



The State Bar of California

OPEN SESSION AGENDA ITEM 703 MARCH 2020

DATE: March 12, 2020

TO: Members, Board of Trustees

FROM: Donna Hershkowitz, Interim Executive Director
Russia Chavis, Principal Program Analyst, Programs Division

SUBJECT: Paraprofessional Program Working Group – Approval of Charter and Appointment of Members

EXECUTIVE SUMMARY

At its January 24, 2020, meeting the Board of Trustees (Board) directed staff, in consultation with the Board's Access Liaisons, to take steps to form a working group (the Paraprofessional Program Working Group or Working Group) to develop recommendations for a California paraprofessional program to be submitted to the Board by the end of 2020. This agenda item responds to this direction and includes recommendations for a Working Group charter, the appropriate size and composition of the Working Group, and members for appointment. In addition, in recognition of the breadth of the Working Group's charge, staff seeks to extend the due date to submit recommendations to July 31, 2021.

BACKGROUND

The State Bar's 2017-2022 Strategic Plan sets forth among the goals and objectives of the State Bar the following:

Goal: 4. Support access to legal services for low-and moderate-income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population.

Objective: f. No later than December 31, 2020, explore options to increase access through licensing of paraprofessionals, limited license legal technicians, and other paraprofessionals.

At its January 24, 2020, meeting, the Board of Trustees, approved the following motion to establish a Paraprofessional Program Working Group to advance this objective:

RESOLVED, that the Board of Trustees directs staff, in consultation with the Board's Access Liaisons, to take the following steps to form a Working Group to develop recommendations to the Board by the end of 2020 for a Paraprofessional Program (e.g., LLLT) in California

- Develop a charter
- Identify the appropriate size and composition of the Working Group
- Solicit interest in participation in the Working Group
- Return to the Board in March 2020 for appointment of the members of the Working Group;

DISCUSSION

Subsequent to the January Board meeting staff reviewed the charters of other states' parallel efforts¹ as well as of other State Bar working groups and task forces. Staff conducted a similar analysis with respect to the composition and size of these bodies. Staff then consulted with the Board's Access Liaisons to select the entities and stakeholders to be represented on the Working Group as well as to draft a proposed Working Group charter. Nominations for appointment were then solicited from identified stakeholder groups. Recommendations for the charter and Working Group membership prepared pursuant to this process are provided below.

Proposed Working Group Charter

The State Bar's recently published [*California Justice Gap Study: Measuring the Unmet Civil Legal Needs of Californians*](#), found that while 55 percent of Californians experience at least one civil legal problem in their household each year, Californians received inadequate or no legal help for 85 percent of these problems. A lack of knowledge about what constitutes a legal issue and concerns about legal costs lead many Californians to deal with problems on their own rather than seek legal help. A thoughtfully designed and appropriately regulated paraprofessional program is an important component of the solution to the access to legal services crisis in California by expanding the pool of available and affordable legal service providers.

The California Paraprofessional Program Working Group is hereby established and charged with developing recommendations for consideration by the Board of Trustees for the creation of a paraprofessional licensure/certification program to increase access to legal services in California. In carrying out this charge, the Working Group will balance the dual goals of ensuring public protection and increasing access to legal services.

The Working Group will develop specific recommendations regarding the following:

1. The eligibility requirements to apply for the program, including the competencies required of licensed/certified paraprofessionals and the ways in which candidates can

¹ States that have evaluated and/or implemented a paraprofessional program include [Arizona](#), [Washington](#), and [Utah](#).

demonstrate those competencies. In developing these recommendations the Working Group will consider different pathways for licensure/certification for applicants based on their general academic and experiential qualifications, including but not limited to, candidates who might fall in one of the following categories: immigration consultants, Legal Document Assistants, Unlawful Detainer Assistants, paralegals, law school graduates, law students, and/or participants in or who have completed the State Bar's law office study program.

2. Selection of practice areas that will be included in the program. Practice type decisions should be informed by data sources, including but not limited to the California Justice Gap Study, California Attorney Practice Analysis Study, and court self-help center utilization data.
3. The types of tasks, by practice area, that paraprofessionals will be permitted to perform. The Working Group should consider and propose any requisite changes to the rules and statutes governing the unauthorized practice of law, and any other requisite changes to the rules of professional conduct that may be needed, to permit the performance of these types of tasks.
4. Business requirements, including financial responsibility requirements such as insurance or contribution to a client security fund.
5. A licensing/certification and regulatory model including consideration of rules of conduct for the new paraprofessional licensees.
6. Metrics and data collection methods to enable assessment of the program's effectiveness and to facilitate possible auditing and other proactive risk-based regulation.
7. Increasing awareness about how to seek legal help.

Proposed Working Group Size and Composition

Members representing the following entities and stakeholder groups were invited to submit nominations:

- Governor's Office
- Senate Judiciary Committee
- Assembly Judiciary Committee
- California Association of Legal Document Assistants
- California Commission on Access to Justice
- California Court Self-Help Centers
- California Defense Counsel
- California Lawyers Association
- Committee of State Bar Accredited and Registered Schools (CSBARS)
- Consumer Attorneys of California
- Consumer Protection Organizations
- Judicial Officers
- Legal Services Organizations
- State Regulatory Agencies

In addition, staff recommends that the Board appoint a member who will serve as Working Group Chair; the Supreme Court will also be asked to appoint a Working Group liaison. In total the Working Group should comprise approximately 15 members. The term of the appointments will expire by August 1, 2021, unless extended by the Board.

This mix of appointees will ensure that the full array of access and consumer protection issues implicated by a new legal paraprofessional program are fully considered. In addition to the official appointees, when issues come up that require specific subject matter expertise, for example with respect to the selection of practice areas and tasks for program inclusion, the Working Group will supplement its expertise by bringing to the table and soliciting input from practitioners in each respective area.

As a result of the short turn around provided to entities to submit nominations, as of the date of the finalization of this agenda item, nominations for approximately half of the desired number of Working Group appointments have been received. Staff recommends that the Board delegate to the Working Group Chair the authority to make additional appointments in the above-identified categories, following the receipt of additional nominations so that a full complement of members is achieved.

Extension of Due Date for Working Group Recommendations

Given the breadth of the Working Group's charge, which includes drafting proposed revisions to rules and statutes as needed, staff recommends extending the due date to submit recommendations to the Board from December 31, 2020, to July 31, 2021, and changing Goal 4, objective f. accordingly.

FISCAL/PERSONNEL IMPACT

Minimal. Working Group meetings will be held concurrently at the State Bar's Los Angeles and San Francisco offices to reduce travel costs. All anticipated costs can be absorbed in the existing approved 2020 State Bar budget.

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to legal services for low-and moderate-income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population.

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RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees approves the Paraprofessional Program Working Group Charter as set forth in Attachment A; and it is

FURTHER RESOLVED, that the Board of Trustees approves the appointment of members to the Paraprofessional Program Working Group set forth in Attachment B; and it is

FURTHER RESOLVED, that the Board of Trustees provides authority to the Board-appointed Working Group Chair to fill the vacant appointment slots; and it is

FURTHER RESOLVED, that the Board of Trustees approves an amended due date of July 31, 2021, for submission of the Paraprofessional Program Working Group final report and directs staff to update Goal 4, objective f. of the State Bar's 2017-2022 Strategic Plan accordingly.

ATTACHMENT(S) LIST

- A.** Proposed Paraprofessional Program Working Group Charter
- B.** Proposed Paraprofessional Program Working Group Members

Proposed Paraprofessional Program Working Group Charter

March 12, 2020

Proposed Working Group Charter

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4. Business requirements, including financial responsibility requirements such as insurance or contribution to a client security fund.
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Proposed Paraprofessional Program Working Group Members
March 12, 2020

#	Recommend	Last Name	First Name	Email	Gender	Race/Ethnicity	Veteran	Self-identified Disability	City	Entity/Stakeholder Group	Practice Areas
1	Yes	Bashan	Sharon	bashan@one-justice.org	Female	White, Middle Eastern or North African	No	No	Los Angeles	Legal Services Organization	Domestic Violence, Public Interest Law
2	Yes	Brynelson	Julia	juliabrynelson@att.net	Female	White	No	No	Sacramento	Academia – Community College	Business, Immigration, Legal Malpractice, Real Estate, Workers Compensation, Professor of Legal Studies, Paralegal Programs
3	No	Ducan	Ian	ian@cadocpreparers.com	Male	White	No	No	Oakland	California Association of Legal Document Assistants	Family, Probate, Business, Real Estate
4	Yes	Fellmeth	Julianne	julied@sandiego.edu	Female	White	No	No	San Diego	Consumer Protection Organization	Regulatory, Public Interest Law
5	No	Fermino	David	david.fermino@lawfoundation.org	Male	Black or African-American	No	No	San Francisco	Legal Services Organization	Appellate, Criminal, Disability Rights, Mental Health Issues
6	Yes	Fleishman	Steven	sfleischman@horvitzlevy.com	Male	White	No	No	Burbank	California Defense Council	Appellate, Legal Malpractice, Personal Injury
7	No	Gillig	Charlie	charliegillig@nlsa.org	Male	White	No	No	Glendale	Legal Services Organization	Family, Immigration

8	Yes	Hamilton	Stephen	sdh@hamiltonesq.com	Male	White	No	No	Arroyo Grande	California Lawyers Association	Family
9	Yes	Hartston	Amos	amos.hartston@gmail.com	Male	White	No	No	Oakland	California Commission on Access to Justice	Consumer Protection
10	No	Ludlow	Carol	carol@legaldocs4u.net	Female	White	No	No	Cupertino	California Association of Legal Document Assistants	Family, Probate
11	Yes	Olvera	Elizabeth	eo@elizabetholvera.com	Female	Hispanic/Latino	No	No	San Francisco	California Association of Legal Document Assistants	Family, Immigration
12	Yes	Shining	Carolyn	carolin@shininglawfirm.com	Female	White	No	No	Culver City	Consumer Attorneys of California	Business, Elder Abuse, Intellectual Property, Personal Injury
13	Yes	Spiro	Ira	ira@spirolawcorp.com	Male	Other: Jewish	No	No	Los Angeles	Committee of State Bar Accredited and Registered Law Schools	Employment
14	Yes	Yew	Erica	eyew@scscourt.org	Female	Asian	No	No	San Jose	Judicial Officer	Appellate, Business, Criminal, Legal Malpractice, Juvenile Dependency, Labor Relations, Probate, Personal Injury, Treatment and Collaborative Courts, Unlawful Detainers, Domestic Violence, Restraining Orders, Medical Malpractice, Administrative Write Hearings and Appeals