or low-paying positions to meet the Pro-Bono requirement and completing additional MCLE courses could all add to the cost beyond what they may now already pay both for their education and for their preparation for the bar examination.

These additional costs would impact not only new attorneys but also in-state law students and out-of-state attorneys who many never be admitted to practice law in California because they are unable to pass the bar examination.

While the majority of students taking the bar examination come from California ABA law schools, and all in-state law schools may quickly convert to a curriculum that includes the experiential training called for, there is no guarantee that law schools out-of-state will follow. (Using the July 2013 California Bar Examination numbers as a guide as to how many out-of-state ABA graduates might be affected, 1,411 first-time takers graduated from out-of-state ABA law schools compared to 4,172 graduates of California ABA law schools.)

In addition to added financial burdens, the California students likely to be least able to add new time commitments to their required workloads are the students who fall within the Committee's oversight – those attending California Accredited Law Schools (CALS) and registered unaccredited law schools. These students are predominantly older, less affluent and minorities. They are typically night students who hold jobs during the daytime. Many are pursuing JD's as part of career changes. And most of them are doing so without access to scholarship support afforded to ABA law school students. The Committee takes great pride in California's unique system of accrediting non-ABA law schools because it gives older, less affluent and minority students a pathway to the profession not offered in other states. California's accreditation standards place the highest priority on providing them with a quality education.

The Committee is pleased that the second task force included a representative from the CALS and a representative from the registered, unaccredited law schools; however, the Committee is concerned that the new TFARR requirements, when coupled with any new out-of-pocket costs, may make a difficult route just enough harder that they create insurmountable graduation hurdles for CALS and registered law school students or discourage others like them from attending law school at all.

Pro Bono

The proposal concerning required Pro-Bono (or low-Bono) service, while certainly of potential benefit, appears to create a sort of "conditional admission" – a concept the Committee has considered in some depth in the past and rejected as it relates to applicants with moral character issues.

In this case, the “conditional admission” involves the TFARR recommendation that applicants be given until the end of their first year after admission to complete the required 50 hours of Pro-Bono service. It is unclear if there are sufficient infrastructures in place to monitor the un-admitted and conditionally admitted and to provide the supervision that would be needed over law students and newly-admitted attorneys. In addition, there are many public positions, such as in a District Attorney’s office or a Public Defender’s office, where having any sort of outside legal employment, including Pro-Bono service, is prohibited. As a result, many new admittees may not have the option of applying for positions within public agencies, where they most likely would receive on-the-job training, because they have to complete the Pro-Bono requirement. To the extent that the practical skills admission contemplates that a new lawyer will gain additional practical experience through participation in Pro-Bono programs, the Committee is concerned that this requirement will have the unintended requirement of a conditional admission primarily available to employees of large law firms.

Attorneys Admitted for Less than One Year and Foreign Applicants

The recommendations create a new category of legal education monitoring where none previously has been required. Attorneys admitted for less than one year in other states would be required to complete practice-based experiential training. In contrast, under current procedures, lawyers admitted in other jurisdictions can take the California Bar Examination based on their admission in another state without any evaluation of their legal education.

In addition, the Committee questions the propriety of the apparent unequal treatment of foreign LLM students as compared to law school graduates from this country. The LLM foreign students appear to be considered exempt from certain additional admission requirements. The Committee in the past has used the presumption that it shouldn’t be “easier” to become an attorney in California if you graduate from a law school in a foreign country than it is to graduate from a United States law school.

Role of The Committee

The Committee also felt it had insufficient information regarding how the Board of Trustees would make its final decisions on both the TFARR proposals and the Committee’s role in administering the new requirements.

For instance, the language proposed to amend California Business and Professions Code Section 6060 refers to the Board as having the approval authority for the practice-based experiential competency-training requirement. This appears inconsistent with every existing admission requirement in the Business and Professions code section, which leaves those decisions to the Committee. Section 6046 of the California Business and Professions Code says:

The board may establish an examining committee having the power:

- (a) To examine all applicants for admission to practice law.
- (b) To administer the requirements for admission to practice law.
- (c) To certify to the Supreme Court for admission those applicants who fulfill the requirements provided in this chapter.

Additionally, the Committee was concerned that it will be expected to implement and enforce the reforms in such a way that they actually help improve lawyering skills, but how it should be done and what resources for doing so remain vague. For example, without referring to it directly in the TFARR recommendation, it did appear implicit that the Admissions Department would probably have to hire additional staff to fulfill the record-keeping and monitoring responsibilities encompassed in the Task Force recommendations.

Further, it is unclear whether the pre-admission proposals will be delivered to the Committee as a complete package that includes ideas about the nuts and bolts of the new obligations placed on the Committee or whether it would be up to the Committee to make those determinations without further Board of Trustees' input.

Summary

During our October meeting, the Committee voiced unanimous appreciation for all the work and foresight that went into the Task Forces' deliberations and recommendations. The Committee, however, still had questions, as outlined above, and as to the specifics of its role as accreditor and its responsibility to ensure consumer protection.

If the Board of Trustees determines that it should go forward with the TFARR proposals and should recommend them to the Supreme Court and the Legislature, the Committee would appreciate the opportunity to meet with members of the Board to discuss further the concerns that have been raised, and in particular, to discuss in more detail the mechanics of how these proposals will be implemented and the Committee's role in doing so.

cc: Committee of Bar Examiners
Admissions Executive Staff

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November 3, 2014

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 II Implementing Recommendations

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 II Implementing Recommendations. I have previously commented on the costs of implementing a 15-credit practice-based, experiential training requirement, providing the results of empirical studies showing that such a requirement will not burden students with higher tuition.

I now provide similar empirical support on the need for and value of requiring more practice-based, experiential training in law school for all students. As with the claims about enhanced costs, the assertions that judges and lawyers do not value and students will not benefit from more practice-based coursework are not empirically based. Indeed, studies show broad support for the training requirement recommended by the Task Force and its value to students.

As noted in my earlier comment letter, bar committees and legal education experts have for decades 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), 1983 *ABA Task Force on Professional Competence*, 1992 *ABA Report of the Task Force on Law Schools and the Profession* (the MacCrate Report), and 2014 *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 a critical need for schools to provide more supervised practice experiences for all students.

My research on the clinical education requirements of other professional schools shows that law lags far behind other professions in the practice-based training its new licensees receive as part of their professional education. As the appendix to this letter illustrates, legal education's requirement, even with 15 units of practice-based courses (or 1/6th of a student's total coursework), contrasts with the requirements of other professions that a minimum of 1/4, and up to 1/2, of its students' education be in practice-based courses. Comparison with these other professions shows that other

professional schools clearly recognize the need for even more practice-based coursework than the Task Force's proposal for 15 units and do not leave that decision up to the individual student. This minimal training in law school is exacerbated by the lack of a post-graduation, pre-licensing apprenticeship, common in almost all other professions but law.

Unable to find any relationship in my research between providing or requiring more practice-based coursework and costs, I recently turned my attention toward data on the benefits of such training. My new research is focused on finding empirical studies on the value of the type of practice-based training encompassed by the Task Force's 15-unit requirement.

My initial research on data relating to the benefits of clinical and experiential legal education has found:

Judges, Practicing Attorneys & Recent Law Graduates:

By an over 3 to 1 margin, federal and state judges believe that "more coursework on practice-oriented skills" would most benefit law schools than the second most popular response ("expansion of core curriculum"). State judges feel particularly strongly that more practice-based coursework is needed, with state appellate judges favoring more skills courses over more core doctrinal courses by over 3 to 1 and state trial judges by an over 8 to 1 margin. (Richard A. Posner & Albert H. Yoon, *What Judges Think of the Quality of Legal Representation*, Stanford L. Rev. (2011))

A survey of lawyers two to three years into their new careers rated clinical courses the third most helpful experience in successfully transitioning them to practice, trailing only summer and school year legal employment; legal writing and internships followed law clinics. Significantly behind those practice-based experiences were the traditional doctrinal courses that currently dominate a student's legal education. (NALP Foundation for Law Career Research and Education & American Bar Foundation, *After the JD: First Results of a National Survey of Legal Careers* (2004))

In studies on the usefulness of experiential learning opportunities in preparing lawyers for the practice of law, nonprofit and government lawyers rated law clinics extremely high, at 3.8 on a scale of 1 ("not useful at all") to 4 ("very useful") and externships/field placements 3.6. Associates in law firms of 100 lawyers or more rated law clinics and externships not quite as high but still 3.4 out of 4 (the survey failed to ask about the majority of lawyers - those in firms of less than 100). (NALP & NALP Foundation, *2011 Survey of Law School Experiential Learning Opportunities and Benefits: Responses from Government and Nonprofit Lawyers* (2012); NALP & NALP Foundation, *2010 Survey of Law School Experiential Learning Opportunities and Benefits* (2011))

An informal survey of what legal employers want from law graduates found a desire for: more experiential learning, client-based and simulated; a basic understanding of the business of running a law firm; exposure to the technology tools of modern law practice; exposure to the skill sets of problem solving, working in a group, project management and understanding the client-service business model; and strong writing, public speaking, confidence, and initiative. (James Leopold, Executive Director, NALP (2014))

In a survey asking transactional lawyers their degree of support for efforts to mandate minimum skills/competencies training for law students (such as the TFARR proposal), positive support outweighed negative by 4 to 1. (The Berkeley Center for Law, Business and the Economy, *The Berkeley Transactional Practice Project: Competencies/ Skills Survey* (2014))

In a survey of corporate counsel and private practice attorneys, 90% responded that law school fails to teach the practical skills need to practice law in today's economy. (LexisNexis, *State of the Legal Industry Survey* (2009))

The ABA's Young Lawyers Division unanimously resolved that law schools be urged "to require at least one academic grading period of practical legal skills clinical experiences or classes as a law school graduation requirement for all matriculating Juris Doctorate (or an equivalent degree) students." (ABA Young Lawyers Division (April 2013))

Almost every 2013 J.D. graduate (97%) favored a law school model that incorporates clinical experience; 87% said that the legal education system needs "to undergo significant changes to better prepare future attorneys for the changing employment landscape and legal profession." (Kaplan Test Prep, *Kaplan Bar Review Survey: 63% of Law School Graduates from the Class of 2013 Believe that Law School Education Can Be Condensed to Two Years* (Sept. 10, 2013))

Law Students & Prospective Law Students:

Two-thirds of law students (65%) believe that law school teaches students legal theory but not the skills needed to practice law. (LexisNexis, *State of the Legal Industry Survey* (2009))

Forty percent of law students report that their legal education has contributed only some or very little to their acquisition of job- or work-related knowledge and skills. (Law School Survey of Student Engagement (LSSSE) (2011))

Students with law clinic or externship experience report greater gains than other students in: higher order thinking; speaking and writing proficiency; and competence and confidence in solving complex real world problems. (LSSSE (2006))

Students who took a law clinic were more likely than other students to report that their schools provided adequate professional preparation. (LSSSE (2010))

Clinical participation correlates with a higher degree of preparation in: understanding the needs of future clients; working cooperatively with colleagues; serving the public good; and understanding professional values. (LSSSE (2010))

Experiential learning activities in law school significantly and positively affect students' perceptions that they are developing higher order learning including writing, speaking, research, and job-related skills. (LSSSE (2012))

Clinical legal education deepens the effectiveness of lessons about legal ethics and furthers students' learning about professional identity and purpose. (Carole Silver, et al., *Unpacking the Apprenticeship of Professional Identity and Purpose: Insights from the Law School Survey of Student Engagement*, J. of Legal Writing Institute (2011))

While most students find the 3rd year remote and largely irrelevant, students in clinical courses are less likely to see the 3rd year as superfluous; students appear willing and eager to do more work if provided with the opportunity to pursue real interests; and significant numbers want more (and better) clinical offerings and business skills training. "This suggests that clinical education may indeed have the potential to fill much of the

third-year void, if schools will only invest more in the depth, evaluation, and comparison of these programs.” (Mitu Galati, et al., *The Happy Charade: An Empirical Examination of the Third Year of Law School*, *J. of Legal Educ.* (2001))

In some respects, students with clinical experience are more proficient in problem solving in actual practice than their nonclinical counterparts, including more adept at: exploring client interests; identifying next steps to take in a case; and filtering out irrelevant facts and focusing on relevant propositions. (Stefan H. Krieger, *The Effect of Clinical Education on Law Student Reasoning: An Empirical Study*, William Mitchell L. Rev. (2008))

Law students with clinical experience had a significantly higher mean score on practice skills simulations than students without any clinical exposure. (Donald L. Alderman, et al., *The Validity of Written Simulation Exercises for Assessing Clinical Skills in Legal Education*, *J. of Educ. & Psychol. Measurement* (1981))

When admitted applicants to law school were asked to identify the factors most important in their decision to enroll at a particular school, they listed clinics/internships second, behind only location. Trailing in importance were reputation, bar success, employment of recent graduates, cost, reputation of faculty, and rankings. (Law School Admission Council, *Law School Applicant Study* (2012))

Law school admissions officers overwhelmingly agree (78%) on the need for significant changes to law school curricula to better prepare students for practice. (Kaplan Test Prep, *Today's Pre-Law Students Want Changes in Legal Education, Are Looking for Nontraditional Employment Opportunities, Favor Mandatory Pro Bono Work, and Value Racial Diversity* (July 29, 2013))

As with recent graduates, 97% of prospective law students (i.e., those who would be subject to any new practice-based coursework requirement) favor a law school model that incorporates clinical experiences designed to make students more practice-ready; prospective students also overwhelmingly (79%) agree on the need for significant changes to better prepare students for practice. (Kaplan Test Prep, *What Pre-Law Students Want: Kaplan Test Prep Survey Finds that Tomorrow's Lawyers Favor a Two-Year Law School Model and Want Significant Changes in Legal Education* (Feb. 11, 2014))¹

¹ Two-thirds (68%) of pre-law students in the study also would support a requirement that students complete 50 hours of pro bono work as a condition of bar admission.

Conclusion

A significant amount of empirical data support the benefits of the Task Force's proposal to require 15-units of practice-based, experiential training in law school. Judges, practicing lawyers, recent law graduates, current law students, prospective law students, and law school admissions officials overwhelming support the need for more practice-based coursework. Studies of the effect of law clinic courses on students also demonstrate the educational gains to students and enhanced readiness for practice from such courses. These data indicate that the public, legal profession, and future law students will all gain from requiring such enhanced training in law school as a requirement for admission to the California bar.

Sincerely,

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Attachment

Practice-Based Education Requirements for Professional Schools Law	Medical	Veterinary	Pharmacy	Dentistry	Social Work	Architecture	Nursing
6 credits in experiential courses; no clinical requirement ¹ 1/14	2 of 4 years in clinical practice or clerkships ² 1/2	minimum 1 of 4 years in clinical settings ³ 1/4+	300 hours in first 3 years & 1,440 hours (36 weeks) in last year in clinical settings ⁴ 1/4+	57% of education in actual patient care ⁵ 1/2+	900 hours (18 of 60 required credits) in field education courses ⁶ 1/3	50 of 160 credits in studio courses (nat'l licensing board's calculation of minimum needed for licensure) ⁷ 1/3	varies by state, e.g., California: 18 of 58 credits in clinical practice; Texas: 3 to 1 ratio of clinical to classroom hours ⁸ 1/3+



THE STATE BAR OF CALIFORNIA

180 Howard Street, San Francisco, California 94105

OFFICE OF LEGAL SERVICES
Standing Committee on the Delivery of Legal Services
2014-2015 Chair, Maria C. Livingston, Orange

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

November 3, 2014

Teri Greenman
Executive Offices
The State Bar of California
845 S. Figueroa St., 5th Floor
Los Angeles, CA 90017

Dear Ms. Greenman:

The State Bar of California's Standing Committee on the Delivery of Legal Services (SCDLS) appreciates the time and energy that the Task Force on Admissions Regulation Reform (TFARR) has devoted to preparing the Implementing Recommendations included in the Phase II Report dated September 25, 2014. We also appreciate the consideration given to the comments submitted by SCDLS on the Phase I Final Report.

SCDLS is an advisory committee of the Board of Trustees dedicated to improving the provision of legal services to low- and moderate-income Californians. Its 20 members represent a cross section of nonprofit legal services and pro bono organizations, court-based self-help centers, government law offices, law schools, and the private bar sector. We support in concept the proposed implementing rules for the three pre-admission competency skills training requirements. With respect to Recommendation B, the 50 hour pro bono or reduced-fee legal services requirement, SCDLS applauds the twin goals of ensuring that new attorneys are better prepared for the practice of law and increasing legal assistance for pro bono as well as modest means clients. In furtherance of Recommendation B, we offer the comments and suggestions below.

Practical Training of Law Students Program

SCDLS would like to update its previous comments on the Phase I Report regarding the State Bar's Practical Training of Law Students (PTLS) Program. The Program certifies law students and law graduates to negotiate and appear on behalf of clients while under the direct supervision of an attorney and is a vehicle in which participants can satisfy the requirements of Recommendation B. Most nonprofit legal services organizations, public interest law programs and government law offices sponsor certified law students. To augment services at little or no cost, many of these entities also host full time post-graduate or fellowship positions filled by PTLS participants who were certified as a law student or law graduate. For those who pass the first General Bar Examination (GBE), certification can be extended from the date the exam results are released to the date of admission (swearing in date). However, for those who do not pass the first GBE, do not take the first GBE for which they are eligible, or pass the first BE but their admission is delayed for moral character determination, certification is terminated.¹

¹ State Bar Rule 3.8 (C)

Except for successful first time bar exam takers, the time limit for certification is unnecessarily strict and particularly unfair to those who were eligible for the first GBE but due to financial, family, health or other extenuating circumstances were unable to take it. Host entities and their clients are also disadvantaged by the termination of certification. Modifying the rules to allow law graduates to maintain certification status with proper supervision until they are admitted would be consistent with the dual purpose of Recommendation B. The PTLIS Program already has sufficient checks and balances in place so that the benefits derived from continuation of certification outweigh potential public protection concerns.

Impact on Rural Areas

When Recommendation B becomes effective, the increase in the number of law students and law graduates seeking placements will result in an increase in the availability of pro bono and reduced-fee legal services. While the vast majority of ABA and California accredited law schools are concentrated in urban areas, SCDLS is concerned that critically underserved rural and isolated areas of the state will receive a disproportionate share of the anticipated increases and become further disenfranchised. SCDLS members represent a cross section of not only entities involved in the direct delivery of legal services to low- and moderate-income Californians, but also of geographic regions. Members from the rural areas of Imperial County, the Inland Empire, Central Coast, and Mendocino County can share their expertise in developing models and partnerships to help ensure that pro bono and reduced-fee legal services reach rural areas.

Use of Technology

SCDLS has two suggestions for utilizing technology in the implementation of Recommendation B. First, with an influx of law students and graduates seeking placements throughout the state, the development of a centralized statewide searchable database with the capacity to match law students with pro bono or reduced-fee opportunities is worth exploring. The database would provide helpful information to law students and law graduates and potentially reduce some of the administrative burdens on law schools helping students secure placements, and on nonprofit legal services organizations, court-based self-help centers and other entities seeking law students and law graduates. Second, with respect to tracking the number of hours spent providing pro bono or reduced-fee legal services, the development of a web-based tool that students can use while enrolled in law school and up to one year following admission would help ensure compliance and timely reporting to the State Bar.

Statewide Universal Pro Bono Training Program

Many legal services and pro bono providers have expressed concern about their organization's capacity to absorb an influx of law students, law graduates and first year attorneys who will need to fulfill the 50 hour requirement. The overwhelming concern is the limited or lack of resources available to provide adequate training and supervision while trying to provide meaningful pro bono work that falls within the spirit of Recommendation B. To address this concern, in combination with the use of technology, SCDLS recommends the development of a statewide online universal pro bono training program. The program could be designed so that those seeking to satisfy the requirement can easily access a series of on-demand, interactive trainings at their convenience in specific areas of law before commencing pro bono work, get

“certified” to provide pro bono services anywhere in California, and then get connected with an individual legal services organization. Basic trainings about how to work with low- and moderate-income clients and their legal issues, as well as more in-depth substantive and procedural trainings on specific legal topics would be offered and updated on a regular basis. A unified pro bono training program will better prepare law students, law graduates and first year attorneys to engage in pro bono work, help reduce the amount of basic training that a supervisor must provide, and result in additional legal services to low- and moderate-income clients.

SCDLS is available to provide more input on any of the suggestions provided above. We appreciate the opportunity to provide these comments and look forward to assisting the State Bar with implementation plans for Recommendation B. If you have any questions, please contact me at mlivingston@occourts.org or 657-622-5085, or SCDLS Staff Liaison Sharon Ngim at sharon.ngim@calbar.ca.gov or 415-538-2267.

Disclaimer

This position is only that of the State Bar of California’s Standing Committee on the Delivery of Legal Services. This position has not been adopted by the State Bar’s Board of Trustees or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this position are funded from voluntary sources.

Sincerely,

A handwritten signature in cursive script that reads "Maria C. Livingston".

Maria Livingston
Chair, Standing Committee on the Delivery of Legal Services
The State Bar of California

November 3, 2014

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

Re: TFARR Phase II Implementing Recommendations

Dear Members of the Task Force on Admissions Regulation Reform:

The Barristers Club of the Bar Association of San Francisco (BASF) appreciates the opportunity to comment on the draft implementing recommendations proposed by the TFARR II Working Groups. Our organization, which comprises and serves attorneys in their first ten years of practice, participated in Phase I of TFARR's work as well. In that earlier phase, we submitted the results from a survey of our membership regarding TFARR's initial proposed practical skills requirements, along with comments regarding the problems we believed the proposals could raise for our members.

Upon the release of TFARR's proposed implementing recommendations, our organization formed an *ad hoc* committee to review them. In this letter, our *ad hoc* committee—with the support of the Barristers Club Board of Directors and BASF's Executive Committee—offers the Barristers Club's concerns about these new practical skills requirements. We previously furnished the comments below to members of TFARR in a letter dated September 15, 2014, and we are submitting them again now, in connection with the 45-day public comment period, in the hope that the TFARR II Working Groups will consider them and adopt the suggestions described below.

Principal Concerns

First among our concerns is that these new admissions regulations create additional burdens, and in certain circumstances significant ones, on law students and recent graduates. We share TFARR's goal of ensuring that new members of the State Bar receive the training and possess the practical skills necessary to serve the public and keep its trust. However, we fear that the proposed implementing regulations are principally tailored to the specific experience of certain portions of the law student population, often to the detriment of less well-represented groups.

For instance, we expect that the proposed requirements will be easily met by students with resources—that is, full-time students at well-established law schools, who are able to work full-time during summers, especially at large law firms with significant administrative apparatuses and *pro bono* programs. By contrast, other categories of students may face greater difficulties, such as part-time students who must hold full-time employment; students who lack the means to seek summer employment at a “Committee-approved apprenticeship or clerkship”; students employed by a solo practitioner or small firm that lack the administrative resources to meet the requirements of the proposed Rule 4.35(A); transactional lawyers who may have little use for the litigation-focused practical-skills courses typically offered at law schools; or recent graduates who earn admission to practice law in other jurisdictions but then move to California and would have to clear additional and significant hurdles to practice there.

Next, we are also concerned that these additional requirements, rather than encouraging law firms to provide training and instruction to young lawyers, may instead lead employers—especially smaller and mid-size firms—to hire only attorneys who have already completed these requirements. Especially in an economic climate where many recent law school graduates are struggling to find work, we believe these implementing recommendations should be reviewed with an eye toward minimizing the burden on employers, and by extension, making sure that new attorneys are not penalized for lacking the very skills and experience that these requirements are intended to develop.

With these overarching concerns in mind, we offer the following comments on the specific implementing recommendations of the TFARR II Working Groups.

Pre-Admission Competency Training

1. **Modifications Provision.** TFARR II’s proposed competency training requirement contains no “modifications” provision. By contrast, the proposed 50-hour pro bono or modest means service requirement contains a proposed Rule 2.154, which would allow individuals to apply for modification of the requirement “due to a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause.” We believe there are a number of circumstances under which individuals might appropriately seek modification of this requirement for good cause, including but not limited to the categories of individuals identified below. Thus, we recommend that TFARR incorporate a similar “modifications” provision to the competency training recommendation as well:

- *Out-of-State Graduates and Practitioners.* One hallmark of young attorneys is that they change jobs often, and sometimes unexpectedly. Students may obtain a law degree expecting to work in another jurisdiction, only to move to California

on account of a spouse, family needs, or an unanticipated employment opportunity. Under these circumstances, the draft implementing recommendations seemingly would require any individual who had not met the 15-unit competency training requirement either to complete additional coursework or to complete a year of full-time work (or two years of half-time work) in the other jurisdiction. *See* Rule 4.34(B)(1). The *ad hoc* committee perceived little risk that students would seek admission in other States in order to escape the proposed practical-skills requirement, especially given that California does not permit reciprocal admission. In addition, we see little reason to treat attorneys from other States different from foreign attorneys who obtain an LLM. *Compare* Rule 4.34(B)(1), *with* Rule 4.34(B)(2).

- *Low-Income or Part-Time Students.* Students who attend law school part-time and/or cannot seek specific law-related employment during the summer often face significant constraints, including with respect to the courses they are able to work into their restricted schedules and the types of employment experiences they are able to obtain during the summer. Such students therefore would not have the same opportunities to complete 6 units in apprenticeship-clerkship-externship programs, and also may not have the same flexibility to obtain all the practical-skills coursework they might like. As a result, the *ad hoc* committee was concerned about the potentially unfair impact of the proposed regulations on these students, including the likely disproportionate impact on minority students. We suggest that such students should be permitted to apply to the State Bar and receive an appropriate modification of this 15-unit requirement upon a showing of hardship or other good cause.

2. Apprenticeship Option. Members of the *ad hoc* committee had different opinions about whether and how the apprenticeship-clerkship-externship option might be revised:

- Some committee members expressed concern that the structure of the proposed requirement (15 total units, 6 of which may be satisfied through approved apprenticeships, externships, or clerkships) would mean that the requirement effectively will become only a 9-unit academic requirement, and that both students and law schools will uniformly seek to satisfy the maximum number of credits possible outside the academic setting. In light of this expectation, and the fact that the students who would not be able to meet the requirement through externships or clerkships are also likely to be disadvantaged students (low-income students; students working full-time during school; students in rural areas where externships and clerkships may be unavailable), these committee members

suggested that the competency training requirement might include only an academic component, and not a externship or clerkship option at all.

- Other committee members expressed a preference for the flexibility provided by the option of completing 6 units in a work environment. However, these committee members expressed a different concern that the timeframe for completing these 6 units of work-based competency training should be extended to include the first year following admission to the Bar. This would permit law students to satisfy the requirement by obtaining fellowships, judicial clerkships, and other similar positions after graduating from law school, but without impeding their ability to find legal employment denying them admission to the Bar until the requirements are met. The committee members in favor of this revision suggested that the TFARR II committee amend proposed Rule 4.34(A) to include the following italicized text: “A general applicant qualifying to take the California Bar Examination through legal education must have successfully completed nine units of practice-based experiential competency training *and must complete a total of fifteen units of practice-based experiential competency training within their first year of admission.*”

3. **Instruction by Practitioners.** There was consensus among members of the *ad hoc* committee that practical-skills instruction is likely to be most useful to law students when provided by instructors with significant real-world experience in the practice of law. The committee would encourage law schools to hire additional faculty, including greater numbers of adjunct faculty, to teach the courses that will meet the new requirements. Some committee members believe a minimum number of years in legal practice should be required of instructors who teach qualifying practical-skills courses.
4. **Types of Courses.** The *ad hoc* committee believed that certain types of courses often offered by law schools (moot court, legal writing and research, negotiation workshops, clinical courses) may already satisfy or could readily be adapted to satisfy the proposed requirements.
5. **Supervision.** Some committee members believed that two years of supervision is inadequate to provide the type of meaningful practical-skills training contemplated by the TFARR project. Although it was recognized that increasing the number of years of experience required of supervisors might lead to a reduction in the number of opportunities available for students to fulfil this requirement, a majority of the *ad hoc* committee nevertheless recommended that a minimum of five years should be required for individuals to supervise apprenticeship, clerkship, or externship work.

6. **Rule 4.34(F) Fees?** The *ad hoc* committee was confused by and requested clarification of the nature of the “fee” that would be “set forth in the Schedule of Charges and Deadlines” if an applicant for admission elected to satisfy the competency-training requirement “through qualifying study not certified by a law school.”

50-Hour Pro Bono or Modest Means Service Requirement

1. **Exclusion of Government Agencies from “Dual Credit.”** A large majority of *ad hoc* committee members disagreed with the proposed exclusion of government agencies from the definition of employment receiving “dual credit” under the draft recommendation. These members asserted that public service constitutes an equally important and worthy aspect of lawyers’ work as *pro bono* service, as well as some of the best practical training that law students and young lawyers receive. For these reasons, the recommendation of the *ad hoc* committee would be to *include* work for the organizations defined in Rule 2.151(A)(3) as receiving “dual credit.”
2. **Contingency-Fee Work.** The modest-means model appears to be predicated on the model of billable hours. Does contingency-fee work qualify for credit under the draft recommendations? If so, we suggest that this be made explicit and an explanation given for how this might be accomplished. If not, the committee is concerned about the imbalance that this may create between qualifying and non-qualifying legal work, and specifically the fact that work on many cases involving modest-means clients (such as civil rights, employment discrimination, and personal injury matters) would not be eligible for credit at all unless they are handled *pro bono*.
3. **Modifications Provision.** Some *ad hoc* committee members asserted that the 50-hour requirement would pose a greater financial hardship for new attorneys working as solo practitioners or in smaller firms, which may not have the *pro bono* infrastructure to help newer attorneys to meet this requirement. (In particular, such firms seem less likely to offer the kinds of work opportunities that are eligible for “dual credit” under the proposed recommendations.) The *ad hoc* committee considered the language of the “modifications” provision in proposed Rule 2.154 broad enough to allow new attorneys in such situations the flexibility to extend the time to complete the *pro bono* and modest-means requirements; however, some guidance regarding what constitutes “hardship” or “good cause” under this provision may be necessary and would certainly be useful. In this regard, it was suggested that the State Bar might rely on other financial benchmarks (such as the standards used in student loan forgiveness or modification programs) in order to establish a consistent scheme for evaluating claims of hardship.

4. **Breadth of *Pro Bono* Opportunities.** Too often *pro bono* opportunities are limited to the context of litigation or are available principally through a limited number of legal services providers. To meet the needs of underserved client populations, and to develop a broader range of practical skills among law students and new attorneys, the *ad hoc* committee agreed that the State Bar should encourage law schools and other nonprofit organizations to develop a broader array of workshops and opportunities to satisfy these new requirements, especially including transactional work. One committee member suggested requiring a certain number of *pro bono* hours to be completed through law school clinics and programs so as to maximize the diversity of *pro bono* opportunities that might satisfy this requirement.
5. **Environmental Nonprofits.** The *ad hoc* committee perceived ambiguity in the definition of *pro bono* work regarding whether work done for environmental nonprofit organizations would qualify under the draft implementing recommendations. The unanimous view of the committee was that such work *should* qualify as *pro bono* and that the recommendations should be revised to make this explicit.
6. **Supervision.** Some committee members believed that two years of supervision is inadequate to provide the type of meaningful practical-skills training contemplated by the TFARR project. Although it was recognized that increasing the number of years of experience required of supervisors might lead to a reduction in the number of opportunities available for students to fulfil this requirement, a majority of the *ad hoc* committee nevertheless recommended that a minimum of five years should be required for individuals to supervise qualifying *pro bono* work.
7. **Tracking Data.** The *ad hoc* committee suggests that, as it implements the new admissions standards, the State Bar make efforts to tally the amount of *pro bono* or modest-means work that is done by new attorneys on account of this new requirement. This should include (but need not be limited to) requiring applicants to identify, in connection with their compliance reporting under proposed Rule 2.156, the number of *pro bono* hours they would not otherwise have worked but for the new *pro bono* or modest-means requirement.

Enhanced Post-Admission Practical Skills Training

1. **Cost.** The *ad hoc* committee felt strongly that any additional costs flowing from the enhanced post-admission training requirements should not be borne by new attorneys, who as a population are generally the least able to afford the cost of such training. The committee appreciates that the proposal “encourages MCLE providers to offer the first-year MCLE requirements at no cost or a nominal cost,” and further, that several MCLE

providers have agreed to do so while this requirement is being implemented. To the extent that MCLE providers do not follow this practice, however, the committee suggests that fee waivers be provided for first-year attorneys who certify that paying for such training would pose a financial hardship. In the event that waivers are not permitted, however, the *ad hoc* committee believed that either the requirement should be lifted altogether or that State Bar-certified MCLE providers be *required*, as opposed to merely encouraged, to offer these courses for free.

2. **“Post-Examination” Training?** Some committee members suggested that all training completed after an applicant has completed the Bar examination but is awaiting results should count toward this requirement, as opposed to requiring all CLE work to be completed post-admission.

We wish to stress that, to the extent any new admissions requirements are approved by the Board of Trustees and the California Supreme Court, applicants for admission should be given appropriate grace periods and significant outreach efforts should be made—not just in California but across the country—to apprise law schools and law students of these new requirements. We recognize and appreciate that this concern has been addressed in many of the phase-in provisions of the draft implementing recommendations. The Barristers Club looks forward to working with the State Bar as these proposals are implemented to ensure that applicants and new attorneys are able to meet their obligations under the new rules with as little undue burden, financial and otherwise, as possible.

Very truly yours,

/s/ Sebastian Kaplan

Sebastian Kaplan
Immediate Past President, Barristers Club
Chair, *Ad Hoc* Committee on TFARR II Recommendations

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State Bar of California – Task Force on Admissions Regulation Reform

c/o Teri Greenman
The State Bar of California
845 S. Figueroa Street, 5th Floor
Los Angeles, California 90017

November 3, 2014

Re: Comments on Phase II 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 II Final Report (the “Report”) issued by the State Bar of California’s Task Force on Admissions Regulation Reform (the “Task Force”) on September 25, 2014.

We the undersigned pro bono managers at Bay Area legal services nonprofits offer the below comments to the State Bar of California’s Board of Trustees and the Task Force. 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. Our comments pertain solely to Recommendation B, which proposes to instate a 50 hour pro bono/modest means service requirement for bar candidates and recent admittees.

Until Legal Services Nonprofits Are Fully Funded, Limiting the Increased Demands on Our Nonprofits Is Essential.

Legal services nonprofits require increased funding if they are to help the Task Force realize its goal of leveraging every law student and new attorney to help the over eight million Californians living in poverty. High-quality pro bono opportunities require staff time to screen clients, train volunteers, and provide expert supervision, and all our nonprofits will require increased funding to ensure they can engage the increased number of volunteers flowing from the proposed rule changes. With that in mind, we hope the State Bar, Task Force members, and others in the legal community will continue to support increased funding for our programs. **Until legal services are fully funded, however, the Bay Area Pro Bono Managers appreciate efforts by the Task Force to balance its commitment to promoting pro bono participation with the need to temper the increased demand for pro bono opportunities that our nonprofits will undoubtedly experience.**

We acknowledge and appreciate the Task Force’s efforts to limit the demands on legal services agencies. In particular, we support the Final Report’s recommendations that time spent in a law school legal clinic

or other “credit-bearing experiential programs” count not only towards the pro bono/modest means requirement, but also towards the competency training requirement (as set forth in Recommendation B). We also appreciate the Task Force’s decision to dispense of the Phase I Final Report’s implicit recommendation the State Bar create a new certification program for “Pro Bono Programs.” We agree with the Task Force that creating a new certification system would be “unnecessary and too cumbersome.” Finally, we are pleased by the Task Force’s decision to allow pro bono work done outside of California to count towards the requirement.

Pro Bono Managers Must Be Included in All Future Efforts to Implement, Assess, and Evaluate the Proposed Rule Changes.

The precise impact of the proposed rule changes on California’s legal services nonprofits cannot be accurately predicted. **With that in mind, the Bay Area Pro Bono Managers believe that any future effort by the State Bar and/or Task Force to implement, assess, and evaluate the proposed changes must include pro bono managers from California legal services nonprofits.**

The Bay Area Pro Bono Managers appreciates the Task Force’s decision to include members of our own community in its ranks, including Mairi McKeever of the Bar Association of San Francisco’s Justice & Diversity Center and Hernan Vera of Public Counsel. We believe their participation and input was vital to developing recommendations that aligned with the missions and capacities of California legal services nonprofits.

When the proposed rule changes take effect, pro bono managers will see first-hand the impact of increased demand for pro bono opportunities on legal services nonprofits, making their participation in future efforts to implement, assess, and evaluate the rule changes indispensable. We therefore believe the State Bar and Task Force must continue to engage members of our communities—pro bono managers at California legal services nonprofits—in any future efforts to implement, assess, and evaluate the impact of the proposed rule changes.

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

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

Gloria Chun
Justice & Diversity Center of the Bar Association of San Francisco

Katie Fleet
Legal Services for Children

Elizabeth Hom
Volunteer Legal Services Corporation, Alameda County Bar Association

Sandra Madrigal
Pro Bono Project Silicon Valley

Guillermo Mayer
Public Advocates

Nancy Murphy
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Janet Seldon
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State Bar of California – Task Force on Admissions Regulation Reform

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Until Legal Services Nonprofits Are Fully Funded, Limiting the Increased Demands on Our Nonprofits Is Essential.

Legal services nonprofits require increased funding if they are to help the Task Force realize its goal of leveraging every law student and new attorney to help the over eight million Californians living in poverty. High-quality pro bono opportunities require staff time to screen clients, train volunteers, and provide expert supervision, and all our nonprofits will require increased funding to engage the increased number of law students and recent admittees flowing from the proposed rule changes. With that in mind, we hope the State Bar, Task Force members, and others in the legal community will continue to support increased funding for our programs. **Until legal services receive increased funding, the Southern California Pro Bono Managers will try to balance the increased demand for pro bono opportunities with ensuring that a disproportionate amount of resources earmarked for legal services for the poor are not diverted to the training and supervising of short-term volunteers. We appreciate efforts by the Task Force to balance its commitment to promoting pro bono participation with the**

need to temper the increased demand for pro bono opportunities that our nonprofits will undoubtedly experience.

We acknowledge and appreciate the Task Force's efforts to limit the demands on legal services agencies. In particular, we support the Final Report's recommendations that time spent in a law school legal clinic or other —credit-bearing experiential programs count not only towards the pro bono/modest means requirement, but also towards the competency training requirement (as set forth in Recommendation B). We also appreciate the Task Force's decision to dispense of the Phase I Final Report's implicit recommendation the State Bar create a new certification program for —Pro Bono Programs. We agree with the Task Force that creating a new certification system would be —unnecessary and too cumbersome. Finally, we are pleased by the Task Force's decision to allow pro bono work done outside of California to count towards the requirement.

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Sincerely,

Diego Cartagena
Bet Tzedek

Samantha Cochran
Learning Rights Law Center

Jenny Farrell
Los Angeles Center for Law and Justice

Parisa Ijadi-Maghsoodi
San Diego Volunteer Lawyer Program

Elizabeth Lopez
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Monica Mar
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Diane Catran Roth
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Josefina Valdez
Legal Aid Society of San Bernardino

Phong Wong
Legal Aid Foundation of Los Angeles

Christina Yang
Asian Americans Advancing Justice- Los Angeles

From: Larry Barlly [<mailto:Larry.Barlly@yolocounty.org>]

Sent: Tuesday, November 04, 2014 10:31 AM

To: Greenman, Teri

Subject: RE: Task Force on Admissions Regulation Reform Phase II Implementing Recommendations

Thank you for your response. My comment is that I am unaware of any profession that requires its members to work for free (or at imposed "reduced" rates). There are many professions in the market place, and I would love to see my plumber, electrician, or doctor work for me for free. Aside from cheapening our services, what are we attempting to accomplish? If one wants to donate their services to another, I see nothing that prohibits it. But to require it appears to be, at a minimum, a violation of the 13th Amendment.