

## **DRAFT RULE OF COURT**

### **Rule [XX]. Provisional Licensure of 2020 Law School Graduates**

#### **(a) State Bar Provisional Licensure Program**

- (1) The State Bar shall administer a program for provisionally licensing 2020 Law School Graduates through June 1, 2022. The program shall be referred to as the “Provisional Licensure Program.”
- (2) The Provisional Licensure Program shall cease operations on June 1, 2022, unless the California Supreme Court further extends that date.
- (3) Upon termination of the Provisional Licensure Program on June 1, 2022, no one who had been provisionally licensed shall be permitted to continue to operate as a Provisionally Licensed Lawyer, nor shall they represent that they remain provisionally licensed or are otherwise authorized to practice law in the State of California unless they have been admitted to the practice of law.

#### **(b) Definitions**

- (1) A “2020 Law School Graduate” means 2020 graduates of law schools in and out of California, including 2020 graduates of JD or LLM law school programs, who are permitted to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061.
- (2) “Provisionally Licensed Lawyer” means a 2020 Law School Graduate who meets the eligibility criteria of these rules and is granted provisional licensure by the State Bar.
- (3) “Supervising Attorney” means an attorney who meets the eligibility criteria of these rules and who supervises a Provisionally Licensed Lawyer.

#### **(c) Scope of Practice**

Subject to all applicable rules, regulations, and statutes, a Provisionally Licensed Lawyer practicing under this rule is permitted to practice California law, under the supervision of a qualifying Supervising Attorney.

#### **(d) Application Requirements**

- (1) To participate in the Provisional Licensure Program, the applicant must complete the following application requirements:
  - (A) Submit an Application for Provisional Licensure with the State Bar along with a fee of \$\_\_\_\_\_;
  - (B) Submit to the State Bar a declaration signed by the applicant agreeing that they will be subject to the disciplinary authority of the Supreme Court of California and the State Bar and attesting that they will not practice California law other than under

supervision of their Supervising Attorney during the time they are provisionally licensed under this rule; and

(C) Submit to the State Bar a declaration signed by a qualifying Supervising Attorney.

(2) An Application for Provisional Licensure may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact. (from MJP rules)

**(e) Eligibility Requirements**

To qualify as a Provisionally Licensed Lawyer under this rule, the applicant must:

- (1) Meet all of the requirements for admission to the State Bar, except the applicant need not have passed the California Bar Examination nor have obtained a positive moral character determination, so long as the applicant has submitted a completed Application for Determination of Moral Character to the State Bar;
- (2) Comply with the any rules or guidelines adopted by State Bar relating to the State Bar's Provisional Licensure Program; (from MJP rules)
- (3) Be employed by, or have a conditional offer of employment from, a law office, government entity, nonprofit entity, academic institution, corporation, partnership, association, or other legal entity that has an office located in California;
- (4) Practice law under a Supervising Attorney who is an active licensee in good standing of the State Bar who satisfies the requirements of this rule for supervision;

**(f) Responsibilities of Provisionally Licensed Lawyer**

A Provisionally Licensed Lawyer must comply with all of the following requirements. Failure to comply with these requirements shall result in termination from the Provisional Licensure Program:

- (1) Complete the State Bar New Attorney Training program, as described in State Bar Rule 2.53, during the first year of provisional licensure, unless they would otherwise be exempt under the State Bar Rules;
- (2) Only use the designated term "Provisionally Licensed Lawyer" and not describe themselves as a fully licensed attorney, or imply in any way in writing, or orally, to be a fully licensed attorney of the State Bar;
- (3) Maintain with the State Bar an address of record that is the current California office address of the Provisionally Licensed Lawyer's employer and a current e-mail address;
- (4) Report to the State Bar immediately upon termination of supervision by the Supervising Attorney;

- (5) Report to the State Bar any information required of attorneys by the State Bar Act, such as that required by sections 6068(o) and 6068.8(c) of the California Business and Professional Code, or by other legal authority
- (6) Submit a new Application for Provisional Licensure before beginning employment with a qualifying Supervising Attorney for a new employer
- (7) If reassigned to a new qualifying Supervising Attorney for the same employer, the Provisionally Licensed Lawyer must submit a declaration from the new qualifying Supervising Attorney before the new Supervising Attorney assumes supervisory responsibility over the Provisionally Licensed Lawyer

**(g) Limitations on practice (Inserted following input from Terri, Tiffany, and Carol)**

To practice law under this rule, the Provisionally Licensed Lawyer must:

- (1) Expressly disclose to each of his or her clients at the outset of the representation that he or she is a Provisionally Licensed Lawyer and/or a participant in the State Bar's Provisional Licensure Program only and that he or she may only practice under supervision.
- (2) Expressly refer to themselves orally, including but not limited to, in conversations with clients or potential clients, and in writing, including but not limited to, in court pleadings or other papers filed in any court or tribunal, on letterhead, business cards, advertising, signature blocks, as a Provisionally Licensed Lawyer and/or participant in the State Bar's Provisional Licensure Program.
- (3) Include on every document the Provisionally Licensed Lawyer files in court or with any other tribunal the following information about the Supervising Attorney: the name, mailing address, telephone number, and State Bar number.
- (4) Not open, maintain, access, or attempt to open, maintain, or access any client trust account.

**(h) Permitted activities (Inserted following input from Terri, Tiffany, and Carol)**

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

**(i) Supervision**

- (1) To meet the requirements of this rule, a Supervising Attorney:

- (A) Expressly disclose to each of his or her clients at the outset of the representation that a Provisionally Licensed Lawyer and/or someone who is only a participant in the State Bar's Provisional Licensure Program that may only practice under supervision will be involved in the case.
- (B) The Supervising Attorney must agree to notify the State Bar of California, in writing, within 10 calendar days if: (lifted from the MJP rules)
  - i. The Provisionally Licensed Lawyer has terminated employment
  - ii. The Provisionally Licensed Lawyer is no longer eligible for employment
  - iii. The Supervising Attorney no longer meets the requirements of these rules;
  - iv. Their status as a qualifying Supervising Attorney has changed; or
  - v. She or he has changed their office address

**(j) Termination of Provisional Licensure**

(1) Provisional licensure terminates (from MJP rules):

- (A) Upon imposition of any sanction for misconduct by the State Bar of California or any other professional or occupational licensing authority, including administrative or stayed suspension against the Provisionally Licensed Lawyer
- (B) Upon imposition of any sanction for misconduct by the State Bar of California or any other bar, including administrative or stayed suspension, against the Supervising Attorney
- (C) Upon issuance of an adverse moral character determination
- (D) Upon admission to the State Bar of California
- (E) Upon cessation of the Provisional Licensure Program
- (F) Upon request
- (G) For failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar
- (H) If the Provisionally Licensed Lawyer no longer meets the requirements of this rule

(2) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a

document physically personal service or otherwise. (from MJP rules)

(3) A Provisionally Licensed Lawyer whose provisional licensure terminated upon request or upon imposition of discipline against the Supervising Attorney may be reinstated if they meet all eligibility and application requirements of this rule. (from MJP rules)

(4) Termination under paragraphs 1A, B, G, or H of this subsection shall be reported for purposes of evaluating a Provisionally Licensed Lawyer's pending Application for Determination of Moral Character or re-evaluating a previous positive moral character determination (from MJP rules)

#### **(k) Public Records**

State Bar records for Provisionally Licensed Lawyers are public to the same extent as licensed attorney records. (from MJP rules)

#### **(l) Inherent power of Supreme Court**

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California. (from MJP rules)